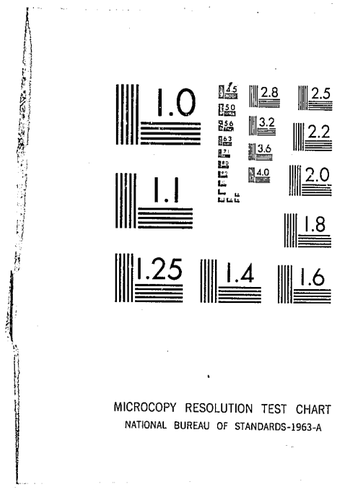

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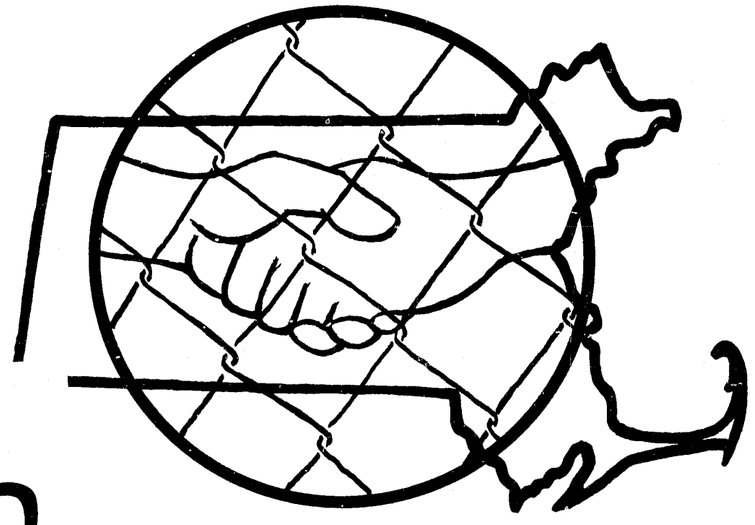
THE VIOLENT JUVENILE OFFENDER IN MASSACHUSETTS

A POLICY ANALYSIS



EPORT OF THE MASSACHUSETTS
OVERNOR'S JUVENILE JUSTICE
ADVISORY COMMITTEE

31

THE VIOLENT JUVENILE OFFENDER IN MASSACHUSETTS:

A Policy Analysis

A Report of the Massachusetts Governor's Juvenile Justice Advisory Committee

June 1981

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EXECUTIVE SUMMARY

THE VIOLENT JUVENILE OFFENDER IN MASSACHUSETTS:

A POLICY ANALYSIS

A Report of the Massachusetts Governor's

Juvenile Justice Advisory Committee

June 1981

The following is an executive summary of the Governor's Juvenile Justice Advisory Committee (JJAC) report The Violent Juvenile Offender in Massachusetts: A Policy Analysis. This report is based upon a year-long program of research and review of policies aimed at the treatment and control of seriously violent juvenile offenders. For the purpose of its policy recommendations the JJAC defines a seriously violent offense as any felony resulting from the threat or infliction of bodily harm. This executive summary is provided as a guide to the major research findings and policy recommendations contained in the full JJAC report. It is hoped that persons concerned with the problems of juvenile crime and juvenile justice will increase their awareness of these issues by reading the report in its entirety.

EXECUTIVE SUMMARY

THE VIOLENT JUVENILE OFFENDER IN MASSACHUSETTS:

A POLICY ANALYSIS

A Report of the Massachusetts Governor's
Juvenile Justice Advisory Committee

I. Background

During the spring of 1980 Governor Edward J. King requested that his Juvenile Justice Advisory Committee (JJAC) initiate a policy study of issues related to serious juvenile offenders in Massachusetts. The JJAC, a thirty-three member committee appointed annually by the Governor, represents a diverse cross-section of knowledgeable participants in the junvenile justice system. It responded to the Governor's request by instituting a comprehensive, year-long study of policy directed toward the treatment and control of seriously violent juvenile offenders. The JJAC chose to focus on the seriously violent offender because it believed that an in-depth consideration of this topic would be (1) the most appropriate response to Governor King's request and (2) a narrow enough topic to ensure a specific policy-directed response.

II. Methods Used in the JJAC Study.

In studying policy aimed at seriously violent juvenile offenders, the JJAC employed a variety of different research methods. These are outlined in Section 2 (pp. 6-12) and include:

(1) an analysis of the records of all youths committed to DYS for an act of violence in 1975, 1977 and 1979;1
(2) in-depth interviews with over 100 persons in the Massachusetts juvenile justice system;
(3) mailed questionnaires to an additional 200 juvenile justice respondents;
(4) review of trends in juvenile violence; and
(5) review of available literature on legislative and administrative practices in Massachusetts and other states.

III. Basic Assumptions Guiding the JJAC Study.

Four basic assumptions guided the JJAC in interpreting data and in recommending policy related to the treatment and control of seriously violent juvenile offenders. The following assumptions are discussed in Section 5 (pp. 57-60).

(1) Juveniles who commit acts of serious violence are deserving of the most comprehensively developed program of available treatment.

(2) The public is deserving of protection against all persons whose acts of violence endanger its safety and welfare.

(3) Youths ages 14-16 should be held increasingly accountable for violent acts that impact upon the lives and safety of others.

(4) A juvenile justice system which operates to secure the goals of maximum treatment, public safety and increased accountability for seriously violent juvenile offenders should be one that is organized in terms of consistency of intervention strategy and the provision of due process rights to all accused.

IV. SUMMARY OF JJAC FINDINGS

JJAC data and data gathered by other recent studies reveal six problem areas in policy directed toward seriously violent juvenile offenders. These problems are discussed in Section Six (pp. 61-94) and are summarized below:

(1) Problems in the Current Massachusetts System

Problem Area A: Lack of uniformity in decisions regarding treatment and placement of violent juvenile offenders.

This problem was observed in the courts and within DYS. Judges vary significantly in the handling of seriously violent juveniles. While 22 of 29 judges interviewed indicated that they deal with repeaters differently than first offenders, the specifics of what is done varies judge by judge. One commits to DYS while another institutes a transfer hearing and another orders probation.

Regional Variation by Minority Status, Age and Resource Availability

Within DYS, placement decisions vary greatly by DYS region. The JJAC report documents minority status, offender age and resource availability as factors related to such regional variation. Minority status and age are not related to placement decisions statewide. In certain regions they exert more influence than in others. In one region, committed Black youths were placed disproportionately in their own homes than in DYS group or foster homes. This happened regardless of the type or seriousness of the committed offense. Why? Some regions have special programming for racial, ethnic and/or linguistic minorities. Others do not. Particularly lacking are available residential placements for minority offenders. Age impacts on regional variations in a similar fashion. Minority status and age are mediated by a third factor--resource availability. Some regions simply have more of certain placement resources than others.

Variations in Restrictive Placement

Lack of uniformity was also observed when considering the restrictive placement of seriously violent juveniles committed to DYS. Sixty-eight percent of first time violent offenders committed within Region 5 were placed in security. For Region 7 this figure was 65%. The next highest was Region 3 with 33%. In Region 6 only 13.4% were so placed. The same pattern exists for second time committed

violent offenders and for the three-year offender sample, not including simple assault and batteries. Regional placement practice and not offense seriousness or chronicity account for this variation.

Other Factors Related to Regional Variations

As identified in JJAC interviews and in a recent study of the DYS placement process these include: (1) the varying impact of youths and parents in determining placement; (2) the varying influence of certain judges within and between regions and (3) the varying composition of regional staffings and the varying influence of those participating. Together with the differential impact of minority-oriented, age-specific and/or resource availability, these factors reinforce regional variations and non-uniform decision-making.

Problem Area B: Lack of Relationship Between Offense Committed and Placement Provided.

Offenders committed to DYS for violence were provided with a wide range of initial placements. These varied from 22.4% in "secure detention" to 12.6% in "independent living." Similar variations were found when considering restrictiveness. Using a five-point scale of restrictiveness, placement varied from 12.4% (minimum) to 19.2% (low) to 31.6% (high) and only 5.7% in very highly restrictive secure treatment.

A.M. Rocheleau's recent report on Placing Youths in the Massachusetts DYS is even more specific about the lack of correlation between offense seriousness and placements recommended. The offenses of 223 committed youths were divided into five levels of seriousness. These levels were compared to the restrictiveness of placements recommended. Levels of seriousness were found to be unrelated to levels of placement. This lack of relationship contrasts with how DYS personnel say the system should work. When asked about criteria for placement, all 21 DYS administrators and caseworkers listed "the offense committed" as an important factor. Thirteen viewed it as the most important factor. This suggests considerable inconsistency between what is said to be important and what actually happens.

Problem Area C. Concerns Related to Public Safety and Offender Accountability.

Fifty-one of 97 interview respondents cited "inadequate provision of security" as a major DYS weakness. This concern is substantiated by JJAC data on DYS use of security for serious violent offenders. DYS recorded first placements were compared to placements 60 days later. Combining secure treatment and secure detention initial security was provided for 25.9% of first time offenders, for 38% of the second time offenders, but only 28% of the third time offenders. These percentages decrease after 60 days. Only 14% of the first time offenders and 24% of the second time offenders were in security 60 days later.

Implications for Public Safety

The low use of security, particularly for repeat violent offenders, raises questions about recent Massachusetts policy. Work by Wolfgang et al. (Delinquency in a Birth-Cohort) reveals that a

small number of chronic juvenile offenders (6%) account for nearly two-thirds of all violent juvenile offenses. This finding is used to recommend policy which increases the intensity and restrictiveness of interventions as offenders escalate as repeaters. Yet, in Massachusetts the percentage of third time violent offenders initially placed into security (28%) was less than that for second time violent offenders (38%). While this is a matter of serious concern, caution should be used when considering "the lack of public safety" implications of this finding. Other important data suggest the limited impact that incapacitating juvenile felons has on the reduction of violent crime. When applied to all juveniles arrested for violence in Columbus, Ohio in 1973, researchers (Van Dyne et al.) discovered that a hypothetically tough public safety policy of five years mandatory incarceration for all felony convictions would have prevented only 26.2% of violent juvenile offenses and reduced violent crime by only 1.3% overall.

Implications for Increased Offender Accountability

The implications of low rates of secure placement are less ambiguous in the area of offender accountability. Assuming that increased restrictiveness is one tool for reinforcing increased offender accountability, the recent system may be viewed as somewhat inadequate. This point was made repeatedly by respondents interviewed.

Problem Area D: Inadequate Provision, Monitoring and Evaluation of Treatment.

More than half the respondents interviewed by the JJAC cited "the lack of physical, financial, programmatic and/or personnel resources" as the major shortcoming of DYS. This lack of resources is particularly evident in terms of providing intensive treatment for seriously violent offenders. As indicated previously, only a small percentage of committed serious violent offenders are placed quickly into security. Of these, a much smaller percentage are provided with secure treatment as opposed to secure detention. For serious violent offenders initially placed in 1975, 1977 and 1979, only 5.6% were recorded as having been placed in secure treatment. In 1979, this figure was 0% for committed offenders with no prior offenses. In the same year for the same type of offender the percentage in secure detention was 24.4%. Hence, when placed in security, serious violent offenders are far more likely to find themselves in detention than treatment.

Why? One possible answer involves a shortage of secure treatment beds. Another involved the use of secure treatment beds by non-violent offenders. A recent study completed by Harvard Law School's Center for Criminal Justice indicates that 72.2% of the secure treatment population has never been adjudicated for violence.

The Harvard study also questions the quality of secure treatment programming. It underscores the custodial nature of "treatment" provided in secure settings and documents failings in the area of community resource use and aftercare.

An additional problem with the current provision of secure treatment involves the absence of regular procedures for monitoring and evaluation. These programmatic deficiencies are related to fiscal, physical and personnel shortages in the DYS and to problems with the agency's disproportionately low scale of pay.

Problem Area E: Disruptive Presence of Political Pressure

JJAC interviews identified specific areas of political tension affecting the handling of seriously violent offenders. The present system is caught between strong and often contradictory political cross-currents. Reduce serious juvenile crime! Reduce spending! Frustration, job and organizational insecurity and inter-agency conflict are day-to-day realities of the system. The mood is one of blame. The courts blame DYS. DYS blames the courts. The public blames both. Within this context procedures intended for one purpose become used for another. The transfer hearing is a case in point. It has become a common practice for judges to threaten transfer, not to actually bind a juvenile over to the adult system, but to pressure DYS into providing a secure placement. Disruptive pressure also arises in the form of a general unwillingness by the public to permit the location of secure treatment programs in or around their neighborhoods.

Problem Area F: Inadequate Communication and Conflictual Relationships between Principle Components of the System--Particularly the Courts and DYS.

Communicative conflict, particularly as related to the use of security, is revealed both in JJAC interviews and in the recent Harvard study on secure care. In the Harvard study 85% of DYS and 65% of court respondents saw the issue of security as a major source of conflict between the two groups. JJAC interview respondents indicated that such conflict could be reduced by establishing a regular feedback mechanism between DYS and the court.

(2) Violent Juvenile Crime Trends: Perceptions and Statistics

To assess the significance of the problem of violent juvenile crime in Massachusetts, the JJAC examined data on recent crime trends from the Massachusetts Department of Probation, the FBI's Uniform Crime Reports and DYS records of committed offenders. This documentation was juxtaposed with current public perception of the extent of juvenile crime and discussed in Section 3 (p. 13-25).

The majority (60%) of persons questioned by the JJAC believed violent juvenile crime to be on the rise in Massachusetts. However, most did not have any concrete basis for this conclusion. Such a widespread perception of a "juvenile crime wave" is likely a result of the increasingly sensationalistic attention given juvenile crime in the media.

Data fro.. the Department of Probation on cases heard between 1978 and 1980 actually indicate a decline in juvenile arraignments. Property offenses accounted for almost half of that period's juvenile crime. Crimes against persons made up only 13.7% of all juvenile arraignments, as opposed to 16% of older adults being indicted for inflicting bodily harm.

The FBI's Uniform Crime Reports on juvenile arrests revealed similar findings for overall juvenile offenses. They also indicate a decrease in serious juvenile arrests of 1.2% from 1977 to 1979, due in large part to a drop in property crimes. The FBI records do, however, indicate an increase in percentages of crimes against persons, especially for robbery. Yet raw numbers for these more serious crimes are in fact very small, and references to percentage increases tend to be misleading.

It should be noted that, although overall juvenile population is decreasing in the Commonwealth, there is no evidence to suggest that the number of youths most likely to commit serious acts of violence (male urban-dwelling minorities of low socio-economic status, in arrests for rape and aggravated assault) has declined as well. Unfortunately, no such data exists. Perhaps the increase could be explained more logically as a result of increased efficiency in police reporting of such crimes.

(3) Examining the Adult/Juvenile Distinction

In assessing the reasons for and against changing current Massachusetts policy regarding the distinct treatment of adult and juvenile offenders, JJAC turned to recent legislation passed in New York State. The Juvenile Offender Law of 1978 lowered the age of criminal responsibility for certain seriously violent crimes to 14 years, the lowest in the country. All such seriously violent youths would automatically be judged in the adult court system as opposed to the Family Court.

Problems resulting from the implementation of the Juvenile Offender Law in New York are outlined in Section Four of this report (p. 23-49). Data from various studies on the effects of the statute suggest that this allegedly "tougher" policy toward juvenile crime provided New York with no greater public safety than existed under the Disignated Felony Act of 1976. In fact, conviction rates for serious juvenile crime proved to be lower under the new law, while the length and frequency of probation periods granted to "juvenile offenders" actually increased. Other problems with the Juvenile Offender Law included lack of uniformity in sentencing, delays in court processing, increased expense, plea-bargaining, and bypassing of legal rights. Moreover, the large majority of persons interviewed by the JJAC opposed a similar policy for Massachusetts and gave a range of reasons for supporting current adult/juvenile distinction.

(4) Problems identified with the Presumptive Sentencing Model of Washington State and the Designated Felony Model of New York.

Section Seven of the JJAC report considers measures taken by other states to improve the quality of their own juvenile justice system. Particular attention is given to recent policy initiatives in the state of Washington and New York. Problems with Washington's "presumptive sentencing" and New York's "designated felonies" models preclude the adoption of these policies in Massachusetts.

In Washington State the Juvenile Justice Act of 1977 introduced "presumptive sentencing" to that state's Juvenile Code. "Presumptive sentencing" involves the issuing of an "expected" or "normal" sentence for a particular offense, calculated from the juvenile's age, the current offense, and time and seriousness of prior offenses. Degrees of seriousness are assigned to each offense in the form of points. Serious offenses, therefore, and the specific sanctions from the above variables are located on a schedule or "grid." The grid prescribes combinations of punishment from the following forms: community service hours, fines, partial confinement, confinement and parole.

Washington's presumptive sentencing model has several positive aspects. It tightens the correlation between offense committed and sentencing, making the juvenile offender accountable for his behavior. Age, crime and criminal history are considered before issuing punishment, providing some flexibility and judicial discretion. Such a complex and specific sentencing procedure was designed to foster greater uniformity throughout the system, and be an aid to deterrence.

The Washington model has, however, exhibited shortcomings which preclude the JJAC's endorsement of similar policy for Massachusetts. These discrepancies include:

(1) Problems in consistent calculation of sentencing

(2) Extensive use of the supposedly exceptional category of "manifest justice" which allows a judge an additional sentencing option outside the prescribed sanction.

(3) Widespread plea-bargaining

The Designated Felonies Act was instituted in New York State in 1976. This law permits a judge to order a five-year restrictive placement conviction to the Division for Youth for a range of serious felonies including murder, arson and kidnapping. The judge also specifies the amount of time (6-18 months) a juvenile is required to spend in a secure facility.

The Designated Felony Act offers tougher sanctions for crimes of serious violence, while allowing some flexibility in the form of judicial discretion. However, the JJAC declined from endorsing such a policy for Massachusetts without modification. Reservations about the law are discussed (pp. 99-100).

(1) Questions about its practical utility for first time violent offenders, nearly half of whom would never repeat a similar crime.

(2) Recent efforts by DYS (in the areas of secure treatment classification and secure facility improvement) suggesting the Department's increased capability to handle the seriously violent offender.

(3) Differences in the organization of secure treatment in Massachusetts, as it relates to the overall timing of a restrictive placement.

(5) The Issue of Transfer or Waiver

Massachusetts, along with all but four states, provides a statutory mechanism for transferring a juvenile offender to the adult criminal court. Massachusetts law (see Mass. General Laws, Chap. 119, Section 61) sets the following conditions for waiver: (1) a delinquent child (age 14-16) must have had a previous DYS commitment for an offense that, if the child were an adult, would be punishable by imprisonment in state prison or has committed an offense involving the infliction or threat of serious bodily harm and (2) the court must find that the child is a danger to the public and is not amenable to rehabilitation as a juvenile.

How adequate is Massachusetts transfer policy? JJAC interviews reveal simultaneous support and criticism. Seventy-seven percent of respondents favor continuing Massachusetts juvenile policy in its present form. Of these (82 respondents), 43% specifically mentioned satisfaction with the current transfer procedure. Nonetheless, eight respondents who favored Massachusetts policy as a whole, qualified their support by recommending revisions in the transfer process. An additional 15, opposing current Massachusetts policy, stated dissatisfaction with transfer statutes as a primary reason. Although only a small percentage of all interviewed, those criticizing current transfer policy raised a number of important concerns. These stressed the difficulties in proving that a child is not amenable to juvenile rehabilitation and thus impairing the actual completion of the "bind-over" process. Most criticisms of the current "waiver" process involve the assumption that an easier transfer procedure could provide something missing in the current system--the ability to increase public safety and offender accountability.

In what ways, if any, does transfer operate to increase public safety and offender accountability? Section Nine of the JJAC report reviews data from the Departments of Probation and Corrections on the use and actual outcomes of "bind-over." This data suggests that, while not easily accomplished, 90% of these transferred are serious violent offenders. Moreover, in 1979, 65% of those transferred received dispositions available within the juvenile court. Only 45% (or 14 youths) were incarcerated in adult facilities. Hence, while bind-over provides adult prison sentences for a small number of serious juvenile offenders, it does not guarantee that even the majority will receive dispositions unavailable to the juvenile system. This fact was complemented by two other findings: (1) that certain problems with current procedure reside, not in the statute, but in the inadequate knowledge of its meaning and use; and (2) that 80% of the JJAC respondents interviewed stated that violent juvenile offenders should be treated differently than violent adult offenders.

Those several findings related to the transfer issue led the JJAC to emphasize recommendations aimed at strengthening rather than weakening the jurisdiction of the juvenile system over seriously violent offenders. By such strengthening the JJAC anticipates alleviating many of the currently cited reasons for transfer and the bulk of current complaints (e.g. "no guarantee of restrictive placement for seriously violent offenders.")

V. Summary of JJAC Recommendations

After reviewing the findings outlined above, the JJAC arrived at a set of recommendations aimed at reducing problems in the current system and strengthening policy toward the treatment and control of seriously violent juvenile offenders.

A. Recommendation for Restrictive Placement Commitment Option

The major JJAC recommendation calls for the option of a restrictive placement commitment to DYS for repeat seriously violent juvenile offenders. This recommendation is made in Section Eight (pp. 106-112) and outlined below.

1. IF A JUVENILE (AGES 14-16) IS ADJUDICATED FOR A DESIGNATED SERIOUS VIOLENT OFFENSE*

2. IF THAT SAME JUVENILE HAS PREVIOUSLY BEEN COMMITTED TO DYS FOR A DESIGNATED SERIOUS VIOLENT OFFENSE*

3. AFTER REVIEWING THE FACTS OF THE CASE AND THE PERSONAL, SOCIAL, EDUCATIONAL, FAMILY AND PAST REHABILITATION HISTORIES OF THE JUVENILE INVOLVED.

4. THE PRESIDING JUDGE BE PROVIDED WITH THE OPTION TO IMPOSE A RESTRICTIVE PLACEMENT** TO THE DEPARTMENT OF YOUTH SERVICES IN LIEU OF THE REGULAR INDETERMINATE COMMITMENT TO DYS AND OTHER DISPOSITIONAL ALTERNATIVES AVAILABLE TO THE COURT

and

5. THAT THE JUDGE TAKE NO LONGER THAN 15 DAYS (FROM DATE OF ADJUDICATION) TO DETERMINE THE ABOVE-DESCRIBED DISPOSITION.

Definitions

1. *The Designated Serious Violent Offense.

   A Designated Serious Violent Offense is defined as any felony resulting from the threat or infliction of bodily harm.

2. **Definition of Restrictive Placement Commitment.

   There will be two categories of restrictive placement commitment to the DYS. These are determined by the nature of the serious violent offense for which a juvenile is adjudicated.

3. Restrictive Placement Class A.

   (For juveniles adjudicated delinquent for murder 1 and 2, attempted murder or voluntary manslaughter.)

   A four-year commitment with the DYS:
   the first 8-12 months must be spent in a secure treatment program, followed by an additional 8-12 months of non-secure residential services.

4. Restrictive Placement Class B.

(For juveniles adjudicated for all other designated serious violent felonies.)

A three-year commitment with the DYS:
the first 6-10 months must be spent in a secure treatment program, followed by an additional 6-10 months of non-secure residential services.

5. DYS Responsibilities.

Once restrictive placement commitments are made to DYS, it is the responsibility of DYS to assess treatment needs and to designate the specific plan, time and location of treatment within the prescribed restrictive range.

6. Petitions of Exception.

In cases where DYS strongly disagrees with the need for a restrictive placement commitment, it may file a "petition for exctption." This petition must specify: (1) the reasons that a particular juvenile should not be restrictively placed and (2) type of commitment and treatment plan preferred by DYS. Decisions regarding such "Petitions for Exception" will be made within 15 days by a three-person panel composed of the Commissioner of DYS, the Chief Juvenile Judge of the Commonwealth, and the Attorney General of the Commonwealth (or the official designees of these persons.)

7. DYS Option to Extend Secure and Non-Secure Components of Treatment.

This is permitted within the 4 or 3 year term of restrictive placement commitment.

8. DYS Feedback to the Court.

DYS shall provide the court with a progress report on all restrictively placee youths at 90-day intervals during both the secure and non-secure residential phases of treatment. A final report is to be issued at the end of the total term of restrictive placement commitment.

9. District Attorney and Defense Counsel Involvement.

District Attorneys must assume responsibility for petitioning the cases of the designated violent juvenile offenders. All juvenile defendants must be guaranteed adequate legal counsel and full rights to due process.

B. Additional Recommendations

In addition to the restrictive placement commitment, the JJAC also recommends:

1. Adult/Juvenile Distinction
The Commonwealth not consider changint the age of adult responsibility for criminal conduct (a person's 17th birthday).(See p. 49).

2. Transfers
The current Massachusetts Statute for judicial transfer, as outlined in the M.G.L. c. 119 #61, remain unchanged. (See p. 121)

3. Accountability under the Administrative Procedures Act
The Department of Youth Services be brought under the authority of the Massachusetts Administrative Procedures Act such that its proposed regulations be subject to public hearing and once issued, are executed with the force of law. (See p. 124)

4. DYS Projections
The Department of Youth Services shall develop within 60 days of the JJAC's issuance of its report on the violent juvenile offender in Massachusetts, projections related to such matters as number of beds needed, costs estimated and time framework required to effectively implement the proposed JJAC recommendations for the restrictive placement commitment option. (See pp. 124-125)

5. DYS Standards
The Department of Youth Services shall within 180 days of the JJAC's issuance of its report on the Violent Juvenile Offender in Massachusetts, develop and issue a set of proposed standards governing the use of secure treatment, secure reception and secure detention. (See p. 125)

6. Statewide Juvenile Court
The Commonwealth of Massachusetts take action toward studying the possibility of establishing a state-wide juvenile court system. (See p. 126)

7. Education of Personnel
The Commonwealth of Massachusetts establish a program of specialized training and education for the court personnel who handle juvenile cases. (See p. 127

8. Upgrading Pay Scales
The Commonwealth of Massachusetts upgrade the salaries of the Department of Youth Services Direct Care Staff to be comparable to those of other state employees performing similar duties. (See p. 122).

9. Ongoing Evaluation of Policy
The Commonwealth of Massachusetts make arrangements for a full independent professional evaluation of the implementation and effectiveness of all administrative and/or legislative changes in juvenile justice policy, particularly of those aimed at improving the treatment and control of seriously violent juvenile offenders. (See p. 128)

CONCLUDING REMARKS

Nearly a decade has passed since Massachusetts "deinstitutionalized" its approach to juvenile justice. That decade has witnessed the development of a great many "community-based" efforts to prevent, divert rehabilitate and correct juvenile offenders. Many of these have been heralded as successful. The decade has also witnessed the development of problems in the system-wide handling of those at the heavy end of the delinquency continuum--particularly those directed at the treatment and control of seriously violent juvenile offenders. These problems, many of them documented in the previous pages, present a major challenge to the deinstitutionalized system as a whole. It is to this challenge that the JJAC report is addressed.

How best can the seriously violent offender be dealt with, in terms of both treatment and public safety, while at the same time preserving the deinstitutionalized character of the entire system? Data reviewed by the JJAC has led it to reject such dramatic options as turning back the age of adult responsibility or opening the gates for a wholesale transfer of adolescents into the adult criminal justice system. When tried in other jurisdictions these approaches appear to have created as many or more problems than they solved.

The JJAC has chosen, instead, to strengthen the weak points it has discovered in the existing juvenile system and to recommend that the juvenile system be provided with the options and resources necessary to provide intensive programming for youthful offenders whose threat to the public is manifest by repeated acts of serious violence. The central features of the JJAC's recommendations are outlined in Section Eight. These involve a detailed proposal to permit restrictive placement DYS commitments for repeat seriously violent offenders who have already been committed to DYS at some previous time. The first phase in the proposed restrictive placements involves the use of an intense program of secure treatment. In their book The Life-Style Violent Juvenile, Andrew Vachss and Yitzhak Bakal stress the importance of such secure treatment in maintaining or advancing a deinstitutionalized approach to juvenile justice. According to these researchers:

> "Rather than diminish the goals of deinstitutionalization, the Secure Treatment Unit may be its salvation...Professionals in the field now concede that without a Secure Treatment Unit somewhere in the network picture,...violent juveniles will contaminate programs and eventually precipitate out into adult corrections. Even if the use of waiver were not on the increase..., the public outcry against juvenile violence has reached a fever pitch and the political response cannot be too far behind. If the juvenile justice profession's demand for separate treatment for juveniles is to be based on respect for the profession's abilities in this area, the treatment must include that category of juvenile 'delinquents' that frighten the public the most." 2

When Vachss and Bakal use the term "secure treatment" they refer to small, intensive and generally short-term programming. So does the JJAC. But the secure treatment phase of DYS programming is not sufficient. The JJAC recommendation is clear regarding the need for following non-secure residential services and an eventual supervised reintegration of the young violent offender back into society. Such comprehensive restrictive placement programming will be costly. Some costs may be recovered by reorganizing portions of the current system--e.g. by diverting the substantive number of non-violent offenders placed in secure treatment and by reducing the use of secure detention for youths already committed. Yet new costs will undoubtedly be incurred. These costs must be borne if the juvenile system is to responsibly and fairly deal with young persons who seriously hurt others. The alternative is one of greater cost--possible future violence and eventual adult incarceration. In Section Ten the JJAC requests that DYS provide estimates of the space, time and resources needed to put its recommendations into practice.

In presenting its recommendations the JJAC has drawn upon a wealth of data that has taken a year to assemble. Its findings and proposals come at a time in which much change is already underway in the juvenile system. In identifying problems with the existing system it has sought, not to criticize and condemn, but to suggest clear and practical avenues for strengthening and improvement. It is hoped that its recommendations to Governor King will become translated into new administrative and legislative resources by which to assist DYS, the courts and all of the juvenile justice agencies in preserving the strengths and correcting the weaknesses of the Massachusetts system as a whole.

REFERENCES

1 The "target offenses" used in constructing this 506 person sample included murder, rape, assault and battery with a deadly weapon, robbery, arson (of an occupied building), kidnapping, mayhem, and "simple" assault and battery. At various points in data analysis the sample was reduced to consider only the most serious of violent offenders by excluding 107 youths committed for "simple" assault and battery.

2 Andrew Vachss and Yitzhak Bakal, The Life-Style Violent Juvenile (Lexington, Massachusetts: Lexington Books, 1974), pp. 123-124.

TABLE OF CONTENTS

LISTING OF GRAPHS AND TABLES

PREFACE

In the spring of 1980 Governor Edward J. King requested that his Juvenile Justice Advisory Committee (JJAC) initiate a policy study of issues related to the control and treatment of serious juvenile offenders in Massachusetts. The JJAC responded by embarking on a comprehensive year-long study of current policy and practice related to violent juvenile offenders in the Commonwealth. With Governor King's approval this study of violent juvenile offenders was intended as the first of a series of in-depth examinations of juvenile justice policy in Massachusetts. Its findings and recommendations are presented in this report. Subsequent studies are anticipated regarding other types of juvenile offenders and additional dimensions of the juvenile justice system.

The Juvenile Justice Advisory Committee represents a diverse cross-section of knowledgeable participants in the juvenile justice system. The JJAC was originally established as Massachusetts' designated "State Advisory Group" in conjunction with mandates of the Federal Juvenile Justice and Delinquency Prevention Act of 1974. Today each of its thirty-three members are appointed annually by Governor King. Its membership, a third of which were under age twenty-six at the time of their appointments, is drawn from all regions of the Commonwealth and a multiplicity of societal and occupational identities. Its members range from juvenile court judges, to probation officers, prosecutors, police officers, academic professionals, treatment personnel, program administrators and a state legislative representative.

In conducting its policy study the JJAC was assisted by the Statistical Analysis Center and staff of the Massachusetts Committee on Criminal Justice and by graduate criminology research assistants from Boston College's

Department of Sociology. Of particular importance were the extensive contributions of Susan Guarino, field research coordinator; Bill Greilich, Director of the Statistical Analysis Center; and Jeanne Barclay, assistant research coordinator. Each of these persons made contributions to all phases of the study. The JJAC is also indebted to the services of interviewers and research associates Dick Batten, Ann Marie Rocheleau, Steve Dolliver and Mary Claire Chase; Statistical Analysis Center personnel Bruce Traeger, Jeanne Chisholm Tim Foley and former Director Bruce Shepley; interview coding coordinator Matthew Smotzer and coders Vinny Bowen, Bobbie Enseki, Janice Fellegara, Alec Harrison, Bob Romeo and Sandy Schacter; mail questionnaire coordinator Nancy Frankel; and research and technical writing associates Theresa Burns, Charles Sarno and Elisa Speranza. Gratitude is also expressed for the general assistance of Jane Marsh, JJAC liaison at the Massachusetts Committee on Criminal Justice and for the input and assistance of Dave Segal, Director of Research for the Department of Youth Services and Ellen Tarr. Mary Barclay is thanked for her efforts in designing the cover to this report. Lorriane Bone, Alice Close, Shirley Urban and Sara White are thanked for work in the preparation of interview instruments and this report.

Stephen J. Pfohl

Chair, Juvenile Justice Advisory
Committee

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SECTION ONE

INTRODUCTION

This section outlines the historical background of the Juvenile Justice Advisory Committee's (JJAC) study of the Violent Juvenile Offender in Massachusetts. This study, initiated at the request of Governor Edward King during the spring of 1980, examines recent Massachusetts policy directed toward the treatment and control of seriously violent juvenile offenders. Its goal is to strengthen current policy so as to improve both the rehabilitative and public safety features of Massachusetts "community-based" approach to juvenile justice.

Introduction

Since the closing of its juvenile institutions in 1972, Massachusetts has pursued a program of community-based treatment for delinquent youths. Past policies of wholesale incarceration have been replaced by a diversity of strategies aimed at treating the offender in settings closer to his or her own home. Juvenile courts have developed a variety of specialized programs in such areas as diversion, restitution and family intervention. The Department of Youth Services has contracted for a wide range of services from at-home casework to such models as intensive tracking, foster care, group home-residential and secure care programming for delinquent youths committed by the courts.

Massachusetts' move to non-institutional programming has provided the Commonwealth with a national reputation as an innovative leader in the field of juvenile justice. This is not to say that the "deinstitutionalization years" have proven equally successful for all types of youthful offenders. In recent years considerable concern has been raised about the adequacy of services directed toward the treatment and control of serious, and particularly seriously violent, offenders.

How many serious juvenile offenders populate the Massachusetts juvenile justice system? Past research has indicated that the numbers are relatively small. In 1977 a Task Force on Secure Facilities, chaired by the then Assistant Attorney General Scott Harshbarger, projected an estimate of 11.2% of those youths committed to the Department of Youth Services as needing treatment within a secure setting. Of this 11.2%, 3% were seen as needing

mental health commitment. The criteria employed by this so-called "Harshbarger Report" involved the documentation of (1) a record of serious violence (e.g. that a youth "pose a danger of serious bodily harm to others, which cannot be averted or controlled in a less secure setting") or (2) a record of chronicity (e.g. that a youth "engage in a pattern of persistent, uncontrollable and serious offenses and it has been demonstrated that a less secure setting cannot control and treat (the offender)"). By these indicators it was determined that somewhere between 129 and 168 of a population ranging from 1160 to 1500 committed youths were offenders of such seriousness to warrant secure care.[1]

How well does the Massachusetts system handle this small group of very serious offenders? In 1980 this question was presented to members of the Juvenile Justice Advisory Committee (JJAC) by Governor Edward King. The Governor's request for information was prompted in part by a March 12, 1980 report of a Task Force on Automobile Theft. According to this report:

> ... a significant portion of auto thefts are committed by juveniles. Indeed, some juveniles use the law as a shield for their criminal activities. But auto theft is not the only subject of juvenile crime. On the contrary, burglary, rape, aggravated assault and even murder are committed by juveniles at a frighteningly increasing rate. The Task Force (on Automobile Theft) therefore, believes that an intensive study of the statutes dealing with the juvenile/adult distinction should be conducted and that recommendations of such a project and the time constraints under which the Task Force (on Automobile Theft) must operate, we must therefore recommend that this matter be referred to the Massachusetts Juvenile Justice Advisory Committee, established by the Executive Order No. 166A. After their review, we recommend that the JJAC advise the Governor on specific legislative changes necessary to control this troubling source of crime.[2]

On April 9, 1980, following the suggestion of his Task Force on Automobile Theft, Governor King requested that the JJAC "initiate

a study of the juvenile/ adult distinction, particularly with respect to the issue of the repeat juvenile offender" and that the JJAC perpare "recommendations for legislative and/or administrative changes in the juvenile justice system, as well as proposals on secure facilities for serious juvenile offenders."

In response to Governor King's request, the JJAC, at its April 30, 1980 meeting, initiated a plan for a detailed study of policy aimed at the seriously violent offender. The JJAC elected to focus exclusively on the seriously violent juvenile offender because it believed that such persons posed the greatest problems in terms of both public safety and adequate treatment programming. It indicated to the Governor its willingness to conduct future studies of other issues in the juvenile justice system but stated its belief that an in-depth consideration of the violent juvenile offender was (1) the most appropriate response to his request to study serious juvenile offenders and (2) a narrow enough topic to ensure a specific policy-directed response.

Governor King agreed to the JJAC's proposed scope for its investigation. As such, the JJAC's research began during the summer of 1980 and concluded approximately one year later. During that time the committee and its research staff utilized a variety of methods in assessing all available data on violent juvenile offenders and the nature of the Commonwealth's response to them. These methods, the findings they produced and the policy recommendations that grew out of these findings are described in the following pages.

REFERENCES TO INTRODUCTION

1 Task Force on Secure Facilities, chaired by Scott Harshbarger, Spring, 1977.

2 Quotation from a letter to the JJAC from Governor Edward King, March 12, 1980.

SECTION TWO

METHODOLOGY OF THE JJAC STUDY

This section reviews the methods employed by the JJAC study. These include:

(1) an analysis of the records of all youths committed to DYS for an act of violence in 1975, 1977 and 1979;

(2) in-depth invterviews with over 100 persons in the Massachusetts juvenile justice system;

(3) mailed questionnaires to an additional 200 juvenile justice respondents;

(4) review of trends in juvenile violence; and

(5) review of available literature on legislative and administrative practices in Massachusetts and other states.

Methodology of the JJAC Study

In considering policy directed toward the control and treatment of the seriously violent juvenile offender the JJAC gathered and analyzed data from a variety of different sources. The materials examined by the JJAC include:

1. A detailed analysis of all youths committed for an act of violence to the Department of Youth Services in 1975, 1977 and 1979.
2. Over 100 in-depth interviews with judges, district attorneys, probation officers, police officers, treatment personnel and other persons involved in the control and treatment of violent juvenile offenders.
3. Mailed questionnaires to 200 additional juvenile justice respondents regarding an assessment of current Massachusetts policy, presumptive sentencing, and proposed changes in the areas of transfer hearings and the adult/juvenile jurisdiction.
4. Review of all available materials on trends in violent juvenile crime in Massachusetts.
5. Review of available materials on varying legislative and administrative practices in Massachusetts and other states as these relate to such matters as transfer, sentencing, adult/juvenile age jurisdiction, use of security, classification, treatment and incapacitation.

1. A DETAILED ANALYSIS OF ALL YOUTHS COMMITTED FOR AN ACT OF VIOLENCE TO THE DEPARTMENT OF YOUTH SERVICES IN 1975, 1977, AND 1979.

A "violent offense" was defined as any act of murder, rape, assault and battery with a deadly weapon, armed robbery, unarmed robbery, arson of an occupied building, mayhem, kidnapping, and assault and battery. Five hundred and six youths met the criterion[1] of committing such an offense in one of our three "target years" which resulted in either a new commitment or recommitment to DYS. (Such an offense will hereby be referred to as the "target commitment.") DYS Central, DYS Regional, and Department of Probation records were examined in order to obtain the following variables:[2]

1. Background information. Youth's residence, date of birth, race, sex, school grade, parents' marital status, child custody, and contact with other agencies (e.g. Department of Social Services).
2. Target offense information. Court of arraignment, date of arraignment,[3] date of commitment to DYS, DYS services provided following commitment, and length of each service. Service data was collected for each service provided to the youth during the period (a) from the target commitment up until release only, if no past or future commitments occurred, or (b) from the target commitment up until release and for the services period(s) immediately following a commitment occurring directly prior and/or directly subsequent to the target commitment, if such a commitment occurred.

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1 At points in data analysis the sample was reduced to the most serious 399 offenders by excluding 107 youths committed for simple "assault and battery."

2 It must be at least noted that the long and tedious process of sifting through DYS' record-keeping "system" clearly highlights the need for an updated computerized system of maintaining records.

3 The actual date of offense was not available from either DYS or probation records. It was, therefore, decided that date of arraignment would replace date of offense as a variable in our analysis.

3. Offense history . For each youth, data was collected on all charged offenses preceeding and following the target offense. Variables collected include offense type, number of counts, date of arraignment, disposition, date of commitment to DYS or assignment to probation, and date of release or termination.

The dates described above were built into a computer file. Various types of bivariate and multivariate analysis were performed, including cross-tabulation and analysis of variance.

2. IN-DEPTH INTERVIEWS WITH OVER 100 JUDGES, DISTRICT ATTORNEYS, PROBATION OFFICERS, POLICY OFFICERS, TREATMENT PERSONNEL AND OTHER PERSONS INVOLVED IN THE CONTROL AND TREATMENT OF VIOLENT JUVENILE OFFENDERS.

Our sample of 106 respondents was composed of 29 judges, 10 prosecutors, 4 public defenders, 12 probation officers, 8 police officers, 10 DYS caseworkers and 10 secure programs directors, all of whom were selected by stratified random sampling on the basis of geographical region. Other remaining respondents were 10 youth advocates and 13 persons purposely selected for their expertise in a given area of the juvenile justice system (e.g. state agency administrators, legislators.)

Members of the JJAC combined with members of the interviewing team proceeded through several phases of revising the interview instrument. These included two independent pilot studies, in which approximately 30 JJAC members and other individuals in appropriate disciplines were interviewed. Assessments of the questionnaire in terms of question wording and ordering, possible omissions or redundancy, leading questions, etc., were ascertained from respondents following each interview. The pilot phase also served as a final stage of training for the interviewers to supplement earlier training instruction. The interview instrument was

ultimately finalized in sessions with the interviewers in which question-by-question revisions were discussed.

The final version of the questionnaire consisted primarily of open-ended questions, permitting respondents maximum flexibility in their answers. The questions fell into five broad categories: perceptions of trends in violent juvenile crime, causes of serious delinquency and recidivist behavior, assessment of the various components of the system (e.g. courts, DYS), assessment of different intervention options (e.g. diversion, presumptive sentencing) and description of respondents' own handling of violent juveniles.[3]

Virtually all interviews were conducted in the offices of the respondents. The average interview length was approximately one hour. Interviews were recorded on tape with respondents' permission and later coded and analyzed.

3. MAILED QUESTIONNAIRES TO 200 ADDITIONAL JUVENILE JUSTICE RESPONDENTS REGARDING AN ASSESSMENT OF CURRENT MASSACHUSETTS POLICY AND PROPOSED CHANGES IN THE AREAS OF TRANSFER HEARINGS, PRESUMPTIVE SENTENCING AND CHANGE IN THE ADULT/JUVENILE JURISDICTION.

Five occupational types--judges, district attorneys, probation officers, police officers, and caseworkers--were randomly sampled by means of a table of random numbers. Approximately 40 respondents in each occupation received the six-page questionnaire. An additional 20 public defenders were mailed the questionnaire.

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[3] The final interview instrument utilized by the interviewers is presented in the Appendix.

Respondents failing to return the questionnaire two weeks after the initial mailing received a follow-up letter and a second copy of the questionnaire. Those respondents who had still failed to return the questionnaire following an additional period of two to three weeks were contacted by telephone and explained the importance of their responses.

The questionnaire contained a combination of closed and open ended questions regarding four policy proposals: retaining current Massachusetts law, the implementation of automatic transfer hearings, exclusion to the adult system policy, and presumptive sentencing.

For each policy proposal, respondents were questioned as to (1) the type of juvenile to be considered under such a policy (e.g. violent offenders only, or both violent and serious property offenders, or juveniles of certain ages,)and (2) if the type of victim should be taken into account under this policy. Respondents were then asked to list other qualifications to the policy in an open-ended style.[4]

By the study's end, 102 questionnaires were returned. The questionnaires were later coded and tabulated for further analysis.

4. REVIEW OF ALL AVAILABLE MATERIALS ON TRENDS IN VIOLENT JUVENILE CRIME IN MASSACHUSETTS.

Four sources of data on Massachusetts juvenile crime trends were examined: FBI Uniform Crime Reports, Massachusetts Office of Probation reports, data collected for the JJAC from DYS records, and data collected during in-depth interviewing regarding respondents' perceptions of trends in violent juvenile crime.

4 The mailed questionnaire instrument is presented in the Appendix.

5. REVIEW OF AVAILABLE MATERIALS ON VARYING LEGISLATIVE AND ADMINISTRATIVE PRACTICES IN MASSACHUSETTS AND OTHER STATES AS THESE RELATE TO SUCH MATTERS AS TRANSFER, SENTENCING, ADULT/JUVENILE AGE JURISDICTION, USE OF SECURITY, CLASSIFICATION, TREATMENT AND INCAPACITATION.

The JJAC examined written reports, documents and articles on legislative and administrative policy initiatives. Materials of relevance included reports on recent New York State and Washington State juvenile policy reforms, and a series of studies by Harvard Law School's Center for Criminal Justice on the period of "post-deinstitutionalization" in Massachusetts, particularly their recent report on secure care. In addition, a 1981 study of DYS placement decision-making, conducted by Ann Marie Rocheleau in conjunction with DYS, provided important information on the organizational dynamics of the Department of Youth Services.

SECTION THREE

RECENT TRENDS IN VIOLENT JUVENILE CRIME IN MASSACHUSETTS

This section reviews trends in violent juvenile crime as perceived by JJAC interview respondents and as documented in available data from the Department of Probation, the FBI's Uniform Crime Reports, and materials gathered on commitments to DYS by type of offense. Policy makers are cautioned with regard to the computation of violent juvenile crime rates based upon declines in the overall juvenile population since there is no evidence to suggest a similar decline in the juvenile population most susceptible to arrest for violent offenses-- urban male minorities of low socio-economic status. Overall, data analyzed by the JJAC indicates some increase in certain categories of crime against the person but a slight decrease in serious juvenile offenses as a whole. There exists, in other words, no evidence to justify a perception of a major juvenile crime wave in the Commonwealth today.

Recent Trends in Violent Juvenile Crime in Massachusetts

How significant is the problem of violent juvenile crime in Massachusetts? To answer this question, the JJAC examined all available sources of information. These include data from the Department of Probation, the FBI's Uniform Crime Reports and from DYS records of types of offenders committed. Information was also gathered on the perception of people in the juvenile justice system as to current levels of violent juvenile crime.

Perception of the Problem

Recent journalistic coverage, such as that presented by Time and Newsweek, provides the impression that America is beseiged by a new wave of violent crime. To a large extent this perception of rising violence is shared, if less sensationally, by persons in the justice system itself.

Data from JJAC interviews with persons in the juvenile justice system clearly indicates that most respondents perceive violent juvenile crime to be on the rise. Sixty percent (64 persons) of those questioned believed that violent juvenile crime is rising sharply throughout the Commonwealth. Yet, when questioned about the basis for this conclusion, most persons stated that their judgement was based not upon data, but upon such things as the "media" or just "general impressions." Such responses reflect a relatively widespread fear of a "juvenile crime wave." This may, in part, be a result of increasingly sensationalistic attention to juvenile crime in the media. Only eight percent (8) of the respondents believed that violent juvenile crime was actually decreasing; 18% (19)

felt it was held at a constant, and 8% (8) admitted they did not know. Five percent (6) of those interviewed specifically mentioned false media portrayal of the situation as presenting an increase in violent juvenile crime to the public.

How "Objective" is the Perception of Rising Juvenile Violence?

In considering this question, one must make a careful distinction between serious juvenile crime in general (which includes both property and violent crimes) and serious violent juvenile crime in particular (e.g. crimes against persons such as murder, rape, robbery, aggravated and simple assault, and arson). Although asked to make this distinction, many interview respondents typically blurred this important difference.

All available information at the disposal of the JJAC indicates that as a whole, serious juvenile crime has not increased significantly over the past five years. Property crimes--by far the most common offenses committed by juveniles--have decreased. This has resulted in a small overall decrease in the total amount of juvenile crime. At the same time, there are several indications of minor increases in certain juvenile crimes against persons.

The JJAC acknowledges the seriousness of the problem regarding the violent juvenile offender, and is deeply concerned about any increase in violent juvenile crime, no matter how slight that increase might be. At the same time, this committee hopes that future policy will be contructed with an understanding of precisely what these current trends indicate, and not in an atmosphere of unnecessary panic and alarm over a nonexistent juvenile crime wave.

Current Trends: Statistical Information

In analyzing the current trends of juvenile crime the JJAC has drawn upon statistical information provided by the Federal Bureau of Investigations' Uniform Crime Reports for the years 1975-1979, as well as a recent report on the Patterns of Juvenile Delinquency Charges (1978-1980) issued by the Massachusetts Department of Probation.

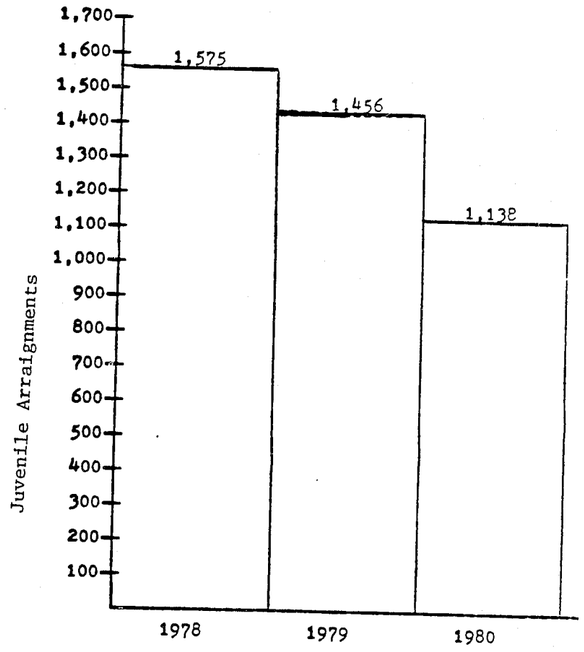
Department of Probation Data

The Department of Probation study examined a random sample of 4,169 juvenile delinquency cases heard over the three-year period of 1978, 1979, and 1980. According to the methodology section of the study, "in each of the three years, all new juvenile delinquency arraignments statewide were recorded during three parallel sample weeks," and then were categorized according to the nature of the offense.[1] The graph below (Graph 3.1) illustrates the Department's finding that in fact "the volume of juvenile arraingments dropped over the three yearly samples," from 1,575 arraignments in 1978 to 1,456 in 1979 and 1,139 arraignments in 1980. Even more striking is the fact that the actual annual total of arraignments had declined even more than the sample cases indicated. The study reports that "while 24,958 juvenile delinquency cases were heard statewide in 1978, 22,552 juvenile delinquency cases were heard in 1979--indicating a decrease of 9.6 percent."[2] (Although the annual total of arraignments for 1980 was not compiled by the time the study was issued, the three-week sample for 1980 suggests a similar drop between 1979 and 1980.)

In addition to the number of juvenile arraignments made over this three-year period, the Department computed the distribution of

GRAPH 3.1

Department of Probation Data



Explanation: This graph demonstrates a decline in the volume of juvenile arraignments over the three-week sample period for the past three years.

offenses according to category and discovered that "property crimes represented the greatest frequency of offenses by juveniles, accounting for almost half (47.9%) of the crimes by juveniles in the combined three-year sample."[3] This figure does not include major motor vehicle crimes which represented 9.4% of the sample. Crimes against persons accounted for 13.7% of all juvenile delinquency arraignments during this period. For comparison, 13.6% of young adults and 16.0% of older adults were charged with crimes against persons, thus demonstrating that juveniles are no more violent than older offenders. As the Department of Probation's study further points out:

> contrary to the popular belief that juvenile offenses are typically violent, this data indicates that juveniles are more often charged with property crimes, rather than violent crimes against persons.[4]

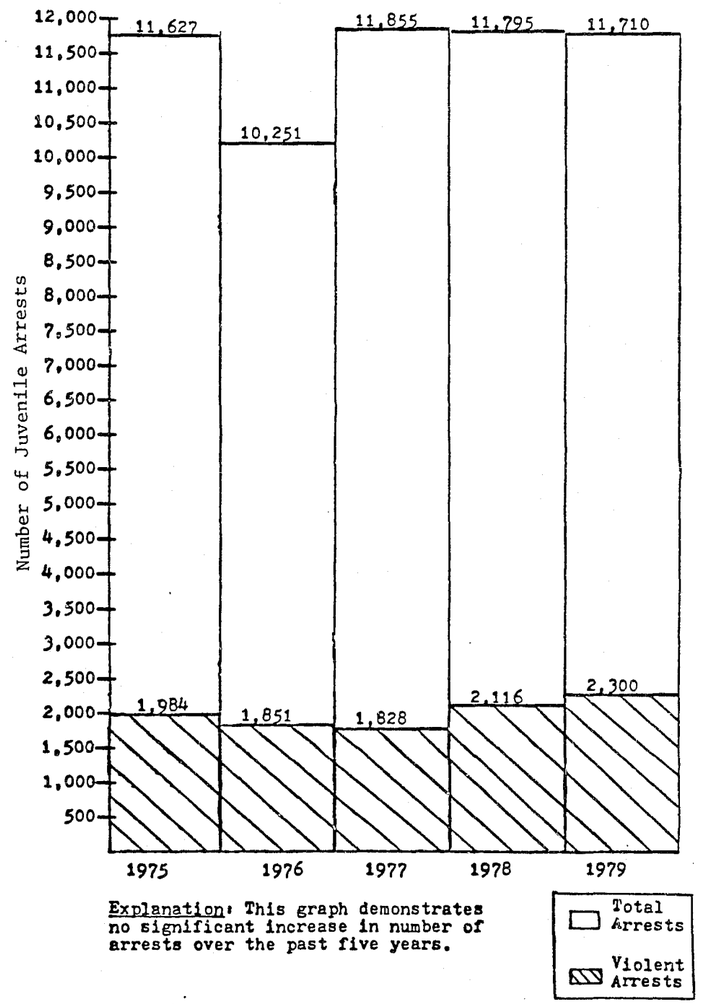
Data from FBI Uniform Crime Reports

Our second source, the FBI's Uniform Crime Reports on juvenile arrests over the past five years (1975-1979) reveal general trends similar to the findings of the Department of Probation. These reports, which record the annual number of juvenile arrests by offense category, indicate that the total number of serious juvenile arrests have, in fact, decreased 1.2% for the years 1977-1979. The total 1977 arrest figure was 11,855, the 1978 figure 11,795 and the 1979 figure 11,710. This overall decline was due in large part to a drop in property crimes (burglary, larceny, and auto-theft) for these years. Property crime arrests, which represent the vast majority of serious juvenile offenses, fell consistently from 10,027 in 1977 to 9,679 in 1978 to 9,390 in 1979.

The FBI records do, however, indicate some increase in most categories of crime against persons (which include homocide, rape, robbery, aggravated and simple assault, and arson.) Although these violent crimes make up a much smaller percentage of total juvenile crime, these figures still warrant some attention. There has been, for example, a seemingly dramatic rise in the percentages of robbery and homocide from 1978-1979, 17.6% and 112.2% respectively. However, because the raw number for such offenses is small, any actual numerical increase tends to become distorted when viewed as a percentage. In the case of homocide, for instance, only 8 arrests were recorded in 1978, while 17 were recorded in 1979. Although this increase is still noticeable and should be of some concern, when translated in terms of percentages these figures become overexaggerated and unnecessarily alarmist. Moreover, when the analysis for robbery and homocide is extended back to 1975, the increase is not at all significant. In 1975 there were 16 arrests for homocide, only 1 less than the 1979 figure. In 1975 there were 649 arrests reported for robbery. This is only five less than the 1979 figure of 654. The above comparison is quite significant when one looks at the problems of accuracy with the earlier FBI Uniform Reports: in 1975 far fewer police agencies were actually reporting data to the FBI than in 1979. (1975 data is based upon 172 police reporting units covering a population of 4,642,973. 1979 data is more comprehensive. It is based upon 309 units covering a population of 5,327,572.) By increased reporting alone one would expect a dramatic increase in 1979 arrests. This is not the case. Increases are not dramatic. Certainly there is no hard evidence to justify the perception of a major crime wave.

Graph 3.2

FBI Uniform Crime Reports (1975-1979)



Explanation: This graph demonstrates no significant increase in number of arrests over the past five years.

The only two categories which have exhibited a prominent and consistent increase are forcible rape and aggravated assault. Both have risen steadily during the last several years, with an increase of 20.6% and 12.2% respectively from 1978-1979 alone. At the same time it should be noted that the percentage of juveniles arrested for these offenses, when compared with the total number of persons (juvenile and adult) arrested, has remained fairly constant over the past five years. In other words, in those areas where crime is increasing, it is not solely a juvenile crime problem, but an adult problem as well.

In an effort to arrive at a greater degree of precision, the Governor's Task Force on Juvenile Crime has adjusted the FBI's figures to take into account the declining juvenile population of Massachusetts. According to the study issued by the Task Force:

> when population figures are compared to the number of arrests for the corresponding years, they are in fact arrest rates... arrest rates are presented because they more accurately indicate whether the rise in the actual number of crimes is a real increase or one due to an increase in population.[5]

Using this methodology, the Task Force concludes that because of the large decline in the juvenile population of the Commonwealth (down 95,000 over the years 1977-1979) that the total serious juvenile arrest rate has in reality increased 5% over this period. To further quote the study:

> In addition, arrest rates reveal that the decrease in property crimes, as shown by the total number of arrests, is not a real decrease. When population figures are taken into consideration the reverse is true...property crimes relative to juvenile population, have increased.[6]

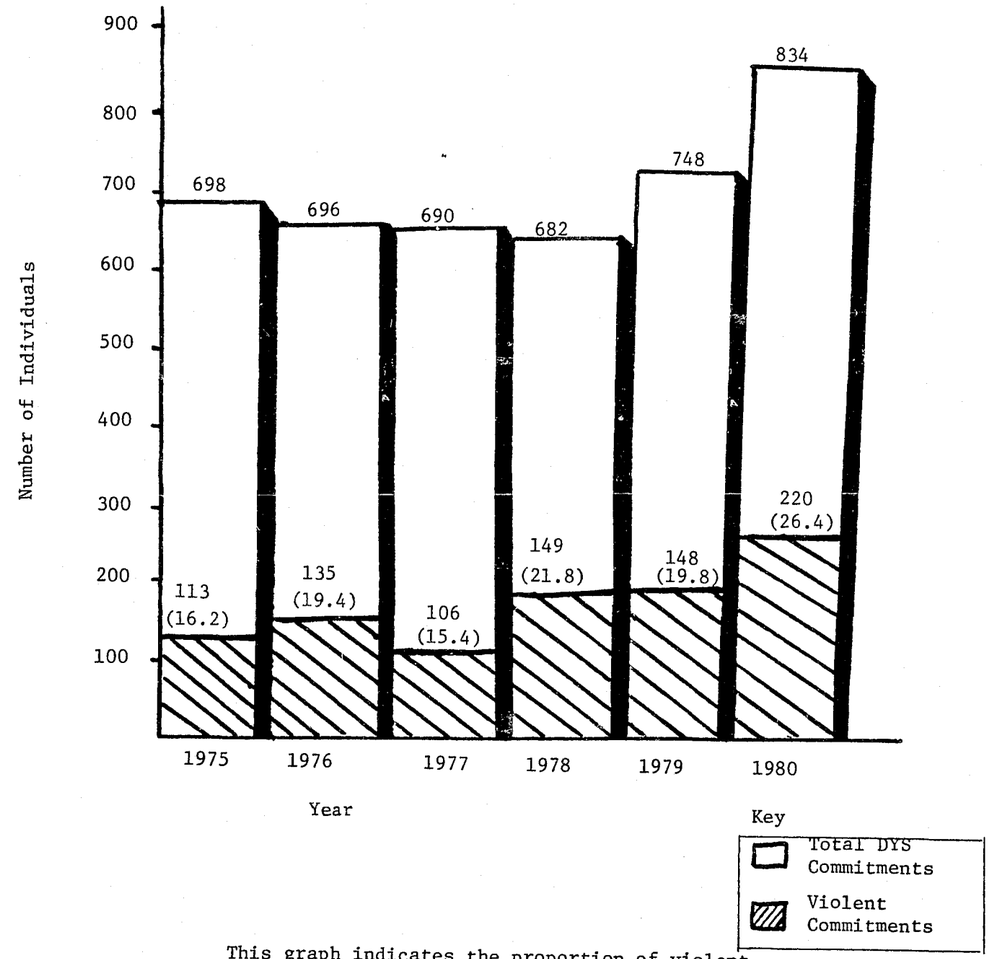
The Governor's Task Force did not consider whether increased rates could, in part, be due to increased police efficiency in reporting. More importantly, it should be noted that while the overall juvenile population in the Commonwealth has been decreasing, there is no evidence to suggest that the population numbers of those juveniles most likely to be arrested (namely male urban-dwelling minorities of low socio-economic status) has in fact declined. In fact, if the population of this group is increasing, then adjustments for arrest rates among juveniles could quite possibly decrease. Unfortunately at this time no exact census data is available to reflect changes in this population. Consequently, more precise conclusions about arrest rates should be withheld until such information becomes available.

Statistical Analysis Center Data

The more general trends already discussed are further confirmed by data produced by the Statistical Analysis Center of the Massachusetts Committee on Criminal Justice. This study has examined the percentage of violent commitments in all new DYS commitments since 1975. It reveals that this percentage has fluctuated from around 16 to 20 percent over this period, with some movement upwards to 26.4% over the past year. It should be realized that in terms of actual numbers the amount of violent commitments statewide has remained very small, the most being 220 in 1980, hardly an overwhelming figure.

GRAPH 3.3

Percentage of Violent Commitments* in all New DYS Commitments



This graph indicates the proportion of violent offenders committed to DYS in relations to the total number of commitments.

*Violent commitments are for the offenses of murder, rape, assault and battery with a deadly weapon, armed robbery, unarmed robbery, arson of an occupied building, kidnapping, and assault and battery.

Conclusion

In conclusion, all available sources on the current trends of juvenile crime in Massachusetts indicate that while there has been some increase in certain categories of crime. Certainly there is no major juvenile crime wave occurring today. The JJAC hopes that the Commonwealth will keep these trends in mind when constructing future policy on this matter of great public concern.

REFERENCES FOR SECTION THREE

1 Marjorie Brown-Roy, "Juvenile Defendants in Massachusetts: Patterns of Delinquency Changes (1978-1980)," prepared for the Commissioner of Probation, November 18, 1980, p. 2

2 Ibid., p. 3.

3 Ibid., p. 4.

4 Ibid., p. 5.

5 Report of the Governor's Task Force on Juvenile Crime, April, 1981, p. 2.

6 Ibid., p. 3.

SECTION FOUR

THE ADULT/JUVENILE DISTINCTION CONSIDERING THE AGE AT WHICH SERIOUS VIOLENT OFFENDERS SHOULD BE HANDLED AS ADULTS

This section examines one of the central questions posed to the JJAC by Governor King: Should the Massachusetts age for adult criminal responsibility be changed for seriously violent offenders? In order to respond thoroughly to this major concern, the JJAC conducted an extensive review of data on the consequences of such legislative change in another state, New York, in answer to what was perceived as a soaring juvenile crime rate. That law reduced the age of criminal responsibility for youthful offenders charged with a specified category of offenses to 14 years--the lowest in the country. Recognizing that "learning from history" is a valid means of assessing future legislative success, the JJAC examines in this section the experience of New York and its Juvenile Offender Law. This examination includes such issues as the political stage of the law's passage, what the law actually means for juvenile offenders and if the statute has attained its original goals--ensuring public safety and standardization of sentencing. Data from the research revealed that not only does the new law fail to increase community safety, but it also fostered many unanticipated administrative, bureaucratic, treatment-resource and legal due process problems. Interview and mailed questionnaire data reveal that 77% of the JJAC's respondents oppose a statutory age change. Moreover, 80% of those interviewed provided reasons for making policy distinctions between juvenile and adult offenders. In light of these findings, the JJAC submits that no change be made in the current Massachusetts policy toward the juvenile/adult distinction.

The Adult/Juvenile Distinction: An Introduction.

One of the central questions that the JJAC was asked to explore by Governor King concerns the appropriate age for the "adult/juvenile" distinction. In Massachusetts persons are treated under the laws as juveniles until they reach age seventeen. The exception to this involves the process of transfer, through which youths committing very serious offenses may be "bound over" to trial in an adult jurisdiction. Such juvenile-adult age boundaries differ from state to state. Depending on the offense, some states permit or mandate the adult court trial of persons who are as young as age ten.

Massachusetts, forty-seven other states and the District of Columbia locate original jurisdiction in the juvenile court. Three states (Iowa, Nebraska and Wyoming) provide for concurrent jurisdiction in both juvenile and adult criminal courts. This permits the prosecuting attorney to determine the setting in which criminal complaints will be adjudicated. Standards limiting prosecutorial discretion and safeguards regarding such things as transfer to juvenile court once criminal court prosecution has commenced are features of the legislation permitting concurrent jurisdiction. Of the forty-nine jurisdictions which "ordinarily" locate juvenile cases in juvenile court, some twelve exclude certain (generally serious violent) offenses from original juvenile court jurisdiction. In such instances, prosecutorial action begins in the adult criminal court.

In recent years a great deal of attention has been generated by a 1978 New York State Law mandating the adult court as the court of original jurisdiction for all persons age 14 and older who commit one of a specified listing of serious (generally violent) offenses. What prompted this New York State statute? How does it work? What is its impact on the handling of serious youthful offenders? Should something like New York's so-called "Juvenile Offender Law" be implemented in Massachusetts? In order to answer those questions the JJAC has reviewed all available data on this controversial New York initiative. Questions related to the appropriateness of such policy for Massachusetts were also asked of all respondents involved in the in-depth interviewing and mailed questionnaire phases of our study. The results of those inquiries are reported below.

New York State's Juvenile Offender Law: Implications for Massachusetts

To adequately comprehend the strengths and weaknesses of New York's attempts to handle serious juvenile offenders from the onset as adults it is necessary to understand the historical context out of which the 1978 Juvenile Offender Law emerged.[1] Of particular significance is the fact that prior to 1978 New York State had no means by which juveniles under age sixteen could be tried in an adult criminal court. This was true regardless of the seriousness of an offense in question. New York was one of only two states (Vermont being the other) which had no legal provisions to waive or transfer the cases of serious juvenile offenders into the criminal court jurisdiction.

New York's juvenile cases were heard by necessity in "Family Court." Family Court jurisdiction ended, however, at age fifteen (the sixteenth birthday). New York, in other words, had the lowest age for criminal responsibility of any state. Moreover, its incarceration population for persons under eighteen was the highest in the nation. Despite this, New York was plagued by a public perception that its handling of serious youthful crimes was inadequate and too lenient. In 1976, this perception found support in a study released by the State's Office of Children's Services.[2]

A Study of Violent Juvenile Offenders in New York City

The Office of Children's Services study focused on violent youth crimes in New York City. It tracked every person under age sixteen arrested for a violent crime from July 1973 through June 1974. It studied the system's response to these 4,847 individuals involved in 5,666 separate arrests. The results did little to calm a fearful public. It was discovered that 53.5% of the cases were adjusted at the probation intake level. They were in other words diverted from Family Court to some other social service agency or simply dismissed. Moreover, of the remaining 2,472 cases petitioned to the Family Court, 62.4% were dismissed or withdrawn. Only 20% of these resulted in convictions. These involved but 521 charges, 9% of the original arrest total.

Subsequent to a conviction or "finding of delinquency" the New York Family Court had several placement options. It could place an adjudicated delinquent for an indeterminate time, but only to a maximum of eighteen months, in a "state school" or in a residential home. It could, on the other hand, place a convicted

youth on probationary supervision for up to two years. It also possessed a more restrictive option for the most serious of fifteen year-old felons. These could be imprisoned in adult correctional facilities for as long as three years. Of the convicted violent offenders tracked in the Office of Children's Services study, 60% were placed on probation. Only six were placed in adult corrections. The remaining were given the eighteen month maximum placement in training schools, group homes and other such institutions. In total, for all youths below age sixteen arrested for violence over a one-year period, only 9% were convicted, with 3.5% being placed in some form of incarceration and 5.5% provided with probation.

The Juvenile Justice Reform Act of 1976: Designated Felonies

The above described violent juvenile offender study paved the way for a more restrictive placement legislative mandate. In 1976 this mandate took the form of New York's Juvenile Justice Reform Act with its "designated felonies." This act provided the Family Court with the option of ordering stronger sanctions for youths adjudicated for acts of serious violence.

Depending on the particular crime, judges were able to order a restrictive placement of between 6 to 18 months in a secure "locked door" juvenile facility and a subsequent 6 to 12 months in a nonsecure placement. The total time for state supervision of youthful "designated felons" ranged from three to five years. Placements could be extended annually by court order until age twenty-one. Furthermore, at the professional option of the State's Division of Youth "designated felons" could be

kept in secure confinement for the duration of their three to five year placement and throughout court approved annual extensions.

The specific placement options provided by the Designated Felonies legislation varied with the offense committed. Youths found to have committed murder 1 and 2, arson 1 or kidnapping could be placed for a maximum of five years within the Division for Youth. Once placed they would spend their first 12 to 18 months in security and the next 12 months in non-secure residential settings. If they had previously been found delinquent for a prior designated felony the term of their initial secure confinement would be a mandatory 18 months. For the lesser designated felonies (robbery 1, assault 1, rape 1, arson 2, manslaughter 1, kidnapping 2, sodomy 1 and other felonies involving personal injury or display of firearms) placement was for three years, with the initial secure placement for 6-12 months and subsequent non-secure residential placement for 6-12 months.

The Designated Felony or Juvenile Justice Reform Act represented a drastic change in juvenile justice practice and philosophy. In practice it permitted much longer and more restrictive placements within the Division for Youth. The previous maximum placement was for 18 months. In philosophy the act assumed that the juvenile justice system, in addition to serving a youth's best interests, also had to consider the public safety interests of the community at large. This change in philosophy is evidenced in the criteria used by judges in deciding whether to apply restrictive placement. According to the 1976 statute, judges shall consider:

(a) the needs and best interests of the designated youthful felon

(b) the youth's prior record and background

(c) the nature and circumstances of the offense, including whether injury was actually inflicted

(d) the need for protection of the community

(e) the age and physical condition of the victim.

Criteria (d) and (e) are departures from the general "rehabilitative needs of youth" criteria for placement previously. Yet, together with the others they are guides not mandates for the use of restrictive placement. The Juvenile Justice Reform Act does not mandate placement for youths committing designated felonies. It simply permits such placements. The option remains a matter of judicial discretion. After considering reports prepared by the Probation Department and the Family Court Mental Health Services a judge may opt for restriction or for a standard "indeterminate placement" of 18 months (with yearly extensions available until age 21). The one exception to a judge's discretion is in the case of serious physical injury to a victim sixty-two years of age or older. In that case restrictive placement is mandated. In all other cases the judge is required to complete disposition within 20 days of the initial finding of delinquency.

The Designated Felonies Act limited the professional judgment and clinical decision-making of the Division of Youth. Restrictively placed youths were forced to remain in placement categories for a specified period of time. The act also required the division to provide the court with written reports on each youth restrictively placed every six months.

This is not to say that the discretion of professional treatment personnel was entirely eliminated. At the Division of Youth's option, restrictive placements could be extended up to the entire length of a youth's placement within the agency.

How Successful Was the Designated Felonies Act?

Unfortunately this question is difficult to answer. What information there is suggests that the 1976 legislation was a major step in the direction of securing the public safety. Roysher and Edelman review data indicating that the act "soon led to significantly higher rates of adjudication, placement and secure confinement."[3] Intake level dismissals and adjustments (which had been reported as high as 53.5% for the 1973-74 violent offenses studied by the Office of Children) would within two years shrink to 29.8%.[4] In New York City (where the Office of Children's study had previously discovered only a 20% Family Court conviction rate for youths committing serious violence) the conviction rate under the Designated Felony Act rose to somewhere between 83%[5] and 85%[6]. Moreover, the relative "success" of the Designated Felonies Act, as documented in a June 1978 report of New York State's Division of Criminal Justice Services,[7] attracted the support of child advocacy, as well as "law and order" constituencies. Consider the statement of Statewide Youth Advocacy Inc., a self-designated "not-for-profit" organization working to secure the rights of children:

> A recent report issued by the Division of Criminal Justice Services indicates that the designated felony offender program was spectacularly successful in New York City. A full 85% of the youth were convicted and only 10% of the cases were dismissed. This record contrasts quite favorably with the conviction rate in the criminal courts which is only 45% generally for felony offenses and 70% for violent felony offenses. It also contrasts quite favorably with the conviction rate for non-designated felony delinquency proceedings in the family courts of New York City which is only 23%. Another important factor demonstrating the success of the program was that an exceptionally high proportion of these youths adjudicated as designated felony offenders received restrictive placement.[8]

More positive light was shed on the Designated Felonies through a 1978 report presented by a New York State legislative subcommittee concerned with juvenile matters. The report examined cases of "designated felonies" alleged to have been committed in Brooklyn and Manhattan during 1977. This study made use of data from probation files to determine "why some adjudicated designated felons received restrictive placement and others did not." Recall that the actual use of restrictive placement was left, under the 1976 statute, to the discretion of the judge involved. How was this discretion being practiced? According to the report of the legislative subcommittee, as it was intended to be implemented: for the most serious and repeatedly violent offenders.

Thirty-six cases were recorded involving offenses that were "designated felonies" and for which a finding of delinquency was made. Nineteen of these cases resulted in restrictive placement. These nineteen offenders were collectively responsible for 101 prior delinquent acts. On the other hand, the four designated felons who were not restrictively placed were responsible for only 14 prior delinquent acts. Through this comparison, the New York subcommittee concluded that discretion was being used in the matter intended to restrictively place only the most serious and repetitive juvenile offenders.

The 1978 Juvenile Offender Law: Making Adults Out of Juveniles

Despite its relatively positive record, the 1976 Designated Felonies ACt failed to placate a public whose fears were fueled by sensationalistic media accounts of violent juvenile crime. The fact of the matter was that the number of violent juvenile arrests was actually decreasing. In New York City the number of such arrests had dropped from a total of 7,825 in 1975 to 6,330 in 1979. Yet, as portrayed by the New York media, violent juveniles would be most appropriately viewed as:

> a new breed of incorrigible and amoral 'teen killers,' allegedly beyond the reach of reason, moral appeals, or legitimate job incentives. Fueled by a few particularly henious and highly publicized incidents, accounts like Time magazine's 'The Youth Crime Plague' and the ABC documentary, 'Youth Terror: The View from Behind the Gun' created the impression that combatting juvenile crime was simply a matter of getting a perhaps large number of chronic offenders off the streets.[9]

The first response to this sensationalized perception of violent youths in the streets was a revision of the 1976 Juvenile Justice Reform Act. The 1978 act extended the concept of designated felonies in several areas. These amendments provided that fourteen-and fifteen-year-olds accused of murder 1 and 2, kidnapping 1, arson 1, attempted murder 1 or 2, or kidnapping 1, assault 1, manslaughter 1, rape 1, sodomy 1, kidnapping 2, arson 2, or robbery 2 would be tried as designated felons and, if found guilty of these crimes, would be eligible for restrictive placement.[10] This list of crimes was broadened to include assault 2 and robbery 2, if the juvenile was found at any time prior thereof to have committed those crimes, or any other of the designated felonies listed. Additionally, a five-year restrictive placement was

mandated for any youth found to have committed a second designated felony. Moreover, any youth found to have committed a third felony act of any kind, regardless of the youth's age, might be considered for restrictive placement. These amendments to the 1976 Act were designed with increased attention to public safety in mind, and through their more severe sanctions would hopefully remove much of the juvenile violence from the street.

The second 1978 response to previous legislation, the so-called Juvenile Offender Law, was far more dramatic. This law reduced the age of adult criminal court responsibility for serious crime to fourteen. This statute itself was enacted in a highly politically and emotionally charged context. In an April 1979 report, In Search of Juvenile Justice, the Citizens' Committee for Children of New York describe the circumstances surrounding the passage of the Governor's Omnibus Crime Bill, of which the Juvenile Offender Law was one part. Voted upon in August 1978, during the heat of a political campaign, this bill was made into law with neither public hearing nor invitation of public participation. Moreover, its enactment could take place almost immediately on September 1, leaving little time for adjustment or revisions.

In the eyes of an angry public clouded by media sensationalism, the new law represented the long overdue move toward a tougher stance on the "juvenile crime menace." The existing Family Court system was viewed as too lenient and was dismantled by the legislature. Stronger doses were prescribed to allegedly protect the community and to punish the violent offender.

How justified was the public perception of a violent youth crime wave in 1978? According to a report submitted by the

Statewide Youth Advocacy, Inc., this wave was, to a significant degree, a matter of public misperception resulting from media sensationalism. The SYA report contends that in adopting the new Juvenile Offender legislation, New York State "departed from its long established role as a pioneer in the adoption of reasoned and balanced approaches regarding troubled children to its current role as the inventor of the harshest juvenile law in the nation." While not discounting the need for "swift and certain action" against violent youthful offenders, the SYA report raises serious questions about the reality of popular beliefs and media portrayals of "the violent youth problem." The report draws upon data presented by City University of New York sociologist Mark Fishman, suggesting that the so-called "juvenile crime wave" was largely the result of media pressure to market a compelling story.[11] According to the SYA report, "it would seem terribly inappropriate to modify our system of juvenile justice in response to exaggerated media and campaign misinformation."[12] The SYA argument was supported by existing data which indicated that juvenile crime (for youths under 16 years) was decreasing rather than increasing, and that nationwide, juveniles under 15 years were responsible for only 6.1% of arrests made for violent crimes in 1976. Even in New York, juvenile arrests account for only 14% of the total number of arrests made in that state annually, and of these only a very small percentage involve seriously violent crimes.

What the Juvenile Offender Law Means

The main objective of this highly debated piece of legislation was to lower the age of criminal responsibility to age 14 for

a defined category of felonies, and to 13 for murder. This, it was hoped, would strengthen deterrence and better protect the public from the serious violent offender. This special category of offenses was excluded or removed from the jurisdiction of the juvenile court and was heard, instead, in the adult court. However, at any stage of the proceeding, from arrest to post-conviction sentencing, a case could be removed from the adult jurisciction and placed in the Family Court.

Under the Juvenile Offender Law, all youths sentenced in the adult court are committed to the Division for Youth's secure facility where they must serve their entire sentence, or up to the age of 21, at which point they must be transferred to the Adult Department of Correctional Services, if their sentence extends to that time. Sixteen to eighteen year-olds may be transferred to adult corrections upon court order, and 18 to 20 year-olds may be transferred by decision of the Division for Youth. Although "juvenile offenders" are incarcerated in DFY facilities, they are subject to adult prison laws with regard to parole, temporary release and discharge. The terms of commitment for juvenile offenders in a secure DFY facility are harsher than previous sanctions under the Designated Felony Act, but more lenient than the full adult sentences.

New York State Juvenile Offender Sentences

Class A — 13, 14 and 15 year-olds charged with murder 2
Maximum: life. Minimum: 5-9 years

14 and 15 year-olds charged with kidnapping 1, arson 1
Maximum:12-15 years. Minimum: 4-6 years.

Class B — 14 and 15 year-olds charged with manslaughter 1, rape 1, sodomy 1, burglary 1, robbery 1, arson 2, attempted murder 2 or kidnapping 1
Maximum: 10 years. Minimum: 1/3 of maximum.

Class C — 14 and 15 year-olds charged with assault 1 (for serious physical injury only, by means of a deadly weapon or for disfigurement), burglary 2, robbery 2, criminal possession of a weapon, attempted Class B felonies.
Maximum: 7 years. Minimum: ½ of maximum.

How the Juvenile Offender Law Works

How successful has the Juvnile Offender Law been in attaining its major goals since its enactment in New York in 1978? How quickly has it placed violent juvenile offenders in secure facilities? How efficiently has it reduced the number of dangerous youths on the street who threaten public safety? How well does it provide for the rehabilitation needs of the young individual in the criminal system? The JJAC has reviewed the available data on these questions. Although initial research has presented mixed and often contradictory assessments, there is little substantive evidence to suggest that the law as in practice has delivered on its promises. Most data indicates that the act has done little to toughen or ensure secure placement of violent youths, and that in some areas has proved not only ineffective, but detrimental to the youths, as well as to the justice system.

Questioning the efficiency of the Juvenile Offender Law/Advocacy

One of the first evaluations of the Juvenile Offender Law was prepared by Statewide Youth Advocacy, Inc. This report questioned the necessity of the Juvnile Offender Law in view of the apparent efficiency of the previous Juvenile Justice Reform Act (Designated Felony) of 1976. The SYA report cited data issued by New York's Division of Criminal Justice Services indicating that 85% of youths arrested as designated felons during the first year of that law's operation were convicted, and only 10% were dismissed. In contrast, the conviction rate in the adult criminal courts was a less impressive 45% for felony offenses, and 70% for violent felony offenses. In addition, an exceptionally high rate of the youths adjudicated as designated felony offenders actually receive restrictive placement.

Further data from the Division of Criminal Justice Services indicated that a large proportion of juvenile offender cases were eventually deemed inappropriate subjects for the criminal court process. Of the 754 youths under 16 arrested in New York City during the first six months of the Juvenile Offender Law, 464 (61%) were not retained in the adult criminal system. Only 145 (19%) were ever indicted, with 32 (4%) awaiting grand jury action and 102 (13.5%) pending action in the criminal court. Furthermore, during the first two months of the law's operation

it was found that approximately 80% of the total cases were removed from the criminal court system. What happens to these offenders with whom the adult system will not or cannot deal? Most go back to the Family Court, according to the DCJS, or are declined prosecution by the District Attorney. In light of these findings, the SYA contends that it is "ludicrous to have a system of dual prosecution in which 80% of the cases escape the court where charges must be originated."[13]

The SYA also called attention in their report to the unnecessarily broad category of offenses which trigger juvenile offenders being prosecuted in criminal court. The actual percentage of serious violent offenses committed by youths (murder, rape and kidnapping) is fairly small, their findings showed. Most youths (80%) arrested in New York City during that first year were charged with first or second degree robbery. Only 4% of all such arrests involved allegations of murder or attempted murder. In the SYA's eyes it would be preferable to originate all cases in the Family Court and make allowances for stiffer sanctions to deal with the minority of offenders who perpetuate serious violent crime. Alternatively, a waiver of the most serious cases to the criminal court could be instituted after a full hearing is held to determine the waiver issue. As it stands now, the New York State system is the harshest in the country, since it denies the alleged offender the protection of such a waiver hearing in the juvenile court and does not permit any judiciary discretion from either system as to the appropriate forum of his trial.

Increased Protection to the Public?

The interim report on the 1978 New York Juvenile Offender Law by the Citizens' Committee for Children of New York focused around one major question:[14] does this law provide greater protection for the community than was provided under the Family Court Act? Most of their findings suggest that it does not. The data which this committee acquired on the dispositional outcomes over the first year of the new law's operation were almost identical to the SYA's and would support the latter's contention that a system in which almost 80% of the cases had to be tried outside of the court where they originated, was wasteful and time-consuming. The Citizens' Committee also found evidence to support the Designated Felony Act over the Juvenile Offender Law because of the former's higher rate of conviction for designated felonies, especially after it had been amended (82% as opposed to 42% in adult court).

Unnecessary Pre-Arraignment Adult Detention v. Pre-trial Juvenile Detention

Both the SYA and the Citizens' Committee cited detention time preceding arraignment spent in adult facilities such as Riker's Island as being both unnecessary and harmful to the youth. Seventy-eight percent of these children had their cases either dismissed or removed from criminal court after a period of 5 days or less. Moreover, many juveniles judged able to remain in the community during court proceedings were rearrested during this period. In fact, all but about 40 of 279 defendants being tried in the Criminal Court System for such crimes as attempted murder, robbery and assault were granted bail and met it, or were released on their own recognizance. Interestingly

enough, the Family Court tends to hold greater numbers of offenders in detention than the Criminal Court under the Juvenile Offender Law, especially for serious "designated felonies." This comparison illustrates the upside-down nature of a "get tough" policy which is in truth less restrictive than the one it replaces.

Additional Problems: Inconsistency, Delays and Expenses

In addition to documenting decreases in public safety, the Citizens' Committee reported on several additional problems in the implementation of the new Juvenile Offender statute. These include discretionary inconsistencies in use by District Attorneys on a county-by-county basis and discriminatory application by virtue of age and gender. The Citizens' Committee Report also raises questions about the rehabilitative efficacy of detaining young adolescents in adult jails (such as New York City's harsh Riker's Island facility)prior to arraignment and for those not "making bail," throughout the course of an adult trial. It also points out the additional expense (economic as well as psychological) of a system which requires additional fingerprinting, police time, removal inquiry time, jury selection time, probation sentencing reports and jurisdictionary appeals.

Other reports on the Juvenile Offender Law, such as that prepared by Statewide Youth Advocates, stress areas of legal inadequacy. Of particular concern is the nearly exclusive prerogative of District Attorneys in instituting transfer to juvenile jurisdiction proceedings. Why, asks SYA, should not judges have an equal prerogative on this important matter?

Moreover, non-uniform trial procedure and concerns over inadequate attention to full due process rights at the various stages of transfer and at the point of automatic administrative transfer from juvenile to adult correctional facility at age twenty-one are other areas in which the Juvenile Offender Law is said to be remiss.

The Juvenile Offender Law: Does it do what it's supposed to?

Not all analyses of the Juvenile Offender Law have been as negative as those above. A recent study by Barbara Boland and John McCabe argues that this new law is doing what it was intended to do, i.e. tightening the controls over violent and serious juvenile offenders and thereby increasing public safety.

To assess the extent to which these initial goals of the Juvenile Offender Law had been met, Boland and McCabe collected data in three major areas. First, drawing on studies done by the Vera Institute on adult felony dispositions in New York City's Criminal and Supreme Courts during 1971, and on DCJS 1973-4 study on New York City's juvenile court dispositions, the authors suggest that there is a vast distinction between the severity with which youths and adults are treated by the two court systems. In the adult court, 42% of arrests resulted in conviction, and 20% of those convicted were incarcerated. These figures are contrasted with a meager 4% incarceration rate resulting from Family Court convictions. The authors conclude that juveniles arrested for a violent felony are "almost 5 times less likely to be sentenced to some type of confinement than an

adult arrested for either a violent or property felony."[16]

Acknowledging the probable distinction in seriousness of an adult crime as opposed to a juvenile offense, particularly when the youth is 14 or 15 years of age, Boland and McCabe conclude that some differences in the severity of dispositions of the two groups are likely and understandable. However, considerably less discrepancy should appear, they believe, when the juvenile offender dispositions are compared with those of 16 and 17 year olds in the Criminal and Supreme Courts. In the second section of their study, Boland and McCabe present data showing that indictment, conviction and incarceration rates for "juvenile offenders" under the new law more closely resemble 16 and 17 year old offenders dealt with by the adult system than they do juveniles more leniently handled by the Family Court in previous years. From this they reason that "juvenile offenders are being treated with greater gravity in the Criminal and Superior Courts than formerly in the Family Court." [17]

While not incorrect, this comparison is misleading. Boland and McCabe are comparing 1979 "Juvenile Offenders" with delinquents handled prior to the restrictive placement provisions available with the 1976 Designated Felonies Act. When they compare Juvenile Offenders with Designated Felons the picture is quite different. The incarceration rates as a percentage of arrests for "juvenile offenders" and "designated felons" are actually identical at 9%.

Boland and McCabe nonetheless argue for the restrictive superiority of the Juvenile Offender Law on two grounds. The first involves a comparison between incarcerations as a percentage of convictions under the two laws. Of the convicted juvenile offenders 53% were incarcerated, as opposed to only 9% of the designated felons. If one looks at raw numbers, however, this comparison becomes misleading. Convicted "juvenile offenders" represent a far smaller percentage of young persons indicted or petitioned for serious crime. Only 25% of the arrested juvenile offenders, as contrasted with 67% of arrested designated felons, are ever formally charged with the serious crime in question. Moreover, 83% of the indicted designated felons are convicted, as opposed to 71% of the juvenile offenders.

The second case Boland and McCabe make regarding the superiority of the Juvenile Offender route is considerably more hypothetical. During the last six months of their research the Manhattan indictment rate for juvenile offenders rose to a high of 41%, considerably higher than the average of 25% over the whole course of the law's first 18 months of operation. Using this figure as a basis for projecting rates of incarceration, Boland and McCabe arrive at a possible figure of 19%. When compared to the 9% incarceration figure for designated felons, this projected juvenile offender rate is said to be superior.

Again, the comparison being made is misleading if not entirely inaccurate. Assume for a moment that Boland and McCabe are correct in predicting that indictment rates under the new law will stabilize at a figure somewhere closer to the 41% rather than the 25% rate. What they are overlooking is that

incarceration or "secure restriction" is only one of various forms of restriction available under the Designated Felonies program. In the adult system, one is generally either incarcerated or placed in some form of non-residential community custody. The juvenile system actually has more restrictive options available to handle violent youths. This point is made by Martin Roysher and Peter Edelman in their 1980 report on "Treating Juveniles as Adults in Court: What Does it Mean and How is it Working?" These authors present data that shows a 34.3% overall restrictive placement rate for "designated felons" (9.8% in secure, 14.9% in limited secure and 9.6% in non-secure facilities).[18]

In concluding their research, Boland and McCabe contend that at a minimum the juvenile offender incarceration rate of 9% is no worse than that incurred in the designated felonies system. The preceeding comments on the total range of restriction options available for designated felons throws even this conservative statement into question. Likewise, this documented "juvenile offender" incarceration rate pales in comparison to the statewide 20% rate of incarceration for adults arrested for robbery (the crime most frequently committed by juvenile offenders).

The arguments discussed above are highly technical in nature. Yet they raise major questions about the ability of the Juvenile Offender Law to carry out its promise of toughness for serious young felons. These questions multiply as one examines additional problems with the law as practiced. Many of these problems are presented by Roysher and Edelman in their report

assessing the effectiveness of both the Designated Felony Act and the Juvenile Offender Law in handling violent juvenile crimes.

Delays in Processing

Roysher and Edelman found evidence from their study that processing the case of a serious juvenile offender in adult court under New York's Juvenile Offender law takes far longer than cases processed in Family Court.[19] Generally, the period from time of arrest to time of disposition of Juvenile Offender cases was six to 15 months. "As of December 1979, 40% of the indictments resulting from arrests in New York City during the law's first quarter (September 1, 1978 through November 30, 1978) were still pending either trial or sentencing, between 11 and 14 months after the accused youths were arrested."[20]

A record of the handling of serious juvenile offenders under the Designated Felony Act stands in sharp contrast to these figures. According to a 1979 report by the NYS Division of Criminal Justice Services, approximately three fifths of all Designated Felony cases were disposed of within six months. This finding is supported by a study undertaken by the Vera Institute in which only one Designated Felony case was found to have taken "more than a year between probation intake and disposition."[21]

Limited Indictments and Convictions

Roysher and Edelman's data showed that a smaller percentage of serious juvenile offenders are indicted under the Juvenile Offender Law than are petitioned under the Designated Felony Act. During the newer law's first three months of oper-

ation, only 23.4% of arrests made resulted in an indictment in adult criminal court. Almost 33% of the cases were withdrawn by prosecutors who declined to press charges, or were dismissed. Another 43.7% were removed to the Family Court. In contrast, 72.2% of all designated felony arrests resulted in a petition, the juvenile equivalent of an indictment.[22]

Limited Secure Placements

Few arrested "juvenile offenders" were actually committed to secure facilities in the Division for Youth. By the end of February 1980, 18 months into the new law's operation, "the Division had only 84 juvenile offenders in secure confinement and was preparing to admit another 13 who had been sentenced but were still in detention."[23] This means that only about 7% of the first year's arrests have actually resulted in secure confinement. Several dozen more found themselves placed in a secure facility after removal to Family Court, though it is likely that many more were ultimately referred for limited or non-secure placement.

Plea Bargaining

Roysher and Edelman contend that rather than establishing uniform and fair processing for all juvenile cases, the Juvenile Offender Law instead "increased plea bargaining and strengthened the prosecutor's hand in ways that come close to denying due process of law."[24] When sentencing for a charge of robbery 2 can result in a possible seven years of incarceration, it is no surprise that many indicted youth agree to plead guilty to a lesser offense or accept a juvenile delinquency adjudication

upon removal to the Family Court. In fact, 92.4% of all Juvenile Offender convictions resulted from guilty pleas, as contrasted with the majority of designated felony convictions which resulted in an actual hearing or trial. During the first 18 months of the Juvenile Offender Law, there were only 26 trials held. Ten of these resulted in acquittal.[25]

The Problem of Public Safety

Recall that only a small percentage of juvenile offender cases have actually resulted in an "adult court" disposition. Yet, of those that were sentenced during the law's first 18 months, nearly one-third (31.5%) received probation. Thus, these youths were "back on the streets" soon after their adult court conviction.[26] This finding, presented by Roysher and Edelman, serves to further undercut the espoused "public protection" beliefs that were part of the law's objectives. This and other failings of the controversial New York law are summarized by Roysher and Edelman in the following statement:

> The Juvenile Offender Law, although it is resulting in harsh sentences for a few juveniles, has on the whole brought more delayed and less efficient processing than was the case with the designated felon. In addition, it has generated inequities in which similar cases bring quite dissimilar sentences, and in effect relegated to prosecutors, judges and administrative agencies the responsibility for partially remedying these discrepancies, even though the original legislation was intended to mandate more uniform treatment.[27]

CHART 4.1 COMPARING THE EFFECTS OF THE JUVENILE OFFENDER LAW/DESIGNATED FELONY ACT

ISSUE	JUVENILE OFFENDER (1978)	DESIGNATED FELONY ACT (1976)	SOURCE OF DATA
Indictment	25% are formally charged with offense	67% are formally charged with offense	Boland & McCabe (N.Y. D.C.J.S. 1978)
	23.4% of arrests resulted in indictment during first three months	72.2% of designated felon arrests result in petition (indictment)	Roysher and Edelman
Removals	After first 6 months: 61% not retained in adult system After first 3 months: 80% removed	10% dismissed during first year of operation	SYA Report (N.Y. D.C.J.S.)
Convictions	45% for felony offenses 70% for violent felony offenses	85% of youths arrested during first year were convicted	SYA Report (N.Y. D.C.J.S.)
Delays in Processing	Time of arrest to conviction: avg. 6-15 mos. (40% of cases still pending 11-14 months after arrest)	60% (3/5) of all cases disposed of within six months	Roysher and Edelman (N.Y. D.C.J.S.), 1979
Restrictive Placement	13-16% incarceration range (estimate based on continuance of rise in indictment rate)	34.3% overall restrictive placement in DFY facilities (9.8% secure, 14.8% limited secure, 9.6% non-secure)	Boland & McCabe --- Roysher and Edelman (N.Y. D.C.J.S. and Vera Institute)

JJAC Interview Data on Changing the Adult/Juvenile Distinction

The generally negative findings of research into New York's Juvenile Offender Law is not the only source of data gathered by the JJAC on the adult/juvenile distinction. Through extensive interviewing and the use of mailed questionnaires, the JJAC sought the opinions of Massachusetts officials on the advisability of changing the age of adult criminal responsibility in the Commonwealth.

The combined results of these two sources revealed that only 21% (44) of the respondents favored the treatment of a violent juvenile offender as an adult from the onset, as mandated by the New York Juvenile Offender Law. Seventy-seven percent (161) opposed such treatment.

When asked why they would reject such a policy, a range of 104 reasons were given. Forty-six percent (39) of those questioned felt that juvenile offenders should be treated in a different manner than adult offenders. Thirty-five percent (29) opposed the system for its lack of flexibility. Fourteen percent (12) believed that the adult court could not appropriately respond to the needs of the violent juvenile offender. Nine percent (8) held that current Massachusetts policy is by far the better alternative. Seven percent (6) saw New York's implementation of the law as a disaster. Other criticisms of the New York system pointed to its harshness, its inefficiency in rehabilitation and the resulting increase in crime and recidivism.

In response to the question, "Should violent juvenile offenders be treated the same as violent adults?" 80% of these same professionals believed that this distinction was necessary. Only 14%

of those questioned responded that court proceedings for adults and juveniles should be the same. Elaborating on these opinions, 66% of the respondents (50) who voted favorably for differentiation, emphasized the need for effective rehabilitation techniques while offenders were still young. Twenty-six percent (20) felt that juvenile offenders should be kept in facilities separate from violent adults. Ten respondents (13%) cited psychological immaturity, dependency and background as qualities of violent juveniles which necessarily distinguish them from violent adults, and therefore call for separate handling. Respondents also mentioned the failure and inabilities of the adult system to adequately provide for juvenile offenders. The adult correctional system does not have the necessary resources to provide for the unique needs of youthful offenders, nor can it guarantee the youth's safety within its institutions. Finally, some respondents opposed the handling of juveniles as adults because of the need for special consideration concerning first time violent offenders and the value of less secure treatment of these juveniles.

In summary, when one looks closely at the results of these studies in assessing the effects of the Juvenile Offender Law in New York State, it becomes clear that this new "tougher" policy has in fact landed far from the target of its original goals. Its implementation has endangered rather than secured such things as public safety, protection of legal rights, speedy court proceedings and uniformity in sentencing for the violent juvenile offender. In view of the success which the Designated Felony Act has had in handling more serious violent offenders, the later law appears, at

best, ineffectual. Therefore the members of this Committee would submit that such a law not be implemented in Massachusetts; that the needs of both the youth and the public are better served under the auspices of a juvenile system, such as currently exists in this state.

JJAC RECOMMENDATIONS CONCERNING THE AGE OF ADULT CRIMINAL RESPONSIBILITY

Rationale:

WHEREAS: 1) After considering multiple sources of data on this issue (e.g. the problematic nature of New York State's so-called Juvenile Offender Law, the results of interviews with nearly one hundred persons in the Massachusetts juvenile justice system and the responses to a mailed questionnaire on proposed policy changes) the JJAC finds no substantive basis for changing the current age for adult responsibility;

and

2) After considering all the available data the JJAC finds no reason to believe that problems identified with the current system (e.g. problems in consistency, fairness and adequacy of efforts to provide for treatment, public safety and the progressive accountability of violent juvenile offenders) can be solved by changing the age of adult responsibility.

The JJAC Recommends that:

THE COMMONWEALTH NOT CONSIDER CHANGING THE AGE OF ADULT RESPONSIBILITY FOR CRIMINAL CONDUCT (A PERSON'S 17TH BIRTHDAY).

REFERENCES FOR SECTION FOUR

1 Chapter 4D1 of the New York State Law of 1978, effective September 1, 1978.

2 New York State Division of Criminal Justice Services, Juvenile Violence, (New York, N.Y.: 1976) cited by George E. Hairston, "Criminal Responsibility" in Major Issues in Juvenile Justice Information and Training: Readings in Public Policy, (Columbus, Ohio: Academy for Contemporary Problems, 1981), p. 301.

3 Martin Roysher and Peter Edelman, "Treating Juveniles as Adults in New York: What does it Mean and How is it Working?" in Major Issues in Juvenile Justice Information and Training: Readings in Public Policy, (Columbus, Ohio: Academy for Contemporary Problems, 1981), p. 277.

4 Ibid., p. 281.

5 Barbara Boland and John McCabe, "Juvenile Justice Reform in New York," a draft paper prepared for the American Society of Criminology Meeting, San Francisco, Cal., November 5-8, 1980, p. 16.

6 Statewide Youth Advocacy, Inc., "Position Paper in Support of Restoring Original Jurisdiction over Juvenile Offenders to the Family Court," (New York, New York: April 11, 1979).

7 New York State Division of Criminal Justice Services, "Designated Felony Program, August 1978; Summary of Activities," mimeographed (New York, New York: 1978) cited in Roysher and Edelman, op. cit., p. 281.

8 SYA Position Paper, op. cit.

9 Roysher and Edelman, op. cit., p. 269.

10 The definition of designated felons was expanded to include 13 year-olds who commit roughly the same set of violent crimes.

11 Mark Fishman, "Crime Waves and Ideology," Social Problems vol. 25, no. 5, pp. 531-543.

12 SYA Position Paper, op. cit., p. 4.

13 Ibid., p. 3.

14 Citizen's Committee for Children of New York Inc., "An Interim Report on the 1978 Juvenile Offender Law," (New York, New York: April 1979).

15 Ibid., pp. 21-28.

16 Boland and McCabe, op. cit., p. 9.

17 Ibid., p. 15.

18 Roysher and Edelman, op. cit., p. 282.

19 Ibid., p. 280.

20 Vera Institute of Justice, "Family Court Disposition Study," (February 1980), cited in Roysher and Edelman, op. cit., pp. 280, 293.

21 Ibid.

22 Roysher and Edelman, op cit., pp. 280-281.

23 Ibid.

24 Ibid., p. 282.

25 Ibid., p. 283.

26 Ibid., p. 284.

27 Ibid., p. 285.

SECTION FIVE

ASSUMPTIONS GUIDING JJAC APPROACH TO THE SERIOUSLY VIOLENT JUVENILE OFFENDER

This section outlines the four basic assumptions used by the JJAC in interpreting data and recommending policy related to the treatment and control of seriously violent juvenile offenders. These assumptions state that:

(1) Juveniles who commit acts of serious violence are deserving of the most comprehensively developed program of available treatment.

(2) The public is deserving of protection against all persons whose acts of violence endanger its safety and welfare.

(3) Youths ages 14-16 should be held increasingly accountable for violent acts that impact upon the lives and safety of others.

(4) A juvenile justice system which operates to secure the goals of maximum treatment, public safety and increased accountability for seriously violent juvenile offenders should be one that is organized in terms of consistency of intervention strategy and the provision of due process rights to all accused.

Assumptions Guiding JJAC Approach to the Violent Juvenile Offender

In the preceeding pages the JJAC has listed its reasons for not changing the age for adult criminal responsibility in Massachusetts. The JJAC believes, instead, that seriously violent juvenile offenders should be handled by an intense concentration of intervention strategies within the juvenile justice system. More specifically, in considering policy directed toward the treatment and control of violent juvenile offenders the Juvenile Justice Advisory Committee is guided by the following assumptions:

1. JUVENILES WHO COMMIT ACTS OF SERIOUS VIOLENCE ARE DESERVING OF THE MOST COMPREHENSIVELY DEVELOPED PROGRAM OF AVAILABLE TREATMENT.

By this assumption the JJAC recognizes and supports the historical mission of juvenile justice as one of treatment and rehabilitation. By endorsing maximum treatment for violent youthful offenders, the JJAC hopes to reducc the likelihood that such youths will grow into future adult criminal involvement.

2. THE PUBLIC IS DESERVING OF PROTECTION AGAINST ALL PERSONS WHOSE ACTS OF VIOLENCE ENDANGER ITS SAFETY AND WELFARE.

By this assumption the JJAC recognizes that a responsible system of juvenile justice must combine its concern for treatment with a commitment to securing public safety. This assumption in no way lessens our commitment to the provision of maximum treatment. By supporting intensive treatment in an environment that protects the public from youths who have

committed acts of serious violence, the JJAC hopes to reduce the danger of present and future violence by such young persons.

3. YOUTHS AGES 14-16 SHOULD BE HELD INCREASINGLY ACCOUNTABLE FOR VIOLENT ACTS THAT IMPACT UPON THE LIVES AND SAFETY OF OTHERS.

By this assumption the JJAC recognizes that persons aged 14-16 are increasingly confronted with the responsibilities of becoming "young adults." As they edge closer to the societal rights of adulthood so should young people increasingly assume the responsibilities of that status. As such, the JJAC endorses a viewpoint which maintains that adolescent offenders should be held progressively accountable for acts of serious violence. They are not to be treated as non-responsible children. Nor are they to be sanctioned as fully responsible adults. If juvenile justice policy is to constructively assist young people in learning to assume the responsibilities of adulthood, it must, to some degree, hold adolescents accountable for offenses that, if committed a few years later, could exact the full price of the adult criminal code.

4. A JUVENILE JUSTICE SYSTEM WHICH OPERATES TO SECURE THE GOALS OF MAXIMUM TREATMENT, PUBLIC SAFETY AND INCREASED ACCOUNTABILITY FOR SERIOUSLY VIOLENT JUVENILE OFFENDERS SHOULD BE ONE THAT IS ORGANIZED IN TERMS OF CONSISTENCY OF INTERVENTION STRATEGY AND THE PROVISION OF DUE PROCESS RIGHTS TO ALL ACCUSED.

By these assumptions the JJAC recognizes the twin needs of those treated and those protected by the juvenile justice system to know what can and will be expected from programs designed for violenc juvenile offenders. At the same time, it is recognized that programs which combine intensive treatment

with a concern for public safety may, for a time, restrict an offender's access to the community-at-large. As such, the JJAC also recognizes the needs for full legal protection (e.g. right to counsel, cross-examination, access to records, etc.) at all points in the system where decisions can be made to restrict the freedom of one's movement within society.

SECTION SIX

THE CURRENT HANDLING OF VIOLENT JUVENILE OFFENDERS IN MASSACHUSETTS

This section uses JJAC data and data gathered by other recent studies to identify six problem areas in current policy directed toward the treatment and control of seriously violent juvenile offenders. Problems identified include:

A) Lack of uniformity in judicial and DYS decision-making (e.g., variations by court, region, age, minority status and resource availability);

B) Lack of relationship between offense committed and placement provided (as measured by DYS placements and levels of restrictiveness);

C) Concerns related to public safety and offender accountability (as indicated by use and availability of secure care);

D) Inadequate provision, monitoring and evaluation of treatment (particularly the uses and costs of secure treatments);

E) Disruptive presence of political pressure (between the courts, DYS and the public); and

F) Inadequate communication between components of the system (especially between the courts and DYS).

The Current Handling of Violent Juvenile Offenders in Massachusetts

The JJAC believes that a well constructed system for the handling of violent juvenile offenders would operate in accordance with the assumptions outlined in Section Five. How well does the current Massachusetts system do with regard to these four general principles? In reviewing the available data the JJAC has identified six problem areas that impede the effective realization of these concerns. These include:

A. Lack of uniformity in decisions regarding treatment and placement of violent juvenile offenders.

B. Lack of relationship between offense committed and placement provided.

C. Inadequate attention to issues of public safety and increased offender accountability.

D. Inadequate provision, monitoring, and evaluation of treatment.

E. Disruptive presence of political pressure.

F. Inadequate communication and conflictual relationship between principal components of the system, particularly the courts and DYS.

PROBLEM AREA A. LACK OF UNIFORMITY IN DECISIONS REGARDING TREATMENT AND PLACEMENT OF VIOLENT JUVENILE OFFENDERS.

Non-standardized procedures throughout the juvenile justice decision-making process are evident at both the court and the DYS level. At the court level, supporting data from the interview component of the study reveals that many respondents employ idiosyncratic "systems" in dealing with first time violent and repeat violent offenders. Twenty-two of 29 juvenile judges claimed

that they were fairly lenient with first time offenders and increased their sanctions substantially for repeat offenders. Yet, when asked about specific intervention strategies the response of judges was highly varied. For example, one judge indicated that he committed all multiple offenders to DYS. Another used a DYS commitment only after the third offense. Another stated that he preferred the use of probation, even for repeat offenders. Still another stated that if any juvenile committed a serious violent offense he would automatically seek a transfer hearing. For judge after judge, this was the pattern--no pattern. The current judicial handling of violent juvenile offenders appears not to be guided by a set of uniformly visible criteria. It is guided, instead, more by the varying judges involved.

The lack of uniform criteria is a central feature of DYS as well as of juvenile court decision-making. This is revealed by a recent study compiled by Ann Marie Rocheleau in conjunction with the DYS.[1] Rocheleau employed in-depth interviewing of DYS personnel, direct observation of DYS staffings and a quantitative analysis of the records of 223 committed juvenile offenders in analyzing factors associated with where youths are placed within the DYS system.

Rocheleau's findings raise major questions about the uniformity of DYS placement decisions. Most significant is Rocheleau's finding of no statistical relationship between offenses committed and placements recommended. This lack of relationship will be discussed in greater detail later. At present it should be noted that several factors were determined to reflect interesting, if admittedly weak relationships. Two of these, minority status and age, do not

appear related to placement decisions state-wide. Yet these factors appear to exert more of an influence in certain regions than others.

1. Minority Status and Regional Variations

In one region, for instance, committed Black youths were placed disproportionately in their own homes (29.6%) rather than in group homes (8.3%) or foster homes (0%).[2] This happened regardless of the type or seriousness of the committed offense. Why? Was this because DYS officials thought home placements to be the treatment of choice? Or was it because the region in question had a special non-residential program geared to the unique treatment needs of these minority offenders, but had no residential program to do so? Rocheleau's data is suggestive of the latter. Thirteen out of 21 DYS respondents interviewed in her study indicated that minority status is a factor that should be considered in making placement decisions. What this means in practice is that within some regions certain programs specialize in the treatment of racial, ethnic and/or linguistic minorities. However, these special programs are often non-residential programs. Thus while the unique needs of non-serious minority offenders are met in some regions, appropriate residential placements for serious minority offenders are scarce.

The suggested relationship between DYS placement and the availability of specialized "minority programming" raises major questions about the lack of regional uniformity with placement decisions. As Rocheleau points out, "the relationship which exists (between minority status and DYS placement) seems to be due mostly to programs which are designed to work with certain

types of kids."[3] This suggestion is reinforced by informal "folklore" and recent journalistic observations about the racially segregated nature of juvenile justice programs in the Commonwealth. For example, in the Harvard study of juvenile placements, Ohlin and Miller found that a disproportionate number of youths bound over were Black (37.5%) compared to those youths placed in a RAP program (18.2%) or those in the general population (14%) who are Black.[4] Thus differential treatment of minority offenders is clearly an issue that needs more systematic and more in-depth study.

2. Age and Regional Variation.

Age at commitment is also a factor which is related differently to DYS placement on a region-by-region basis. Consider Regions 4 and 6. According to Rocheleau:

> (I)n looking at the Regions, one finds some statistical relationships between age at commitment and the placement categories recommended. In Region 4 there is a small statistical relationship...which indicates that as age goes up restrictiveness goes down. A look at the crosstabulation of the two variables for this Region reveals that 87.5% of the youths recommended for group homes are 14 years old or younger while 75% of the youths recommended for placement at home are 15 years old and older. In Region 6 the relationship is reversed...in that the younger youths are slightly more apt to be placed in less restrictive settings than are older youths.[5]

What accounts for the regional variations in the relationship between age and variations in placement? The answer may lie in the varying professional or clinical judgments of those charged with placement decisions in different regions. Most DYS respondents listed age as an important factor in deciding upon appropriate placement. Twelve of 21 listed it among the five most important factors. What about the other nine? Their lesser concern with

age as a placement criterion may mean that placements will rely less on this criterion in the regions in which they work.

Even more important may be the issue of "practical resource availability." Certain regions may lack programs which are applicable or open to youths of all ages. A parallel factor is sex or gender. Again to cite Rocheleau:

> Like sex, age is a factor which is important to the programs themselves. Some group homes will not take youths below age 15 while one or two specialize in younger children. Therefore age is a practical consideration in recommending specific placements.[6]

Thus, in addition to age, resource availability seems to be an important factor in the placement decision.

3. Resource Availability.

The differential impact of resource availability by region cannot be overstressed. This is of particular importance when considering the placement of violent juvenile offenders into secure treatment. Data on this is found in both the interviewing and the DYS records components of the JJAC's own study. Consider the following statements made during interviews with DYS caseworkers.

Excerpts from Interviews with DYS Caseworkers:

> "We can't follow through on our treatment plans because there aren't enough beds or secure slots."
>
> "We need more secure facilities, specifically in (Region X)...(We) have to barter and trade-off slots with other regions to get a boy into securement."

How typical is this experience of the caseworkers reported above? Six out of ten caseworkers interviewed identified the lack of resources as the major weakness of DYS, while five out of the ten similarly identified the inadequate provision of security.

4. Regional Variations in "Restrictive Placement."

Data from the three-year study of violent offender records also suggests that regional variations are of greater significance in understanding the use of secure placements. In studying the various placements of youths within each Region, the JJAC developed a restrictiveness of placement scale. The Department of Youth Services placements were combined into six categories of restrictiveness, ranging from low to high, as follows:

1. Minimal (independent living, living at home or with relatives)
2. Law (diagnostic, counseling, educational service, work, vocational training)
3. Moderate (foster care, tracking)
4. High (boarding schools, group care, shelter care, mentor)
5. Very high (treatment) (institutional school, RAP, psych. hospital, secure treatment)
6. Very high (detention)

For youths committed for their first violent offense, Regions 5 and 7 far outdistanced others in their use of "very high security" as a first DYS placement (See Table 6.1). Sixty-eight percent of the first time violent offenders committed within Region Five were placed in very high security. In Region Seven, this figure was 65%. The next highest figure was Region Three with 33.3%. In Region Six only 13.4% of such offenders were so placed. With minor variations this same relationship holds for second time serious violent offenders as well as for the JJAC sample when excluding simple assault and batteries. (See Table 6.2) In other words, regional placement practice and not offense seriousness or chronicity accounts for this variation in secure placements.

CONTINUED

1 OF 3

TABLE 6.1

RESTRICTIVENESS OF PLACEMENT FOR FIRST COMMITMENT FOR A VIOLENT OFFENSE, BY DYS REGION.

	DYS Region							
	I	II	III	IV	V	VI	VII	Row Total
1. Minimal	5 7.7	7 11.7	7 13.0	10 17.9	3 12.0	10 12.2	7 17.5	49
2. Low	42 64.6	0 0	3 5.6	4 19.6	1 4.0	13 15.9	2 5.0	7.
3. Moderate	2 3.1	15 25.0	4 7.4	8 14.3	0 0	7 8.5	1 2.5	37
4. High	5 7.7	24 40.0	22 40.7	24 25.0	4 16.0	41 50.0	4 10.0	114
5. Very High	11 16.9	14 23.3	18 33.3	13 23.2	17 68.0	11 13.4	26 65.0	110
Column Total	65	60	54	56	25	82	40	382

This table indicates the number and percentage of youths who were placed in the various levels of restrictiveness in each Region upon their first commitment to DYS for a violent offense.

TABLE 6.2

RESTRICTIVENESS OF PLACEMENT FOR FIRST COMMITMENT FOR A VIOLENT OFFENSE BY DYS REGION, EXCLUDING THE OFFENSE OF ASSAULT AND BATTERY

	DYS Region							
	I	II	III	IV	V	VI	VII	Row Total
Minimal	0 0	5 23.8	3 20.0	3 15.0	1 10.0	5 12.5	4 28.6	21
Low	15 65.2	0 0	0 0	5 25.0	1 10.0	5 12.5	0 0	26
Moderate	2 8.7	5 23.8	1 6.7	4 20.0	0 0	1 2.5	1 7.1	14
High	2 8.7	7 33.3	7 46.7	5 25.0	0 0	22 55.0	1 7.1	44
Very High	4 17.4	4 19.0	4 26.7	3 15.0	8 80.0	7 17.5	8 57.1	38
Column Total	23	21	15	20	10	40	14	143

This table indicates the number and percentage of youths who were placed in the various levels of restrictiveness in each Region upon their first commitment to DYS for a serious violent conviction (excluding assault and battery charges).

4. Other Factors Related to Regional Variations

What accounts for such extensive regional variation? Some answers have already been suggested--for example, differential impact of age-specific, minority oriented or resource available programming. Rocheleau's observations and interviews suggest other factors as well. These include:

a. The varying impact of youths and parents in determining a particular program of treatment. (Some regions provide for greater youth and parental influence than others.)

b. The differential impact of certain judges within and between regions. (The point here is that some judges, by persuasion, pressure, or intimidation do in fact get their way with DYS. This happens independently of the offense for which youths are committed. Hence a 'high influence' judge may obtain a more restrictive placement for a lesser offending youth, while a 'low influence' judge may have to settle for a less restrictive placement for a serious offender.)

c. The varying composition of regional staffings and the varying influence of those participating. (Some regions routinely involve court personnel in all staffings. In others this is a less regular occurrence. The same applied to other sources of professional input. Moreover the interactional dynamics involved in negotiations over placement, e.g. who has more power, prestige or 'say-so', give shape to decisions in a non-uniform manner.)

These factors and the others discussed above guarantee both regional variations and the omnipresence of idiosyncratic decision-making. Together these things represent a major problem of consistency in the present system.

PROBLEM AREA B. LACK OF RELATIONSHIP BETWEEN OFFENSE COMMITTED AND PLACEMENT PROVIDED.

A second area of concern with the present juvenile justice system is the lack of a consistent relationship between a violent offense and DYS placement. This problem is documented by two sources of data. The first is drawn from the JJAC's study of violent juvenile offenders committed to DYS. The second is drawn

from Rocheleau's report on "Placing Youth in the Massachusetts DYS."

The findings from the JJAC's three-year DYS study suggest that youths committed to DYS for acts of serious violence are handled in highly diverse ways. This is true with regard to both treatment and the level of security. Consider, for example, the wide range of services provided to youths subsequent to their first commitment for violence (See Table 6.3). Placement of the 398 youths (tracked) varied from 22.4% in secure detention to 12.6% placed in independent living. Other major areas of placement were divided among shelter care detention (14.6%), group care (4.7%), foster care (9.8%) and counseling (14.6%).

TABLE 6.3

TYPE OF DYS SERVICE AFTER FIRST COMMITMENT FOR A VIOLENT OFFENSE

	N	%
Independent living	50	12.6
Counseling	58	14.6
Foster care	39	9.8
Group care	19	4.8
Camps	16	4.0
Special Group Care	9	2.3
Boarding School	10	2.5
Shelter Care Detention	59	14.8
Secure Treatment	23	5.8
Secure Detention	89	22.4
Other placements	26	6.4
Total	398	100

Instead of looking at the individual type of placements, one might also look at the diversity in the restrictiveness of the first placement and those 30 and then 60 days after the first commitment for a violent offense. For example, 12.4% of the youths were in placements of minimum restrictiveness in contrast to 10.8% in moderate, 31.5% in high and 5.7% in very high restrictiveness with treatment. If one looks at the levels of restrictiveness in placements 30 and then 60 days after the first commitment for a violent offense, one sees a similar diverse pattern. (See Graphs 6.1 through 6.3).

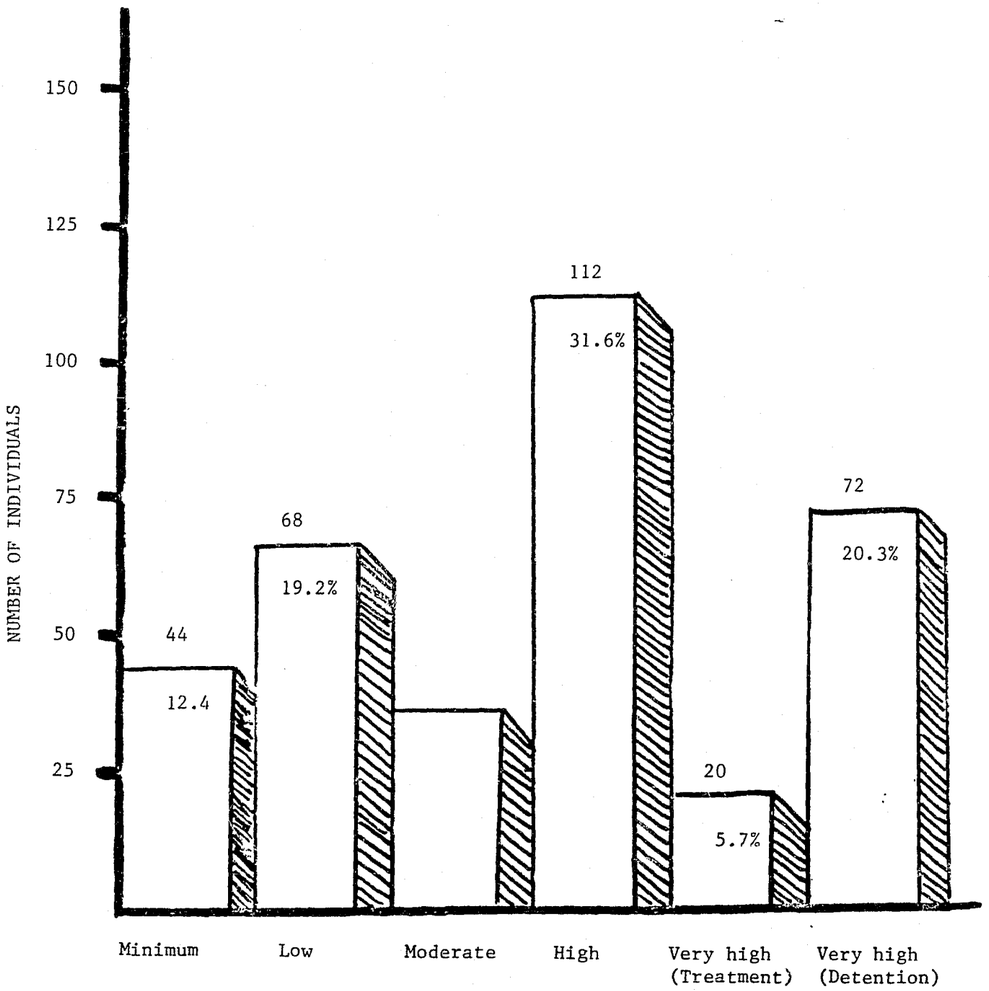
Our second source of data, Rocheleau's report on Placing Youths in the Massachusetts DYS, shows even more specifically that there exist no correlation between seriousness of a given offense and the placement category recommended.

The offenses of 223 youths studied were divided into five levels of seriousness. These levels were then compared to the restrictiveness of placements recommended. The results of this comparison are troubling. The levels of seriousness were found to be unrelated to the levels of placement. As it turned out, level three offenses (which included such acts as larceny and burglary) made up the majority of cases within each placement category. All of this translates into a lack of consistent relationship between the seriousness of the offenses youths commit and the response of the system to their behavior. This finding stands in dramatic contrast with how DYS personnel say the placement system should operate. When asked about the appropriate criteria for deciding placement, all 21

DYS administrators and caseworkers listed "the offense committed" as an important factor.[7] Thirteen stated that it should be the most important factor. Yet the data reviewed above suggests considerable inconsistency between what is said to be important and what actually happens. The elimination of such inconsistencies is a central objective of the JJAC in formulating its own recommendations for policy.

GRAPH 6.1

DYS PLACEMENT IMMEDIATELY FOLLOWING
FIRST COMMITMENT FOR A VIOLENT OFFENSE

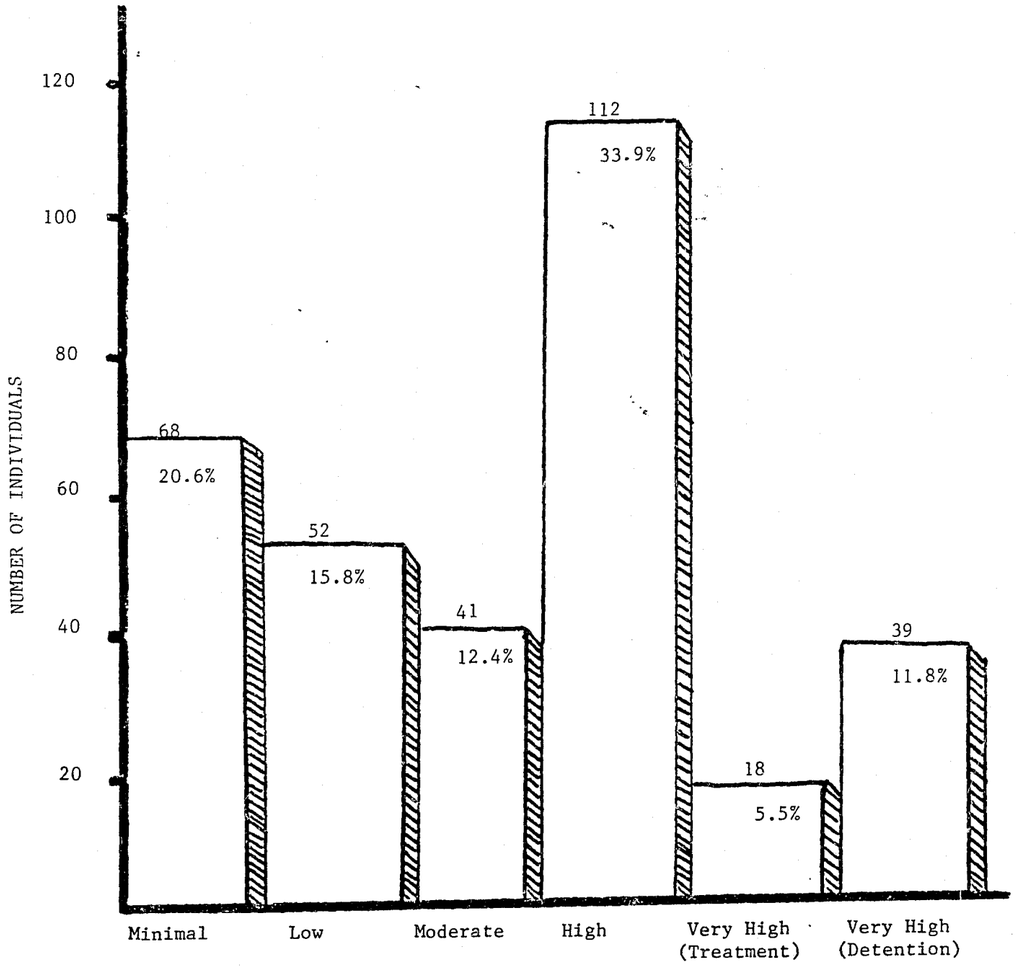


N = 354

This graph indicates the number and percentage of youths placed at each level of restrictiveness immediately following their first commitment to DYS for a violent offense.

GRAPH 6.2

DYS PLACEMENT THIRTY DAYS AFTER
FIRST COMMITMENT FOR A VIOLENT OFFENSE

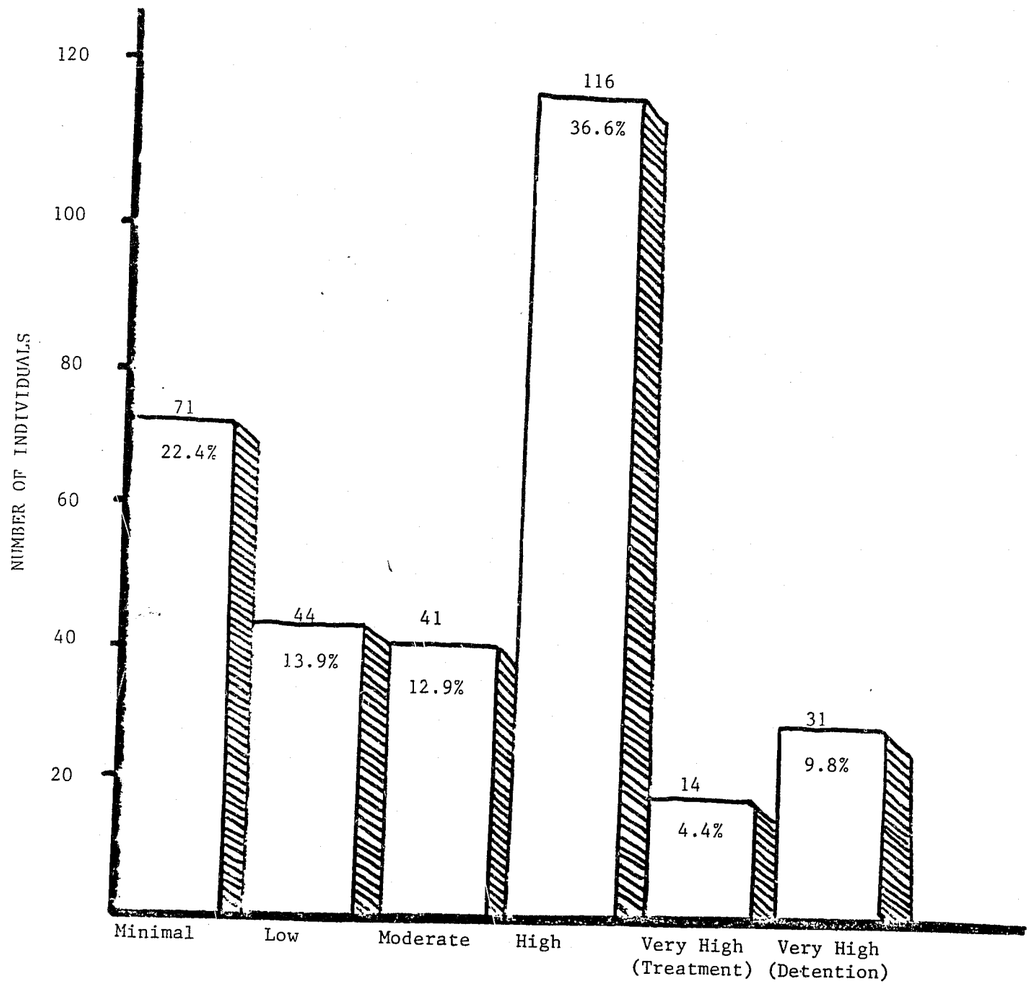


N = 330

This graph indicates the number and percentage of youths at each level of restrictiveness 30 days after their first commitment to DYS for a violent offense.

GRAPH 6.3

DYS PLACEMENT SIXTY DAYS AFTER
FIRST COMMITMENT FOR A VIOLENT OFFENSE



N = 317

This graph indicates the number and percentage of youths placed at each level of restrictiveness 60 days after their first commitment to DYS for a violent offense.

PROBLEM AREA C. CONCERNS REGARDING PUBLIC SAFETY AND PROGRESSIVE ACCOUNTABILITY OF SERIOUS VIOLENT JUVENILE OFFENDERS.

The use of secure placement is one way the juvenile justice system may address the protection of the public from youths committing acts of serious violence. So also might short and specified periods of restrictive custody be used to emphasize the progressive accountability that is to be expected of adolescents for violent crimes that gravely damage the public welfare. To what extent does the present system use secure placements to realize these objectives? According to the majority of the respondents interviewed by the JJAC, the use of security for serious violent offenders is nowhere as extensive as it should be. Fifty-one of 97 respondents who made comments on DYS cited "the inadequate provision of security" as a major weakness of current DYS programming. Respondents typically listed such things as "an inadequate number of secure care beds," "too soon a release for violent offenders," or "DYS's reluctance to lock up seriously violent youths" as the basis for this conclusion.

The expressed concern regarding "the inadequate provision of security" is substantiated to a large degree by data gathered in the JJAC's analysis of violent juvenile offenders committed to DYS. As discussed in the previous section, a key question considered by the JJAC concerned the percentage of serious violent offenders placed in secure settings subsequent to commitment. DYS recorded first placements were compared to the placements of offenders 60 days later. When secure treatment and secure detention figures were combined, it was discovered that initial security was provided for 25.9% of the first time violent offenders, for 38% of the second time offenders and for only 28% of the third time offenders. Moreover the percentage

remaining in security decreases after 60 days. For example, only 14% of those committed for a first serious violent offense were still in security 60 days after their recorded first placement. This percentage rose to only 23% for youths committed for a second serious violent offense.

1. Low Levels of Security and Public Safety

The data presented above may reinforce the belief, already held by many, that the present system fails to adequately protect the public. This issue is particularly pertinent to the control of the repeat violent offender. The best available data on the problem of repeat offenders is presented by Wolfgang, Figlio and Sellin in their study of crimes committed by the cohort of all boys born in Philadelphis in 1945.[8] Using arrest records this research, Delinquency in a Birth Cohort, followed the "criminal careers" of boys, first to age 18 and eventually to age 30. Perhaps the most important finding of this work was that a small percentage of chronic offenders accounted for a disproportionately large percentage of serious offenses in general. Chronic offenders were defined as youths arrested for five or more offenses. For the nearly ten thousand youths followed to age 18, this chronic population totalled only 6%. Yet this 6% accounted for approximately two-thirds of all violent crimes recorded for the cohort as a whole. The central policy proposals stemming from this research involve increases in intensive and restrictive interventions as offenders themselves escalate as repeaters. On this criterion alone the recent history of Massachusetts' interventions might be questioned. Recall that the percentage of third time offenders initially placed into security (28%) was actually less than that for second time offenders (38%).

Findings such as those discussed above may be interpreted by some as a serious failure of the recent system. The importance of these findings should not, however, be overly exaggerated. While they may provide justifiable grounds for questioning the handling of repeat offenders, they should not be interpreted as a statement that DYS has totally ignored the concerns of public safety. Consider the findings of a second important piece of juvenile justice research conducted by the Academy of Contemporary Problems in Columbus, Ohio.[9] This research sought to measure the actual reduction of violent crimes that would occur if all juveniles arrested for a crime of violence in Columbus during 1973 and who had been previously convicted for any felony during the previous five years had received a mandatory five year secure placement. This hypothetical "tough public safety policy" would have meant that such persons would still have been restrictively "incapacitated" and thus prevented from committing the violent act for which they were arrested in 1973. What was discovered places into serious question the assumption that locking up offenders significantly reduces the incidence of violence and enhances the overall safety of the public. Of the 126 Columbus juveniles arrested for violence, only thirty-three (26.2%) would have been prevented for their 1973 crimes. The percentage of violent crimes in Columbus as a whole would have been reduced by only 1.3% From this data one cannot argue with any assurance that secure placements actually protect the public. The problem of violence appears less a "problem of the offender" than a "problem of the society" out of which violent offenders emerge. After reviewing the findings of this important research it was concluded that the use of security does not automatically guarantee significant increases in public safety. The hard data simply does not support this commonly held public belief.

2. Concerns for Increased Accountability of the Violent Juvenile Offender.

On this topic the issues are more clear. After repeat violent offenses a significantly greater use of secure placements has not been occurring. Assuming that increased restrictiveness is one tool for reinforcing increased offender accountability, the recent system may be viewed as somewhat inadequate. This point was repeatedly made by the respondents interviewed by the JJAC. Many of the respondents interviewed discussed the system's lack of accountability for violent juvenile offenders. Many stated that juvenile offenders were not made responsible for their actions and were therefore not deterred by the present juvenile justice system. As one judge stated:

> Kids lose respect for law and order. After an appearance in court they don't receive any major inconvenience or punishment. The sentences handed out are so minor that they are meaningless.

Other respondents discussed some youths' ability to manipulate the youth correctional system to meet their preferences. Still others discussed the long wait which juveniles have to endure before anything actually occurs and how this further waters down the possibility of demonstrating the seriousness and consequences of the offense to the juvenile.

Why? Why so little use of secure placement, even for repeat violent offenders? The JJAC has no definitive data on this matter. Two general areas of questions do, however, present themselves. The first involves allegations as to an inadequate number of secure beds. The second concerns the use of open-ended clinical assessments as the means for deciding upon secure placement.

(a) Inadequacy of Secure Bed Availability

One explanation for this low provision of security is that DYS does not have a sufficient number of secure facilities to accommodate these violent offenders, and are thus forced to seek the less restrictive options of community placement. This issue is addressed in greater detail in a subsequent section of this report.

(b) Inadequacy of Clinical Assessments of Future Violence

The decision not to place adjudicated violent offenders in security may also be the result of a clinical decision that security is not needed. Such decisions typically involve the assessment of future violence or the prediction of dangerousness. Unfortunately research (such as that carried out by Pfohl and by Steadman and Cocozza)[10] has shown such assessments to be little more than well-intentioned negotiations over clinical definitions. When put to the test of empirical scrutiny, predictions of violence have proven neither reliable nor valid.

Existing literature consistently reveals very low rates of prognostic accuracy. Whether one develops "predictor scales" based on as many as 100 variables, employs the results of psychological testing, or relies on the judgments of experienced diagnosticians, prediction rates rise no higher than two wrong judgments for every one right judgment. A recent review article on this subject has gone so far as to refer to the prediction process as "flipping coins in the courtroom."[11]

3. Toward a More Accountable Use of Secure Placement.

Whether based on inadequate resources or the variable and unreliable character of clinical assessments of potential violence, the low percentage of serious violent juvenile offenders placed quickly into secure settings raises major questions about recent juvenile justice policy.

As suggested previously, these questions may be more pertinent to issues related to "offender accountability" than "public safety per se." In the public mind these distinctions have, however, become blurred. It is hoped that by separating these issues the present JJAC will contribute to a more responsibly informed public. On the other hand, the lack of significant differentiation between the handling of first time and repeat offenders and the lack of use of increased restrictiveness as a tool for increasing offender accountability stand out as problems of the recent system. These issues are central concerns addressed in the JJAC's recommendations for changes in policy.

PROBLEM AREA D. INADEQUATE PROVISION, MONITORING AND EVALUATION OF TREATMENT.

As part of the interviewing component of our study, the JJAC asked 106 professionals in the field of juvenile crime to identify what they believed to be major weaknesses in DYS's handling of violent juvenile offenders. Fifteen of 97 respondents answering this question cited a lack of specific treatment programs for violent offenders. Fourteen others criticized DYS for the inappropriate use of secure detention facilities as places where serious violent offenders received no constructive rehabilitation. Yet, the single most cited

factor, stated by more than half (55) of those questioned, involved "the lack of physical, financial, programmatic and/or personnel resources." These shortcomings can be divided into three issues:

1) inadequate treatment in secure placement
2) the use of secure treatment beds for non-violent offenders and
3) the high cost of treatment.

1) Inadequate Treatment in Secure Placement

Developing an effective system of controlling serious violent juvenile offenders should not overlook the importance of providing intensive treatment for youths placed in secure settings. JJAC data in the area of use of secure treatment and detention reveals a startling statistic of 0% secure treatment placements in 1979 for violent offenders with no prior offense. Even when all three target years are combined, the data shows surprisingly low percentages of initial placements in secure treatment programs: after the first commitment for violence only 5.6% were placed in secure treatment. This percentage rises to 10.7% after the second commitment for violence and to 12% after the third violent adjudication. Why such small percentages? This question is underscored by the relatively higher proportions of violent juvenile offenders placed in secure detention as indicated in the table (6.4) below:

TABLE 6.4

FIRST DYS RECORDED PLACEMENTS

According to number of violent commitments	ST	SD	According to target year	ST	SD
first	5.6%	20.3%	1975	15.3%	10.2%
second	10.7%	27.3%	1977	1.6%	27.9%
third	12.0%	16.0%	1979	0.0%	24.4%

The data above indicates that for those serious violent juvenile offenders who do find their way into secure settings, the majority are placed in detention. Data also suggests that such "holding" facilities, void of treatment services, are being increasingly used because of the lack of available or appropriate secure treatment beds for violent offenders.

Another source which documents the inadequacy of treatment in secure placement facilities is from a study conducted by Alden Miller and Lloyd Ohlin of the Harvard Law School's Center for Criminal Justice in 1980.[12] In Chapter 11 of this report, Miller presents the results of interviews with 88 staff members and 92 youths in 38 programs of the DYS. Fourteen youths and fourteen staff members from secure programs were among those interviewed. Both groups were asked to reveal the extent and quality of treatment programs as a product of youth-staff as well as youth-community relations.

When questioned about methods of punishment, youths from both non-secure and secure programs, but especially the latter, stated that the staff would more often admonish them for doing "wrong" than reward them when they did "right." This simple response does seem to reflect an emphasis on control rather than encouragement for rehabilitative progress. This was supported by another of the responses given by a majority of the youths who felt that the staff was "more concerned with controlling the youths than with helping them with their problems."

In general, the Harvard study found that the tendency of custodial elements to appear within the system's workings was much greater for the secure facilities than for the non-secure ones. In terms of community input and exchange, data showed that the secure program staff

encouraged the youths to do well on the "outside" and assisted them somewhat in finding schools, jobs and living arrangements after their release. Considerably less was done, however, to establish a supportive youth-community relationship. Youths were not eased, for example, into community programs where they might readjust to society on their own. Almost all staff members interviewed considered such "aftercare" as essential if secure programming was to effectively serve its purpose. Yet data showed that these same staff members did not believe the system provided such care for youths leaving secure programs, nor did the programs' resources allow them to provide it themselves. In concluding their chapter, the authors project the dissatisfaction and frustration of the caseworkers who strive to place more youths in secure care because they are allegedly more successful in obtaining program services and setting up community-based programs for aftercare. The findings of this study would suggest, however, that both of these elements are even more lacking in secure placements than in non-secure ones.

2) Use of Secure Treatment Beds for Non-Violent Offenders

What factors may contribute to few violent juvenile offenders being expediently placed within secure treatment settings? One possibility may involve the occupancy of current secure treatment beds by offenders other than those committing acts of serious personal injury. This suggestion is supported by data produced by the study of secure care decision-making conducted by Harvard Law School's Center for Criminal Justice.

According to the Harvard study, the number of violent juvenile offenders committed to secure treatment in 1978 was only 27.8%, which meant 72.2% of the population in secure treatment has not been

adjudicated delinquent for a violent offense. Thus, while violent juvenile offenders, it has been suggested, are most in need of secure care, placements are not available due to the large number of non-violent offenders in secure treatment settings.

3) The High Cost of Treatment

As mentioned previously, a lack of resources was cited by interview respondents as the greatest impediment to the development of an adequate secure treatment system. The importance of this shortcoming of the DYS, lack of physical and financial resources, should not be understated. Secure treatment is costly and difficult to plan programmatically. Facilities used must be adequate for both security and rehabilitation, and require the services of trained professionals who are hard to attract, given the meager level of current DYS salaries. If the DYS is to provide treatment it must be assured of sufficient fiscal, programmatic and physical space resources.

Several of these issues have been matters of public attention for some time. Ten percent of the 106 respondents interviewed by the JJAC specifically cited low salaries as a major impediment to the efficiently-run programs within the Department of Youth Services. This deflated pay scale was also commented upon in the recent study submitted by the Governor's Task Force on Juvenile Crime. The Task Force found that salaries of DYS professionals and staff personnel compared very unfavorably with those of other criminal justice agencies demanding similar work efforts and professional backgrounds. According to their report:

> ...this difference in pay may have a number of negative effects on the ability of DYS to provide continuous and effective services. Specifically, the Department may lose a great many talented and dedicated employees to other agencies who offer greater renumeration. Moreover, this attrition of direct-care employees disrupts the most needed consistent, long-term management supervision of DYS clients. Of further consideration was the multi-faceted roles and responsibilities of DYS employees. The range of skills and experience required in establishing relationships of trust, oftentimes with difficult and aggressive youth without losing control, is particularly demanding. To accomplish this DYS must be able to compete with similar agencies and attract qualified staff who possess the above attributes.[13]

The charts below, taken from the Report of the Governor's Task Force on Juvenile Crime, show the comparison of existing salary ranges of DYS professionals with those of other criminal justice agencies.

PAY SCALE FOR LINE STAFF: FACILITIES

FACILITY	PAY RANGE
Department of Correction	13,520 - 16,380
County House of Correction	13,000 - 16,000
Department of Youth Services	11,000 - 13,600

PAY SCALE FOR LINE STAFF: REGIONS

REGION	PAY RANGE
Parole Officer	15,079 - 18,389
Probatio- Officer	15,000 - 20,750
Caseworkers (DYS)	12,800 - 15,400

Current deficiencies in monitoring and evaluation

An additional concern with the current provision of secure treatment is the lack of regular procedures for the monitoring and evaluation of rehabilitation efforts. The importance of this issue was recognized by DYS in 1979, when they reorganized contracting teams, so that six full-time persons were working on monitoring and evaluation. Now two years later, this has been cut back to only two program development evaluators. Because of the serious nature of treatment provided behind closed doors, such programs should be subjected to periodic review and assessment as well as to ongoing evaluation of the success of treatment modalities.

PROBLEM AREA E. DISRUPTIVE PRESENCE OF POLITICAL PRESSURE

Today's juvenile justice system is caught between strong and often contradictory political cross-currents. Reduce serious juvenile crime! Reduce public spending! Such slogans abound. Frustration, job and organizational insecurity, and inter-agency conflict have become part of the day-to-day realities of work within "the system." Courts blame DYS. DYS blames the courts. The public blames both. Budget cuts and demands for fiscal restraint impact on the allocation of what are perceived as already scarce programmatic resources. Together, these things engender an atmosphere of conflict that impacts negatively upon the integrated coordination of key components of the juvenile justice system.

Through its in-depth interviewing the JJAC was able to identify a number of specific areas of political tension. The most important of these revealed conflict between the courts and DYS. Many of the judges interviewed commented upon the weaknesses of the Department of

Youth Services. Criticisms were expressed with feelings of frustration and powerlessness concerning what actually happens to a youth once committed. The following excerpts illustrate judges' complaints along these lines.

Excerpts from Interviews with Judges

> Many times you don't send them to DYS because you recognize that nothing beneficial is going to happen for anybody. DYS is like a revolving door.
>
> Judicial options (for handling violent juvenile offenders) are too limited. What happens to a juvenile in DYS is out of our hands. We have no power.

Given this mood of contention and complaint, judges often resort to "accomodative mechanisms" in order to circumvent what they perceive as organizational constraints. An important example of one such mechanism is the transfer hearing, in which a judge, assessing the seriousness of a violent juvenile offense as too great to be dealt with appropriately and fairly through the DYS, "binds" that offender over to the adult court system, allegedly to be dealt with more severely. In one way, this transfer mechanism could be seen in a positive light as a sort of "tool" to ensure the justice system that the DYS is utilizing all of the rehabilitative and security facilities at its disposal to deal with a particularly violent offender. At the same time it keeps the lines of communication between the court and the Department open, since these "bindover" hearings necessitate review of the offender's case by both juvenile justice components. As one DYS caseworker has stated, "it puts responsibility not only on the DYS, but also on the courts, for everyone to do his job. Transfer hearings are an awareness session in which people get really concerned. The best treatment plans I've seen have come out of transfer hearings."

But our interviews also revealed another, more politicized side of this transfer hearing mechanism. It was discovered that many judges, desperate to have some control over the violent offender, greatly manipulated the transfer hearing statute to obtain secure placements. The "general practice" of these judges was to pressure DYS by threatening to transfer a youth to adult court unless a secure placement was found. One DYS secure treatment director describes the problem in this way:

> The problem is that the agencies do not listen to the court's recommendations, and that's where the frustration comes from. Judges do not like to commit to the Department because...the bottom line is, if they want the kid off the street, the only assurance is to bind that kid over. That is a sad thing.

Similarly, in the study by Rocheleau, it was found that certain judges become well-known to DYS regional staff for the pressure they exert in placing youths in security. Often the identity of the judge, rather than the offense history of the youth involved, becomes the primary consideration in determining placement.

It is also amid this mood that we find an urban court in which probation officers all the way up to the Chief refuse to be interviewed out of fear or reprisal from that court's chief juvenile judge. This situation has been recognized by at least one high ranking state official, who went so far as to suggest that probation be removed from the jurisdiction of the court and serve as a separate entity, no longer bound to court pressure.

The JJAC encountered repeated difficulties acquiring interviews with caseworkers in a DYS region notorious for lack of resources and facilities. The impossible situation of both recognizing the need for public safety, and at the same time being severely hampered

in terms of secure options for placement, has produced division within the juvenile justice system and has not helped efforts to reduce crime.

Secure programs designed for treatment and incapacitation of seriously violent youths carry their own sets of pressures. The enormous difficulties of rehabilitating "hard-core" violent youths are compounded by serious bed shortages and DYS' budget constraints. In addition, the recurrent thorn in the side of the community-based philosophy--the unwillingness of the community members to permit facilities in <u>their</u> neighborhoods--has seriously undercut the effectiveness of the community approach.

PROBLEM AREA F. INADEQUATE COMMUNICATION AND CONFLICTUAL RELATIONSHIP BETWEEN PRINCIPAL COMPONENTS OF THE SYSTEM--PARTICULARLY THE COURTS AND DYS.

In addition to political and public pressure, many of the problems of the present juvenile justice system are the result of the low level of communication existing between the courts and the DYS, as well as conflicting perceptions of these two groups as to which one controls the handling of the violent offender.

The extent of this problem is revealed in the recent study of secure care decision-making released by Harvard University.[14] Drawing upon interviews with 73 court officials (probation officers and judges) and 97 persons involved in youth corrections (regional office, central office and program staff), this study illustrates the conflictual relationship between these two components of the juvenile justice system. According to Harvard researchers Lloyd Ohlin and Alden Miller, though 96% of those interviewed from both groups agreed that it was ultimately the DYS who decided on the placement of the

violent offender, only 50 to 60 percent of each group felt that the court had any influence on that decision. As might be expected, far fewer court respondents than DYS respondents believed that there was any formal consideration by the DYS of court recommendations made regarding the handling of the offender. Over two-thirds of both groups felt that conflict arose between the courts and the DYS concerning the needs of the youth. An even greater number (85% of corrections and 64% of the court staff) saw the issue of security as a major source of conflict between the two components.

Results of the JJAC's in-depth interviews with juvenile judges and DYS personnel also show that both sides recognize a similar lack of communication. This represents a major impediment to the efficiency and fairness of the present juvenile justice system. Interestingly enough, these often conflicting components actually made similar suggestions toward the alleviation of such a communication gap. Members of both groups believed that a "feedback mechanism" involving regular progress reports on offenders, follow-up on placements in DYS, and court recommendations after commitments, would help in the establishment of a formalized relationship between DYS and the courts. It was frequently stated that with increased attention to the development of secure treatment facilities and a system of periodic feedback to courts, mechanisms such as transfer hearings would be less likely used as a tool to hold DYS accountable to the courts and to attain secure treatment placement.

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8 Marvin E. Wolfgang, Robert M. Figlio and Thorsten Sellini, Delinquency in a Birth Cohort, (Chicago: University of Chicago Press, 1972).

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14 Miller, Ohlin and Coates, op. cit.

SECTION SEVEN

A FRAMEWORK FOR CONSTRUCTING POLICY FOR SERIOUSLY VIOLENT JUVENILE OFFENDERS

In this section the JJAC states six specific policy objectives for improving the treatment and control of seriously violent juvenile offenders. These involve efforts to reduce or eliminate the six problem areas identified in Section Six. It also reviews recent policy initiatives in the states of Washington and New York aimed at similar objectives. Problems with both Washington's "presumptive sentencing" and New York's "designated felonies" model are said to preclude the exact adoption of these policies in Massachusetts. The JJAC's own recommendations (presented in Section Eight of this report) represent a modification of the designated felonies concept in terms of the specific needs and unique features of the juvenile system in the Commonwealth.

Difficulties identified with the complex Washington "presumptive sentencing" model involve:

(1) problems in consistent calculation of sentence;
(2) extensive use of the supposedly exceptional category of "manifest injustice";
(3) widespread plea bargaining; and
(4) transferral of discretion from caseworkers to district attorneys.

Reservations about the direct application of New York's "designated felonies" program included:

(1) questions regarding the practical utility of such a concept for first time violent offenders (nearly half of whom will never repeat);
(2) recent efforts by DYS (in the areas of secure treatment classification and secure facility improvement) suggesting increased DYS capability to handle the seriously violent offender; and
(3) differences in the organization of secure treatment in Massachusetts as these relate to the overall timing of a restrictive placement (e.g., use of small 15-bed "non-institutional" programming).

A Framework for Constructing Policy for Seriously Violent Juvenile Offenders

When considering recommendations for strengthening the treatment and control of seriously violent juvenile offenders in the Commonwealth, the JJAC was guided by an awareness of the six problem areas described in the previous section of this report. It sought proposals which would reduce these problems and thereby:

1. Increase uniformity and consistency in placement decision-making,
2. More consistently relate placements to offenses committed,
3. Better provide for the safety of the public and increased offender accountability,
4. Provide intensive treatment that is regularly monitored and systematically evaluated,
5. Decrease politicized pressure surrounding commitment and placement decisions,

and

6. Strengthen the cooperative working relationship between DYS and the Courts.

What to Recommend?--Considering Policy in Other States

In developing its recommendations, the JJAC carefully considered measures taken by other states to improve the quality of their own juvenile justice systems. In particular, special attention was given to recent laws passed in the states of Washington and New York.

Presumptive Sentencing in Washington

The Washington State Juvenile Justice Act of 1977 changed that state's juvenile justice policy in several significant ways.[1]

Of particular interest to the JJAC was the introduction of "presumptive sentencing" in Wathington's Juvenile Code. More specifically, the JJAC considered the advantages and disadvantages of instituting "presumptive sentencing" for seriously violent juvenile offenders in Massachusetts.

"Presumptive sentencing" means that there is an "expected" or "normal" sentence--usually with a very small amount of deviation--for each particular offense. In the case of Washington, the sentence is computed from the juvenile's age, current offense and time and nature of prior offenses. Each offense is assigned a certain number of points proportionate to its calculated seriousness. A multiplication factor is assigned to age, time since last offense, and the nature of prior offenses. The total point score is then located on a sentencing schedule. (See "Washington Sentencing Grid" presented below). This schedule specifies various combinations of punishment from the following forms: community service hours, fines, partial confinement, confinement, and parole.

The sentencing ranges of this method are quite narrow. Under the Washington law, minimum sentences are specified as no less than 50% of maximums for sentences of less than 90 days; no less than 75% of the maximums for sentences of 90 days to one year, and no less than 80% of the maximum for sentences longer than one year.

EXCERPT FROM GRID USED TO COMPUTE
PRESUMPTIVE SENTENCING

STATE OF WASHINGTON[2]

SCHEDULE B

months since last offense

AGE / CLASS	17	16	15	14	13	12	TIME CLASS SPAN	CRIMINAL HISTORY 0-6	6-12	12+	MORE	
A+	400	350	300	300	250	250	A+	.9	.8	.7		
A	300	300	250	250	225	200	A	.9	.8	.6		
B+	150	140	120	110	110	110	B+	.9	.7	.4		
B	54	52	50	48	46	44	B	.9	.6	.3		
C+	42	40	38	36	34	32	C+	.5	.3	.2		
C	30	28	26	24	22	20	C	.4	.3	.2		
GH+	26	24	22	20	18	16	GH+	.3	.2	.1		
GH	24	22	20	18	16	14	GH	.2	.1	.1		
MCV	10	8	6	4	4	4	MCV	.1	.1	.1		

SCHEDULE D

POINTS	COMMUNITY SERVICE HOURS, SUPERVISION AND FINE	CONFINE. OR PARTIAL CONF.	CONFINEMENT TIME	TIME ON PAROLE
1-9	5-25 & max. 3 mo. & max. $25			
10-19	20-35 & max. 3 mo. & max. $25			
20-29	30-45 & max. 6 mo. & max. $50			
30-39	40-65 & max. 6 mo. & max. $50			
40-49	50-75 & max. 6 mo. & max. $75			
50-59	60-90 & max. 9 mo. & max. $75	and 1-2*		
60-69	70-100 & max. 9 mo. & max. $75	and 3-6*		
70-79	80-110 & max. 1 yr. & max. $100	and 7-14*		
80-89	90-130 & max. 1 yr. & max. $100	and 10-20*		
90-109	100-150 & max. 1 yr. & max. $100	and 15-30*		
110-119			60-90 days	max. 4 mo.
120-129			13-16 weeks	max. 4 mo.
130-139			15-20 weeks	max. 6 mo.
140-149			21-28 weeks	max. 6 mo.
150-169			30-40 weeks	max. 8 mo.
170-199			38-52 weeks	max. 8 mo.
200-229			12-15 mo.	max. 12 mo.
230-269			16-20 mo.	max. 12 mo.
270-309			20-25 mo. (2 yr.)	max 12. mo.
310-349			24-30 mo.	max. 18 mo.
350-399			32-40 mo. (3 yr.)	max. 18 mo.
400 or OVER			40-50 mo.	max. 18 mo.

* If minor or first offender detention time will not be served

The Washington law is not totally inflexible in that it permits sentencing discretion under certain circumstances. Presumptive sentencing is not mandatory sentencing. The court is allowed to receive relevant material evidence and to consider any mitigating and aggravating factors prior to imposing a disposition. If the court then determines that a disposition within the standard range would constitute a manifest injustice, the court may impose another disposition. In doing so, however, the court must specify in writing its reasons for imposing a sentence outside the standard range. Dispositions of this nature are the only kind which may be appealed.

One principal rationale for the presumptive sentencing aspect of the Washington law is that it is necessary to make juveniles accountable for their criminal behavior. Secondly, it is believed that in the interests of "fairness" it is important to provide punishment commensurate with age, crime and criminal history. This complex and specific procedure of sentencing is designed to reduce the discretion of judicial dispositions and to foster greater uniformity throughout the system. Finally, it is believed that "presumptive sentencing" will be an aid to deterrence. If the juvenile is certain about "what's coming to him," he will be less likely to commit the offense.

Unfortunately, the Washington law has, in several ways, failed to meet expectations of success. The documented shortcomings of this statute are reviewed below.[3]

1. Problems in Consistent Calculation of Sentence.

Many problems have been reported from local jurisdictions in their efforts to calculate points for the criminal histories. A study in which juvenile court administrators were given hypothetical

scenarios and asked to calculate the points revealed substantial variation from one jurisdiction to another.

2. Extensive Use of "Manifest Injustice" Category.

A second unexpected consequence is that judges are invoking "manifest injustice" (sentencing outside of a standard range) in approximately 45% of their total cases. Of these, 80% are increases of standard sentences. Justification for these increases is that juvenile criminal offense histories were not adequately recorded or transferable at the time of the law's implementation. It has been argued that sentences were increased in order to accurately reflect the weight of past offenses. If this reason is valid, the use of manifest injustice should decrease as offense histories are established. Nonetheless, the use of manifest injustice still raises questions about uniformity, "fairness" and the deterrence value of this complex and elaborately scheduled form of presumptive sentencing.

3. Widespread Use of Juvenile Plea Bargaining

The Washington law has led to the widespread use (and abuse) of plea bargaining. With relatively fixed sentencing, the prosecutor has a more definitive bargaining lever. To a considerable degree, the use of plea bargaining has undermined the uniformity and certainty of punishment. These, of course, were the very things the law was intended to ensure!

4. Transferring Discretion from Caseworkers to District Attorneys.

Much of the discretion, previously in the hands of juvenile caseworkers, has with the new Washington law, been transferred into the hands of prosecuting attorneys. Discretion, in other words, has been relocated rather than eliminated. It has shifted from judgments as to

"treatability" to those involving "legal sufficiency."

In summary, data available to the JJAC suggests significant problems in the fair, uniform and consistent application of "presumptive sentencing" in the State of Washington. Too many sentences were computed irregularly. Too many involved exceptions to the hypothetically tightly scheduled "sentencing grid." Too many involved plea bargaining. As such, the JJAC did not view the Washington model as a desirable response to problem areas identified within Massachusetts' own system of juvenile justice.

New York's Designated Felony Law: The Judicial Option to Restrictively Place Seriously Violent Juvenile Offenders

The JJAC also carefully studied New York's 1976 Designated Felonies Act. This act has already been described in considerable detail in Section Four of this report. In short, it permits a judge to order a five-year restrictive placement commitment to the Division for Youth for certain designated serious felonies such as murder, arson and kidnapping, and to specify the amount of time (6-18 months) the juvenile must spend in a secure facility. A subsequent 6-12 month non-secure placement would follow. This law represented a radical departure in terms of philosophy and policy for New York. It signicantly limited the total discretion that the Division for Youth had previously exercised over the placement of committed youths. Now discretionary powers were provided to judges.

The JJAC noted numerous advantages of the Designated Felonies Act. Again, these were reviewed in considerable detail in Section Four. Yet, the JJAC was reluctant to endorse the designated felonies concept without modification. It was particularly concerned with the appropriateness of the judicial restrictive placement option for

first time offenders. One reason for this involves the fact that many violent offenders never commit a subsequent offense regardless of the nature of intervention strategies used to treat and/or control them. This fact is underscored in Wolfgang et al's research into Delinquency in a Birth Cohort. This research was reviewed in Section Six. Recall that Wolfgang and his associates recommend increases in intervention intensity in proportion to an offender's demonstration of repeatedness or chronicity. A similar policy suggestion is made in James Q. Wilson's Thinking About Crime and is today widely recognized as a practical guideline for constructing criminal justice policy.

The utility of constructing policy differently for first time as opposed to repeat violent offenders is also revealed in the JJAC's own study of violent offenders committed to DYS. It was discovered that 49.6% of the entire three year offender population and 42.8% of the 1975 target group (for whom we had the longest term of subsequent offense information) were never adjudicated for more than one violent offense. These figures, moreover, include data on youths committed for the lesser violent offenses of assault and battery. When this sub-population of less seriously violent offenders is removed from the data base, one can reasonably expect the percentage of "one-time violent to rise even higher. In any event it is obvious that a significantly large percentage of violent offenders do not return to the system with even a second violent adjudication. Hence, unlike New York's "Designated Felony Act," the JJAC considered the most appropriate starting point for a judicial option for restrictive placement to be at the time of a second rather than first commitment for violence.

Another reason the JJAC favored not instituting judicial restrictive placement option at the time of the first offense concerns the recent changes within the Massachusetts Department of Youth Services. At the time that New York's Designated Felonies Act was enacted, evidence was presented to suggest that "next to nothing" was happening to or for juveniles adjudicated for serious violence.[4] The situation is not as grim in Massachusetts. Although the JJAC's research documents significant problems in the recent handling of seriously violent juvenile offenders, these should not be considered entirely independent of recent efforts undertaken by the Department of Youth Services to improve this situation.

Two recent DYS initiatives were particularly noted. The first involves the recent development and implementation of a classification policy by which seriously violent offenders would receive mandatory referrals for possible placement into secure treatment. The second concerns DYS efforts to obtain legislative appropriations for replacement or renovation of existing secure facilities. These things indicate to the JJAC that DYS is actively engaged in efforts to better serve and control that small portion of its population who have committed seriously violent offenses against persons.

These recent DYS improvement efforts, when considered in combination with the very practical reasons for treating a smaller number of repeat violent offenders differently than the nearly twice as large population of first time offenders, prompted the JJAC to consider modifications in the "designated felonies" program as used in New York State.

Another difference between New York and Massachusetts involves the meaning of secure care programming. In New York secure care most often means institutional programming. In Massachusetts secure care is organized in terms of small, approximately fifteen bed programs. As opposed to the custody orientation induced by large institutions, small secure units permit the possibility of intense, closely monitored and evaluated treatment. As such, the JJAC also considered New York's timing of a restrictive placement as something not directly applicable to Massachusetts.

In summary, New York's Designated Felonies Act was viewed in generally favorable terms by the JJAC. In specific terms, the JJAC recognized certain areas where the concept of restrictive placement might be best used differently in Massachusetts than it is in New York. These modifications of a restrictive placement option were translated into recommendations presented by the JJAC in the following section.

REFERENCES FOR SECTION SEVEN

1 Four other areas of change introduced with the Washington State Juvenile Justice Act of 1977 include:

1. Eliminated court jurisdictions over status offenses.
2. Established alternative (deinstitutionalized) services for decriminalized status offenders.
3. Diverted the less serious juvenile offender.
4. Ensured due process rights to juveniles.

Anne L. Schneider, et al., "Legislative History, Philosophy, and Rationale of the Washington (State) Juvenile Justice Code," Seattle, Washington, 1980.

and

Anne L. Schneider, and Donna D. Schiam, "A Proposal to Assess the Implementation and Impact of Washington's Juvenile Justice Legislation," (Seattle, Washington: December 1980).

and

C. Keith Wentworth, "Washington State Juvenile Reform: Preventive Intervention and Social Control," (Seattle, Washington: December 1979)

2 Schneider, "A Comparison of IJA/ABA Standards and the Washington (State) Juvenile Justice Code," op. cit.

3 Wentworth, op. cit.

4 New York State Division of Criminal Justice Services, Juvenile Violence, (New York, N.Y.: 1976) cited by George E. Hairston, "Criminal Responsibility" in Major Issues in Juvenile Justice Information and Training: Readings in Public Policy, (Columbus, Ohio: Academy for Contemporary Problems, 1981), p. 301.

SECTION EIGHT

JJAC RECOMMENDATION FOR RESTRICTIVE PLACEMENT COMMITMENT OPTION

This section presents the JJAC's major legislative policy proposal. The essence of this proposal is that: If a juvenile (age 14-16) is adjudicated for a "designated serious violent offense" (a felony resulting from the threat or the infliction of bodily harm), and that same juvenile has been previously committed to DYS for a designated serious violent offense then, after reviewing the case, the presiding judge shall be provided with the option to impose a restrictive placement commitment to DYS.

By "restrictive placement commitment" is meant a 4 or 3 year commitment to DYS (depending on offense). For the 4 year commitment, the first 8-12 months would be spent in secure treatment and then followed by 8-12 months in a non-secure residential program. For the 3 year commitment, the first 6-10 months would be in secure treatment, followed by an additional 6-10 months in non-secure residential services. Within these specified ranges it would remain the responsibility of DYS to designate the specific plan, time and location of treatment.

Also delineated in the JJAC proposal are specific time tables for decision-making, a procedure for petitioning for exception to restrictive placement, provisions for DYS to extend secure and non-secure residential components of treatment, scheduling of DYS feedback to Courts, and guarantees for district attorney prosecution, full legal defense and adequate counsel for all cases involving the restrictive placement commitment option.

JJAC Recommendation for Restrictive Placement Commitment Option

In order to best realize the four general goals outlined in Section Five and the six specific policy objectives presented in Section Seven the JJAC recommends that:

1. IF A JUVENILE (AGES 14-16) IS ADJUDICATED FOR A DESIGNATED SERIOUS VIOLENT OFFENSE*

   and

2. IF THAT SAME JUVENILE HAS PREVIOUSLY BEEN COMMITTED TO DYS FOR A DESIGNATED SERIOUS VIOLENT OFFENSE*

   then

3. AFTER REVIEWING THE FACTS OF THE CASE AND THE PERSONAL, SOCIAL, EDUCATIONAL, FAMILY AND PAST REHABILITATION HISTORIES OF THE JUVENILE INVOLVED,

4. THE PRESIDING JUDGE BE PROVIDED WITH THE OPTION TO IMPOSE A RESTRICTIVE PLACEMENT COMMITMENT** TO THE DEPARTMENT OF YOUTH SERVICES IN LIEU OF THE REGULAR INDETERMINATE COMMITMENT TO DYS AND OTHER DISPOSITIONAL ALTERNATIVES AVAILABLE TO THE COURT.

   and

5. THAT THE JUDGE TAKE NO LONGER THAN 15 DAYS (FROM DATE OF ADJUDICATION) TO DETERMINE THE ABOVE DESCRIBED DISPOSITION.

DEFINITIONS

* Definition of Designated Serious Violent Offense

A DESIGNATED SERIOUS VIOLENT OFFENSE IS DEFINED AS ANY FELONY RESULTING FROM THE THREAT OR INFLICTION OF BODILY HARM.

Rationale:

The JJAC believes that restrictive custody should be used only for those youths whose behaviors demonstrate that they are, in fact, persons who threaten or inflict serious harm to others.

** Definition of Restrictive Placement Commitment

THERE WILL BE TWO CATEGORIES OF RESTRICTIVE PLACEMENT COMMITMENT TO THE DYS. THESE ARE DETERMINED BY THE NATURE OF THE SERIOUS VIOLENT OFFENSE FOR WHICH A JUVENILE IS ADJUDICATED.

Restrictive Placement Class A

(For juveniles adjudicated delinquent for murder 1 and 2, attempted murder, or voluntary manslaughter)

A FOUR-YEAR COMMITMENT WITH THE DYS. THE FIRST 8-12 MONTHS MUST BE SPENT IN A SECURE TREATMENT PROGRAM, FOLLOWED BY AN ADDITIONAL 8-12 MONTHS OF NON-SECURE RESIDENTIAL SERVICES.

Restrictive Placement Class B

(For juveniles adjudicated for all other designated serious violent felonies other than Class A)

A THREE-YEAR COMMITMENT WITH THE DYS. THE FIRST 6-10 MONTHS MUST BE SPENT IN A SECURE TREATMENT PROGRAM, FOLLOWED BY AN ADDITIONAL 6-10 MONTHS OF NON-SECURE RESIDENTIAL SERVICES.

Rationale:

In defining restrictive placement the JJAC distinguishes between those violent felonies which result in or threaten the loss of life and other serious violent offenses. It also recommends a comprehensive program of treatment such that an offender's plan of treatment includes movement through various levels of restrictiveness and aftercare aimed at an eventual reintegration into society.

Definition of Secure Treatment

IN USING THE TERM "SECURE TREATMENT," THE JJAC REFERS TO SMALL PROGRAMS (WITH A 15 BED MAXIMUM) DESIGNED TO (1) PROVIDE AN INTENSIVE PROGRAM OF REHABILITATIVE SERVICES FOR SERIOUS JUVENILE OFFENDERS WHILE (2) EMPLOYING SHORT-TERM RESTRICTIVE CUSTODY FOR YOUTHS WHOSE BEHAVIORS HAVE SERIOUSLY THREATENED THE SAFETY OF THE PUBLIC.

Rationale:

The JJAC believes that intensive treatment for serious offenders can best be provided in small programs which maximize staff-client interactions.

How the Restrictive Placement Option Will Work

Feature one: The Judge's Option.

When a juvenile (ages 14-16), who has previously been committed to DYS for a designated serious violent felony is subsequently adjudicated delinquent for one of those same designated offenses, a judge may elect to restrictively place the youth within DYS for a designated period of time (4 or 3 years, depending on the class of the offense).

Rationale:

a. DYS, the "youth authority" charged with the rehabilitation of of juvenile offenders, is provided with a first chance to develop an appropriate plan of treatment.

b. Judges are provided with an option not available in our current system of juvenile justice--the option for a time specific/ treatment specific placement with the DYS for the repeat seriously violent offender.

c. The optional character of the restrictive placement commitment permits a flexible judicial handling of serious violent juvenile offenders.

Feature two: DYS Responsibility.

Once a restrictive placement commitment is imposed it is the responsibility of DYS to assess the treatment needs of the youth involved, and to designate the specific plan, time and location of treatment within the range prescribed by the appropriate class of restrictive placement.

Rationale:

a. The primary purpose of DYS is to provide for the treatment needs of adjudicated delinquents.

b. The JJAC proposal recognizes the need for flexibility by DYS in determining the specific timing and location of treatment (within the prescribed modalities and range.)

Feature three: DYS Petition for Exception to Restrictive Placement.

After assessing the treatment needs of a youth committed under a restrictive placement, it is possible that DYS might disagree with the basis for such a placement. In cases of strong disagreement DYS may file a "petition for exception" whereby it specifies:

1. the reasons that a particular juvenile should not be committed with a restrictive placement to DYS.

and

2. the type of commitment and treatment plan preferred by DYS.

Decisions regarding such "Petitions for Exception" will be made by a three person panel composed of the Commissioner of DYS, the Chief Juvenile Judge of the Commonwealth, and the Attorney General of the Commonwealth (or the official designees of these persons). Decisions regarding "Petitions for Exception" must be issued no later than 15 days after they are filed.

Rationale:

a. The JJAC proposal recognizes the possibility that in certain exceptional cases DYS may have strong disagreement with a judge's order for restrictive placement.

b. In cases of strong disagreement between the court and DYS there is the need for a designated body of decision-makers to finalize recommendations for placement.

c. By designating the DYS Commissioner, the Chief Juvenile Judge and the Attorney General (or their designees) as a panel to review "Petitions for Exception," the JJAC intends to balance specific judicial and treatment interests with the legal concerns of the Commonwealth as a whole.

Feature four: Total length of Restrictive Placement commitment to DYS.

Youths whose offenses fall into Class A may be provided with four-year commitments to DYS. Class B offenders are provided with three-year commitments.

Rationale:

a. It is believed that both the public and the offender should be provided with clear expectations as to the Commonwealth's response to serious violent offenses.

b. The 4 or 3 year commitments are for intensive treatment, not simple custody. Hence, while shorter than "adult sentences" for similar offenses, they are intended to provide the most comprehensive services available to limit the likelihood of a youth's continued involvement in serious violent crime.

Feature five: Staging of Secure Treatment and Non-Secure Residential Components.

Depending on the class of offense for which youths are assigned a restrictive placement, offenders will spend between 12 and 24 months in mandated residential placement. Class A offenders must spend 8-12 months in secure treatment and an additional 8-12 months in non-secure residential treatment for a total of 16-24 months in supervised residency. Class B offenders must spend 6-10 months in secure treatment and an additional 6-10 months in non-secure residential treatment for a total of 12-20 months in supervised residency.

Rationale:

a. The initial period of secure treatment is provided because a youth has displayed behavior which represents a serious threat to the public and for which the youth must progressively learn to assume responsibility.

b. The initial period of secure treatment is intended to be both short and intense. It is based on the assumption that intensive short-term intervention directed at seriously violent juvenile offenders may lessen the likelihood that such youths may graduate to long-term custodial punishment.

c. The staging of secure treatment, followed by non-secure residential treatment, is aimed at maximizing a youth's rehabilitative transition back into society.

Feature six: DYS option to extend secure treatment and/or non-secure residential placement.

DYS may elect to extend the secure treatment and/or non-secure residential components of the treatment for restrictively placed serious violent juvenile offenders bu t only within the 3-4 year term of the original restrictive placement commitment.

Rationale:

a. As a treatment authority DYS must retain a certain discretion as to the specific timing and locale of service delivery.

Feature seven: DYS Feedback to the Court.

DYS shall provide the court with a progress report on the treatment of all restrictively placed serious violent juvenile offenders at 90-day intervals during both the secure and non-secure residential phases of the youth's treatment. DYS shall also issue a final report at the end of each restrictively placed offender's term of commitment.

Rationale:

a. To maximize communication between judicial and treatment sectors of the juvenile justice system.

b. To permit judges to assess the utility of the restrictive placement option.

c. To maximize the accountability and visibility of DYS activities to the commiting court and to the public.

Feature eight: District Attorney Involvement

The cases of all youths charged with one of the designated serious violent offenses (those for which a restrictive placement commitment is possible) will be prosecuted by a District Attorney or Assistant District Attorney.

Rationale:

a. At present, some juvenile cases in the Commonwealth are petitioned by persons who are not a District Attorney or Assistant District Attorney (e.g. a juvenile police officer).

b. Because of the seriousness of the violent offenses being considered and the needs for system-wide prosecutorial consistency, the JJAC recommends formal District Attorney involvement in all designated serious violent juvenile offender proceedings.

Feature nine: Full Legal Defense and Adequate Counsel.

All youths charged with one of the designated serious violent offenses will be guaranteed full legal defense and counsel by an attorney trained in juvenile law, and as constituted by Gault, Kent and other rulings pertinent to the due process rights of juvenile offenders for whom the deprivation of liberty is a possibility.

Rationale:

a. Under the proposed recommendations, juveniles can be denied liberty for a fixed period of time. As such, all juvenile defendants should be provided with full protection of all legal rights.

SECTION NINE

TRANSFER PROCEEDINGS AND THE VIOLENT JUVENILE OFFENDER

This section reviews the strengths and weaknesses of the current Massachusetts Transfer Statute. It also reviews JJAC interview data and information available from the Departments of Probation and Corrections on the use and actual outcomes of "bind-over" proceedings. This data suggests that, while transfer is not easily accomplished, 90% of those transferred are serious violent offenders. Moreover, 65% of those transferred receive dispositions available within the juvenile court. Only 45% are incarcerated in adult facilities.

The JJAC considered changes in transfer policy in relationship to its previous recommendation for the restrictive placement commitment option in the juvenile system. If implemented this "restrictive placement" policy would alleviate many of the currently cited reasons for instituting transfer proceedings and the bulk of complaints cited by JJAC interview respondents (e.g., "no guarantee of restrictive placement for seriously violent offenders"). Other problems were noted, not with the statute, but with the knowledge of court personnel as to its meaning and use. As such, the JJAC recommends that current statutory provisions for transfer (MGC.119, sect. 61) remain unchanged.

Transfer Proceedings and the Violent Juvenile Offender

The process by which the waiver of Juvenile Court jurisdiction results in an adult trial for juveniles is another area of concern in the current handling of serious violent juvenile offenders. When should a juvenile offender be treated as an adult? The rationale for having the option to transfer a juvenile offender from juvenile to adult court jurisdiction is based on the assumption that there are some particularly serious offenders who require measures of intervention which the juvenile court does not have the authority to provide. In other words, by providing a waiver option, the juvenile court is afforded a "safety valve" to carefully weed out the unusually grave cases for which expenditure of resources within the juvenile system would be both ineffective and inappropriate. This in turn preserves the credibility of the Juvenile Court's ability to effectively handle the vast majority of delinquent youths within its jurisdiction.

A. The Massachusetts Transfer Statute.

Massachusetts, along with all but four states, provides the statutory mechanism for judicial transfers. This mechanism allows the juvenile court to waive its responsibility over a juvenile case, and to transfer the juvenile to the adult criminal court. It is the responsibility of the juvenile court judge to make individualized judgments concerning both the child's amenability to rehabilitation within the juvenile justice system and the child's dangerousness to public safety.

The Massachusetts law which outlines the conditions and requirements for the transfer of juveniles to adult court, is contained in the Massachusetts General Laws, chap. 119, sec.61. It states that the following conditions must be met before a transfer to the adult jurisdiction is warranted:

1) if the child "who had been previously committed to the DYS as a delinquent child has committed an offense against a law of the Commonwealth, which if he were an adult, would be punishable by imprisonment in the state prison,

or,

has committed an offense involving the infliction or threat of serious bodily harm;

2) if such alleged offense was committed while the child was between the 14th and 17th birthdays;

3) and if the court enters a written finding...that the child presents a significant danger to the public...and is not amenable to rehabilitation as a juvenile."

B. Treating Juveniles as Adults in Massachusetts

Throughout the in-depth interviewing phase of our study respondents repeatedly expressed both criticism and support of the current transfer proceedings. For example, 77% (or 82) of the respondents interviewed favored the continuation of the Massachusetts juvenile policy in its current form. Of these 82 respondents, 43% (or 29) specifically cited satisfaction with the current transfer hearing option and supported the handling/treatment of young offenders in the juvenile system. Yet despite repeated support for retaining the current Massachusetts statute, eight respondents specifically qualified their support of the Massachusetts policy with the suggestion

that transfer statutes be revised to make it easier to transfer juveniles to adult court. An additional 15 respondents opposing current Massachusetts policy stated that a primary reason for their opposition involved dissatisfaction with the current transfer statutes. A problem repeatedly identified involved difficulties in proving that a child is not amenable to juvenile rehabilitation anywhere in the Commonwealth and thus impairing the actual completion of the "bind-over" process. Taken together 23 (or 22%) of our interview respondents made recommendations to change the transfer statute. Although these represent a relatively small percentage of total respondents, their concerns reveal important issues which should be addressed.

C. Implications of Change

If the transfer hearing statutes were changed to ease the process by which juveniles are bound over to the adult court, the jurisdiction of the juvenile court would be reduced. Fewer youths would be afforded juvenile status. Does support for such change reflect dwindling confidence in the juvenile court system's ability to handle serious juveniles? Or does it reflect an opinion that serious juvenile offenders should be treated like adults?

Most criticisms of the current "waiver" process involve the assumption that an easier transfer procedure could provide something missing in the current system--the ability to increase public safety and offender accountability. As such, it is important to ask whether a bound-over youth does in fact receive a more restrictive disposition than would otherwise be the case in the juvenile system.

Does the adult court handle these juvenile offenders more effectively than the juvenile court? If one looks at the dispositional outcomes of all juveniles who were transferred to adult court in Massachusetts in 1979, one sees that the majority of cases were not sentenced to incarceration after being tried in adult court. In a study conducted by Marjorie Brown Roy of the Department of Probation on juvenile bindovers in 1979, of those cases that were not still pending on 7/30/80, only 45% (or 14) of the cases were sentenced to incarceration. Therefore 55% (or 17) of the cases received dispositions, such as probation and commitment to DYS, which could have been provided by the juvenile court. Of the youths who were sentenced to a period of incarceration, their maximum sentence averaged fourteen (14) years.[1]

A second study of transfer considered by the JJAC was prepared by Larry Williams of the Department of Corrections. This research examined the actual placements of youths bound over and sentenced to state prison. According to this data 105 juveniles were so handled between 1972 and 1979. This means that there was a yearly average of only 17 youths incarcerated in the state prison system. This figure closely resembles the Department of Probation figure presented for 1979. Ninety percent (90%) of the offenses committed by the youths were violent offenses against the person. The average length of incarceration for these youthful offenders was ten (10) years, a figure close to that in the Probation study.[2]

What do these results show? First, despite the complaint that transfer proceedings are difficult at present, the fact remains that juveniles are transferred every year to adult jurisdiction. In fact, from 1976 to 1979, an average of 50 youths were bound over

each year. If one looks at the youths bound over in 1979 from the Roy study and those bindovers incarcerated in the state prisons from 1972 to 1979 in the Williams study, one would find that almost all of the juveniles bound over were serious violent offenders.

However, despite the transfer of juveniles over to the adult jurisdiction each year, there is no automatic guarantee that they will receive "greater secure placements." If one looks again at the dispositions given to the 55% (or 17) juvenile bindovers who were not incarcerated, one would realize that the dispositions handed down could have been meted out by the juvenile court. In fact, over half (10) of these bindovers were put on probation, while four (4) were committed to DYS. This is not to say that the adult system is easy on juveniles once bound-over and committed. In actuality, those sentenced to a period of incarceration from 1972 through 1979 received life sentences. Yet the fact remains that a majority receive dispositions they may have received without being bound-over to the adult court.

A similar situation can be found in New York where juveniles are treated from the onset as adults and then may be sent back to juvenile jurisdiction. Data from the New York Division of Criminal Justice Services shows that of the 754 youths placed under adult jurisdiction, 61% (464) were not retained within that system. Only 19% (145) were ever actually indicted in the adult court, and many of those indicted received sentences which could have been issued by the New York Family Court.[3]

Moreover, if put into practice, the JJAC's recommendation for a restrictive placement option for repeat serious violent juvenile offenders would "toughen" the treatment and restrictive capabilities

of the juvenile system. In practice, this would mean that many of the current reasons for attempting bindover (e.g. "no guarantee of restrictive placement for seriously violent offenders in the juvenile system," etc.) would be altered. However, the bindover option would still exist. Judges would still be able to transfer into the adult court juveniles ruled inappropriate for the services and custody of the juvenile jurisdiction. But the need to threaten to bindover simply to obtain a promise of restrictive placement from DYS would be significantly reduced. This would reduce tension between the courts and DYS as well as strengthen the system's potential to practically realize the twin goals of treatment and public safety.

In addition to the question of effectiveness, there is also the issue of appropriateness. Should violent juvenile offenders be treated the same as adults? In answer to this question, 80% (or 76) of the JJAC respondents interviewed felt that violent juvenile offenders should be treated differently. Sixty-six percent (66%) of these respondents stated that there should be more investment in rehabilitation (i.e. secure facilities with comprehensive treatment services) for juvenile offenders than for adult offenders since the habits of the young are not as deeply embedded. Another 26% of these respondents felt that it is essential to retain an separate system for juveniles. This data, coupled with the overwhelming opposition to the policy proposal of treating violent juvenile offenders in the adult court from the onset (83% of those interviewed) clearly indicates a majority opinion that the juvenile system should be the most capable and responsible institution for the handling of violent juvenile offenders.

One of the complaints against the present transfer statute is that the conditions for transfers are too difficult for the court officials to prove. However, it is often the case that judges and prosecutors, along with other officials who work with juveniles, are simply not adequately trained in juvenile law or in the handling of juvenile cases. This point was made by several respondents interviewed. According to these persons, juvenile work is often considered to be low on the totem pole in police stateions and in courts. Hence, officials who are highly knowledgeable about juvenile matters across the state are few and far between. Additional professional training matters of juvenile law and policy is needed in order to more effectively and efficiently process cases being considered for transfer to the adult system. This issue regarding the need for training officials in juvenile law and other juvenile matters was discussed by the Governor's Task Force on Violent Offenders and will be the subject for a recommendation by the JJAC in a later section.

JJAC RECOMMENDATIONS CONCERNING TRANSFER PROCEEDINGS

Rationale:

WHEREAS:

1) The JJAC recognizes that there are a few extremely serious juvenile cases for which the juvenile courts intervention capability is insufficient for protection of the public and rehabilitation of the youth;

and

2) The JJAC further recognizes the juvenile justice system as the primary system for handling the vast majority of serious juvenile offenders, and that the implementation of the proposed restrictive placement commitment option will strengthen that system's treatment and public protection capabilities.;

and

3) Retaining strict transfer criteria will ensure in-depth consideration of a transfer hearing case and thus will safeguard against premature judgment to relinquish juvenile court authority over a young offender.

The JJAC recommends that:

THE CURRENT MASSACHUSETTS STATUTE FOR JUDICIAL TRANSFER, AS OUTLINED IN THE MASSACHUSETTS GENERAL LAWS, CHAPTER 119, SECTION 61, REMAIN UNCHANGED.

REFERENCES FOR SECTION NINE

1 Marjorie Brown-Roy and Rachel Sagan, "Juvenile Bindovers in Massachusetts: 1979," a report prepared for the Commissioner of Probation, December 15, 1980.

2 Larry Williams, "Preliminary Report on Massachusetts Juveniles in Adult Correction," a report prepared for the Department of Corrections, 1981.

3 New York State Division of Criminal Justice Services, "Violent Felony/Juvenile Offenses Processing and Disposition Report," (New York, N.Y.: 1979) as cited in Martin Roysher and Peter Edelman, "Treating Juveniles as Adults in New York: What Does it Mean and How is it Working?" in Major Issues in Juvenile Justice Information and Training, (Columbus, Ohio: Academy for Contemporary Problems, 1981).

SECTION TEN

ADDITIONAL JJAC PROPOSALS FOR STRENGTHENING JUVENILE JUSTICE POLICY AND FOR IMPLEMENTING RECOMMENDATIONS RELATED TO VIOLENT JUVENILE OFFENDERS

This section presents a number of additional proposals and accompanying rationales. These include recommendations for

(1) Making DYS subject to the Massachusetts Administrative Procedures Act;

(2) DYS projections of space, cost and time required to effectively implement JJAC recommendations for restrictive placement commitment option;

(3) DYS standards for secure treatment, secure reception and secure detention;

(4) Statewide juvenile court;

(5) Education of juvenile court personnel;

(6) Upgrading DYS pay scales; and

(7) Ongoing evaluation of Massachusetts juvenile justice policy.

Additional JJAC Proposals for Strengthening Juvenile Justice Policy and for Implementing Recommendations Related to Violent Juvenile Offenders.

In addition to its specific statements on the Adult/Juvenile age distinction, the restrictive placement option and transfer procedures, the JJAC arrived at recommendations for strengthening other components of the juvenile justice system. Each of these is applicable to the system's handling of seriously violent juvenile offenders and to other issues in juvenile justice policy in general. These additional recommendations are presented below.

Recommendation for making the Department of Youth Services subject to the Massachusetts Administrative Procedures Act

The JJAC Recommends that:

THE DEPARTMENT OF YOUTH SERVICES BE BROUGHT UNDER THE AUTHORITY OF THE MASSACHUSETTS ADMINISTRATIVE PROCEDURES ACT SUCH THAT ITS PROPOSED REGULATIONS BE SUBJECT TO PUBLIC HEARING AND, ONCE ISSUED, ARE EXECUTED WITH THE FORCE OF LAW.

Rationale:

a. The JJAC knows of no logical reason to exempt DYS from an act to which virtually all other state agencies are responsible.

b. DYS has explicitly requested that it be brought under the authority of the Administrative Procedures Act.

c. Making DYS subject to the Administrative Procedures Act will increase the accountability of the agency to the public and to the clients it serves.

Recommendation related to Projections of Space, Cost and Time Required to Effectively Implement JJAC Proposals

The JJAC Recommends that:

THE DEPARTMENT OF YOUTH SERVICES SHALL DEVELOP, WITHIN 60 DAYS OF THE JJAC'S ISSUANCE OF ITS REPORT ON THE VIOLENT JUVENILE OFFENDER IN MASSACHUSETTS, PROJECTIONS RELATED TO SUCH MATTERS AS NUMBER OF BEDS NEEDED, COSTS ESTIMATED AND TIME FRAMEWORK REQUIRED TO EFFECTIVELY IMPLEMENT THE PROPOSED JJAC RECOMMENDATIONS FOR THE RESTRICTIVE PLACEMENT COMMITMENT OPTION.

Rationale:

a. DYS has provided the JJAC with a variety of well-analyzed data on current secure bed and accompanying cost projections. Yet, it is recognized that the JJAC proposed restrictive placement commitment option will, if implemented, significantly alter current agency projections.

b. To effectively implement the JJAC's proposed restrictive placement commitment option would require a well-constructed plan for "phase-in" over time.

c. The JJAC is willing to work with and, where possible, provide staff assistance to DYS in developing the recommended bed, cost and implementation time framework projections.

Recommendation for DYS Standards for Secure Treatment, Secure Reception and Secure Detention

The JJAC recommends that:

THE DEPARTMENT OF YOUTH SERVICES SHALL, WITHIN 180 DAYS OF THE JJAC'S ISSUANCE OF ITS REPORT ON THE VIOLENT JUVENILE OFFENDER IN MASSACHUSETTS, DEVELOP AND ISSUE A SET OF PROPOSED STANDARDS GOVERNING THE USE OF SECURE TREATMENT, SECURE RECEPTION AND SECURE DETENTION.

Rationale:

a. In order to adequately operate, efficiently monitor and effectively evaluate the use of secure treatment, reception and detention, it is essential that DYS should issue a specific set of standards regarding secure programming.

b. Today numerous standards exist (e.g. those proposed by OJJDP, the ABA, as well as those currently being considered by DYS and those reviewed by the Crime and Justice Foundation.)

c. The JJAC is willing to work with and, where possible, provide staff assistance to DYS in developing and issuing the recommended standards.

The JJAC Endorsement of Recommendations by the Governor's Task Force on Juvenile Crime Regarding State-Wide Juvenile Court, Juvenile Justice Education and Improvements in DYS Pay Scale.

The JJAC also endorses, in principle, three recommendations made in the Report of the Governor's Task Force on Juvenile Crime. These call for:

1) a state-wide Juvenile Court System;

2) provisions for juvenile justice education and

3) improvement in the pay scale of DYS employees.

These issues are well-chronicled in the Governor's Task Force Report (pp. 56-65) and will only be briefly noted here.

State-Wide Juvenile Court

The JJAC recommends that:

THE COMMONWEALTH OF MASSACHUSETTS TAKE ACTION TOWARD STUDYING THE POSSIBILITY OF ESTABLISHING A STATE-WIDE JUVENILE COURT SYSTEM.

Rationale:

In the existing system, jurisdictional responsibility for juveniles is divided between four full-time juvenile courts (Boston, Springfield, Worcester and Bristol County) and seventy-two district courts which conduct juvenile sessions on a part-time basis. A state-wide juvenile system would provide greater uniformity and fairness, as well as providing for the special needs of juvenile law. The existing system undermines such goals because of the separation of responsibilities between juvenile and district courts.

Education of Juvenile Court Personnel

The JJAC Recommends that:

THE COMMONWEALTH OF MASSACHUSETTS ESTABLISH A PROGRAM OF SPECIALIZED TRAINING AND EDUCATION FOR COURT PERSONNEL WHO HANDLE JUVENILE CASES.

Rationale:

There is a great need for juvenile court personnel, particularly judges and probation officers, to be specially trained in the intricacies of juvenile justice, in order that they might better serve the interests of the youth, as well as the public. The appropriate funds for such training should be provided by the Commonwealth.

Upgrading DYS Pay Scales

The JJAC Recommends that:

THE COMMONWEALTH OF MASSACHUSETTS UPGRADE THE SALARIES OF THE DEPARTMENT OF YOUTH SERVICES DIRECT CARE STAFF SO AS TO BRING THEM IN LINE WITH EMPLOYEES PERFORMING COMPARABLE DUTIES IN OTHER AREAS OF STATE SERVICE.

Rationale:

Data gathered by both the Governor's Task Force and by the JJAC clearly indicate that DYS employees have the lowest pay scale when compared to employees of the Department of Corrections and the Parole Board. In order to attract talented and dedicated personnel, as well as to properly remunerate the skill and experience required of DYS employees, the JJAC proposes that the salaries of the DYS direct care staff be upgraded so that they more closely conform to the salaries of those employees performing comparable duties for the Commonwealth.

Recommendations for Ongoing Evaluation of Massachusetts Juvenile Justice Policy

The JJAC recommends that:

THE COMMONWEALTH OF MASSACHUSETTS MAKE ARRANGEMENTS FOR A FULL INDEPENDENT PROFESSIONAL EVALUATION OF THE IMPLEMENTATION AND EFFECTIVENESS OF ALL ADMINISTRATIVE AND/OR LEGISLATIVE CHANGES IN JUVENILE JUSTICE POLICY, PARTICULARLY OF THOSE AIMED AT IMPROVING THE TREATMENT AND CONTROL OF SERIOUSLY VIOLENT JUVENILE OFFENDERS.

Rationale:

a. Major administrative and/or legislative changes have been recommended in recent months by the JJAC, the Governor's Task Force on Juvenile Crime and other concerned parties. The implementation and effectiveness of any changes should be closely monitored and studied.

b. An independent professional evaluation of major administrative and/or legislative initiatives is required for informed and accountable public policy formation.

c. The extensive base of data gathered by the JJAC on policy related to violent juvenile offenders should not be a one-time research effort. JJAC data may well serve as a partial baseline from which to assess the impact of current and proposed policy initiatives.

SECTION ELEVEN

CONCLUDING REMARKS

CONCLUDING REMARKS

Nearly a decade has passed since Massachusetts "deinstitutionalized" its approach to juvenile justice. That decade has witnessed the development of a great many "community-based" efforts to prevent, divert, rehabilitate and correct juvenile offenders. Many of these have been heralded as successful. The decade has also witnessed the development of problems in the system-wide handling of those at the heavy end of the delinquency continuum--particularly those directed at the treatment and control of seriously violent juvenile offenders. These problems, many of them documented in the previous pages, present a major challenge to the deinstitutionalized system as a whole. It is to this challenge that the JJAC report is addressed.

How best can the seriously violent offender be dealt with, in terms of both treatment and public safety, while at the same time preserving the deinstitutionalized character of the entire system? Data reviewed by the JJAC has led it to reject such dramatic options as turning back the age of adult responsibility or opening the gates for a wholesale transfer of adolescents into the adult criminal justice system. When tried in other jurisdictions these approaches appear to have created as many or more problems than they solved.

The JJAC has chosen, instead, to strengthen the weak point it has discovered in the existing juvenile system and to recommend that the juvenile system be provided with the options and resources necessary to provide intensive programming for youthful offenders whose threat to the public is manifest by repeated acts of serious violence. The central feature of the JJAC's

recommendations are outlined in Section Eight. These involve a detailed proposal to permit restrictive placement DYS commitments for repeat seriously violent offenders who have already been committed to DYS at some previous time. The first phase in the proposed restrictive placements involves the use of an intense program of secure treatment. In their book The Life-Style Violent Juvenile, Andrew Vachss and Yitzhak Bakal stress the importance of such secure treatment in maintaining or advancing a deinstitutionalized approach to juvenile justice. According to these researchers:

> "Rather than diminish the goals of deinstitutionalization, the Secure Treatment Unit may be its salvation... Professionals in the field now concede that without a Secure Treatment Unit somewhere in the network picture,... violent juveniles will contaminate programs and eventually precipitate out into adult corrections. Even if the use of waiver were not on the increase ..., the public outcry against juvenile violence has reached a fever pitch and the political response cannot be too far behind. If the juvenile justice profession's demand for separate treatment for juveniles is to be based on respect for the profession's abilities in this area, the treatment must include that category of juvenile 'delinquents' that frighten the public the most."[1]

When Vachss and Bakal use the term "secure treatment" they refer to small, intensive and generally short-term programming. So does the JJAC. But the secure treatment phase of DYS programming is not sufficient. The JJAC recommendation is clear regarding the need for following non-secure residential services and an eventual supervised reintegration of the young violent offender back into society. Such comprehensive restrictive placement programming will be costly. Some costs may be recovered by reorganizing portions of the current system - e.g. by diverting the substantive number of non-violent offenders placed in secure treatment and by reducing the use of secure detention for youths already committed. Yet new costs will undoubtedly be incurred. These costs

must be borne if the juvenile system is to responsibly and fairly deal with young persons who seriously hurt others. The alternative is one of greater cost--possible future violence and eventual adult incarceration. In Section Ten the JJAC requests that DYS provide estimates of the space, time and resources needed to put its recommendations into practice.

In presenting its recommendations, the JJAC has drawn upon a wealth of data that has taken a year to assemble. Its findings and proposals come at a time in which much change is already underway in the juvenile system. In identifying problems with the existing system it has sought, not to criticize and condemn, but to suggest clear and practical avenues for strengthening and improvement. It is hoped that its recommendations to Governor King will become translated into new administrative and legislative resources by which to assist DYS, the courts and all of the juvenile justice agencies in preserving the strengths and correcting the weaknesses of the Massachusetts system as a whole.

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APPENDIX

JJAC POLICY STUDY INTERVIEW GUIDE

JJAC MAIL QUESTIONNAIRE ON POLICY FOR VIOLENT JUVENILE OFFENDERS

VIOLENT JUVENILE OFFENDER STUDY DATA COLLECTION FORM

JJAC POLICY STUDY

INTERVIEW GUIDE

Name of Respondent _____ Date/Time _____ Place _____ Initials _____

(Introduce yourself and explain that you are a Boston College graduate student who is working for the Massachusetts Juvenile Justice Advisory Committee.)

As you may know, we're conducting a policy study for the Juvenile Justice Advisory Committee in order to make recommendations to the Governor regarding serious juvenile crime. Specifically, we are interested in learning about the response of the juvenile justice system to the violent offender. FOR THE PURPOSE OF THIS STUDY IT WAS DECIDED THAT THE VIOLENT OFFENDER WOULD BE ANY JUVENILE FOUND IN COURT TO HAVE COMMITTED ONE OR MORE OF THE FOLLOWING OFFENSES: MURDER, RAPE, ARMED ROBBERY, KIDNAPPING, ASSAULT, ROBBERY, AND ARSON OF AN OCCUPIED BUILDING.

We are interested in your opinions, your perspectives as a person who has had direct experience in dealing with violent juveniles. While our conversation will be tape recorded, complete confidentiality is assured. Your responses will be treated as anonymous and will be used, along with responses collected from many other people involved in the juvenile justice system, as the basis for your conclusions.

WORK EXPERIENCE

1. Since the primary objective of our study is to gain insights about the current handling of violent youths, I'd like to begin by asking you to describe your job as it relates to violent juvenile offenders.

VIOLENT JUVENILE CRIME

2. We're interested in your views on the level of violent juvenile crime in Massachusetts.

a. In your opinion, is violent juvenile crime increasing, decreasing, or remaining at a constant level?

b. [Repeat conclusion and probe for basis of conclusion.]

3. There are a lot of different ideas about why juveniles commit violent crimes.

a. In your opinion, what are the major reasons for violence on the part of juveniles?

b. [Repeat opinion and probe for basis of opinion.]

REPEAT OFFENDERS

4. Existing data suggest that a large number of violent juveniles are repeat offenders. Why do you think that a juvenile who has been previously apprehended for a violent offense might come back into the system?

[Repeat conclusion and probe for basis.]

5. In your own work do you find yourself handling repeat violent offenders differently than first-time offenders? Why?

[Probe specifically:]

a. How are repeat violent offenders handled?

b. What is the nature of the difference?

6. You've mentioned your own work. What about the repeat violent offender in general? Does the system treat the repeat violent offender in a different way than the first-time violent offender?

(Probe to determine whether respondent believes that violent repeat offenders should be treated differently.)

COMPONENTS OF SYSTEM

7. Think of the juvenile justice system in general. Our primary concern is how this sytem handles the violent juvenile offender For the next part of the interview, I would like to ask you about a number of components of the system. These include the police, juvenile court judges, probation officers, Department of Youth Service, prosecutors, and Department of Mental Health Regional Adolescent Programs. For each we will ask your opinion on strengths, weaknesses, and recommendations.

POLICE

First, the police.

Police are generally the first official agents of the juvenile justice system who come in contact with the violent juvenile offender.

a. In your own work do you have regular contact with police officers who deal with violent juvenile offenders?

[If so, specify the nature of the contact. If not,]

Then in what ways if any are you familiar with the work of the police?

b. In your opinion, what are the strengths of police activity directed toward violent juvenile offenders?

[Probe for examples.]

c. What are the weaknesses?

[Probe for examples.]

d. Would you like to make recommendations to improve the way that the police handle violent juvenile offenders?

JUVENILE COURT JUDGE

The juvenile court judge.

The juvenile court judge is the person responsible for the adjudication of the violent juvenile offenders.

a. In your own work do you have regular contact with judges who deal with violent juvenile offenders?

[If so, specificy the nature of the contact. If not,]

Then in what ways if any are you familiar with the work of juvenile court judges who deal with the violent juvenile offender?

b. In your opinion, what are the strengths of the activity of judges directed toward violent juvenile offenders?

[Probe for examples.]

c. What are the weaknesses?

[Probe for examples.]

d. Would you like to make recommendations to improve the way that judges handle violent juvenile offenders?

PROBATION OFFICER

The probation officer.

Probation officers have the responsibility of both providing court reports and follow-up for violent juvenile offenders.

a. In your own work do you have regular contact with probation officers who deal with violent juvenile offenders?

[If so, specify the nature of the contact. If not,]

Then in what ways if any are you familiar with the work of probation officers who deal with the violent juvenile offender?

b. In your opinion what are the strengths of the activity of probation officers directed toward violent juvenile offenders?

[Probe for examples.]

c. What are the weaknesses?

[Probe for examples.]

d. Would you like to make recommendations to improve the way that probation officers handle violent juvenile offenders?

DEPARTMENT OF YOUTH SERVICES

Department of Youth Services.

The Department of Youth Services has the responsibility for providing treatment and custody for the violent juvenile offender.

a. In your own work do you have regular contact with anyone at DYS who deals with violent juvenile offenders?

[If so, specify the nature of the contact. If not,]

Then in what ways if any are you familiar with the work of DYS in dealing with the violent juvenile offender?

b. In your opinion what are the strengths of DYS activity directed toward violent juvenile offenders?

[Probe for examples.]

c. What are the weaknesses?

[Probe for examples.]

d. Would you like to make recommendations to improve the way that DYS handles violent juvenile offenders?

PROSECUTOR

Prosecutor.

It is the prosecutor who formally brings complaints against the violent juvenile offender.

a. In your own work do you have regular contact with prosecutors who deal with violent juvenile offenders?

[If so, specify the nature of the contact. If not,]

Then in what ways if any are you familiar with the work of prosecutors in dealing with the violent juvenile offender?

b. In your opinion, what are the strengths of the activity of prosecutors directed toward violent juvenile offenders?

[Probe for examples.]

c. What are the weaknesses?

[Probe for examples.]

d. Would you like to make recommendations to improve the way that prosecutors handle violent juvenile offenders?

REGIONAL ADOLESCENT PROGRAMS (RAP)

Department of Mental Health Regional Adolescent Programs (or RAP programs) are designed as a resource for intensive treatment of seriously disturbed youths, some of whom may be violent offenders.

a. In your own work do you have regular contact with anyone at a RAP program who deals with violent juvenile offenders?

[If so, specify the nature of the contact. If not,]

Then in what ways if any are you familiar with the work of RAP programs in dealing with the violent juvenile offender?

b. In your opinion what are the strengths of the activity of RAP programs directed toward violent juvenile offenders?

[Probe for examples.]

c. What are the weaknesses?

Probe for examples.

d. Would you like to make recommendations to improve the way that RAP programs handle violent juvenile offenders?

DIVERSION (Programs that divert one away from formal adjudication in the court)

We have a few more questions that deal with violent juvenile offenders.

8. One often hears talk about juvenile offender diversion programs.

a. Do you know of any diversion programs which deal with the violent juvenile offender? If yes to a.,

b. Describe the program.

c. What is your opinion of such programs?

d. In your opinion is diversion a strategy which can be applicable to violent juvenile offenders? If yes to d.,

e. Under what circumstances might you recommend the use of a diversion program in dealing with violent juvenile offenders?

VIOLENT JUVENILES AND VIOLENT ADULTS

9. Finally, we're interested in comparing violent juveniles with violent adults.

a. Have you had experience working with violent adults?

b. In your opinion, should violent juveniles be handled differently than violent adults?

c. Why or why not?

If b is answered yes

d. Probe for the nature of the different approaches: how and when.

JUVENILE JUSTICE LEGISLATION

There is considerable variation in current state legislation directed at violent or serious juvenile offenders. I would like to ask your opinion about four different legislative approaches. I will first describe these four approaches and ask a few questions about each.

The first concerns that which currently is used here in Massachsettts. This law places persons 16 years of age and younger under the jurisdiction of the juvenile court. It also permits youths 14-16 years of age to be transferred to the adult court after a special transfer hearing.

The second mandates that juveniles who commit violent or serious crimes have an automatic transfer hearing to determine if they should be dealt with by the adult system.

The third treats violent or serious juvenile offenders from the onset in the same manner as adult offenders.

The fourth uses fixed or determinate sentencing for violent or serious juvenile crime.

10. I would like to ask a question about the current Massachusetts policy first. Would you like me to repeat the description of the Massachusetts policy? (If respondent answers Yes, repeat description of Massachusetts Policy.)

a. Do you believe that this policy should be continued in Massachusetts?

b. Why or why not?

c. I'd like to get some idea as to the strength of your opinion on this matter. If you had to use such terms would you say that you simply favor (or oppose) or that you strongly favor (or strongly oppose) the continuation of this policy in Massachusetts?

11. The second policy is that which mandates automatic transfer hearings.

a. Do you believe that such a policy should be implemented in Massachusetts?

b. Why or why not?

c. Again, I'd like to get some idea of the strength of your opinion on this matter. Would you say that you simply favor (or oppose) or that you strongly favor (or strongly oppose) the implementation of automatic transfer hearings in Massachusetts.

*(If respondent FAVORS OR STRONGLY FAVORS automatic transfer hearings, ask parts d through f. Otherwise proceed to question 12).

Since you favor (or strongly favor) automatic transfer hearings, let me inquire specifically as to the type of juvenile offender who should be dealt with in this manner.

d. Should this policy be limited to violent offenders or should it apply to property offenders as well.

[Probe for respondent's own distinctions and the kinds of crimes that would qualify a juvenile for an automatic transfer hearing.]

e. Should the type of victim make a difference in implementing this policy? Should, for instance, automatic transfer hearings be used only when the victim is an elderly person or some other special type of person?

[Probe for any qualifications as to type of victim.]

f. At what age should the serious juvenile offender have an automatic transfer hearing?

12. The third policy is that which treats serious juvenile offenders in the same manner as adult offenders.

a. Do you believe that this policy should be implemented in Massachusetts?

b. Why or why not?

c. As to the strength of you opinion - do you simply favor (or oppose) or strongly favor (or strongly oppose) the implementation of a policy which would treat serious juvenile offenders from the onset as adults?

(If respondent FAVORS or STRONGLY FAVORS treating serious juvenile offenders from the onset as adults ask parts d through f. Otherwise proceed to question 13)

Since you favor (or strongly favor) treating serious juvenile offenders from the onset as adults, let me inquir specifically as to the type of juvenile offender who should be dealt with in this manner.

d. Should this policy be limited to violent offenders or should it apply to property offenders as well.

[Probe for respondent's own distinctions and the kinds of crimes that would qualify treating juveniles from the onset as adults.]

e. Should the type of victim make a difference in implementing this policy? Should, for instance, juvenile offenders be treated as adults only when the victim is an elderly person or some other special type of person?

[Probe for any qualifications as to type of victim.]

f. At what age should the serious juvenile offender be dealt with from the onset as an adult?

13. The fourth and final policy is that which provides for fixed or determinate sentencing for serious juvenile offenders.

a. Do you believe that such a policy should be implemented in Massachusetts?

b. Why or why not?

c. Again, I'd like to get some idea of the strength of your opinion on this matter. Would you say that you simply favor (or oppose) or that you strongly favor (or strongly oppose) the use of determinate sentencing for serious juvenile offenders in Massachusetts.

(If respondent FAVORS or STRONGLY FAVORS the use of determinate sentencing, ask parts d throught f. Otherwise, proceed to question 14)

Since you favor (or strongly favor) fixed or determinate sentencing for serious juvenile offenders, let me inquir specifically as to the type of juvenile offender who should be dealt with in this manner.

d. Should this policy be limited to violent offenders or should it apply to property offenders as well?

Probe for respondent's own distinctions and the kinds of crimes that would qualify a juvenile for determinate sentencing.

e. Should the type of victim make a difference in implementing this policy? Should, for instance, determinate sentences be used only when the victim is an elderly person or some other special type of person?

Probe for any qualifications as to type of victim.

f. At what age should the serious juvenile offender be given a determinate sentence?

14. Some of the proposals I have just mentioned are currently in operation in other states. Have you heard how any of these proposals are being implemented in other states?

Probe for what was heard, and how.

OTHER SUGGESTIONS

15. Think of any aspect of the juvenile justice system. Do you have other ideas or suggestions for dealing with serious violent juvenile offenders?

BACKGROUND

16. Finally, I would like to ask you a few background questions.

a. How many years have you worked at your present job?

b. What is the highest education level you have completed?

c. How old were you on your last birthday?

d. Would you briefly describe your past work experience in the criminal justice system?

e. If you had to identify yourself as a member of one of the following groups, would it be

1- black

2- white

3- Hispanic

4- Asian

5- Other (Please specify)

f. Circle sex: 1) male 2) female

ANYTHING ELSE?

17. Is there anything else that you would like to add regarding any of the areas we covered today?

Juvenile Justice Advisory Committee Mail Questionnaire on
POLICY FOR VIOLENT JUVENILE OFFENDERS.

INSTRUCTIONS: Please read the following descriptions of juvenile justice policies aimed at violent or serious juvenile offenders. Circle the response which best reflects your own position.

POLICY #1. THIS POLICY IS REFLECTED IN CURRENT MASSACHUSETTS LAW. IT PLACES PERSONS 16 YEARS OF AGE AND YOUNGER UNDER THE JURISDICTION OF THE JUVENILE COURT. IT ALSO PERMITS YOUTHS 14-16 YEARS OF AGE TO BE TRANSFERRED TO ADULT COURT AFTER A SPECIAL HEARING.

1. This current Massachusetts policy (Policy #1) should be continued in Massachusetts.
- **a. strongly agree**
- **b. agree**
- **c. disagree**
- **d. strongly disagree**
- **e. no opinion**

2. Qualifications to Policy #1 (current Massachusetts policy).
Do you support Policy #1 but believe that it should be continued with certain qualifications or modifications? If so, please list such qualifications or modifications in the space provided below

POLICY #2. THE AUTOMATIC TRANSFER HEARING POLICY. THIS POLICY MANDATES THAT JUVENILES WHO COMMIT VIOLENT OR SERIOUS CRIMES HAVE AN AUTOMATIC TRANSFER HEARING TO DETERMINE IF THEY SHOULD BE DEALT WITH BY THE ADULT SYSTEM.

3. Policy #2 (the automatic transfer hearing policy) should be implemented in Massachusetts.
- **a. strongly agree**
- **b. agree**
- **c. disagree**
- **d. strongly disagree**
- **e. no opinion**

**If you answer (a) strongly agree or (b) agree to the above please answer questions 4-8. Otherwise proceed directly to question 9.

4. Policy #2 should be implemented only for violent juvenile offenders.
   a. strongly agree
   b. agree
   c. disagree
   d. strongly disagree
   e. no opinion

5. Policy #2 should be implemented for both violent juvenile offenders and serious property offenders.
   a. strongly agree
   b. agree
   c. disagree
   d. strongly disagree
   e. no opinion

6. Policy #2 should be implemented only for juvenile who are
   a. over age 13
   b. over age 14
   c. over age 15
   d. over age 16
   e. any age

7. Policy #2 should be implemented only when a victim is an elderly person.
   a. strongly agree
   b. agree
   c. disagree
   d. strongly disagree
   e. no opinion

8. Other qualifications to Policy #2 (Automatic Transfer Hearing Policy) Do you support Policy #2 but believe that it should be implemented with qualifications other than those stated above? If so, please list such qualifications in the space provided below.

POLICY #3. THE EXCLUSION TO THE ADULT SYSTEM POLICY. THIS POLICY MANDATES TAHT JUVENILES WHO COMMIT VIOLENT OR SERIOUS JUVENILE CRIMES BE TREATED FROM THE ONSET IN THE SAME MANNER AS ADULT OFFENDERS. UNDER THIS POLICY JUVENILES WHO COMMIT SUCH OFFENSES WOULD BE TRIED IN ADULT COURTS AND SUBJECT TO THE SAME PENALTIES AS ADULTS.

9. Policy #3 (the exclusion to the adult system policy) should be implemented in Massachusetts.
   a. strongly agree
   b. agree
   c. disagree
   d. strongly disagree
   e. no opinion

***If you answer (a) strongly agree or (b) agree to the above, please answer questions 10-14. Otherwise proceed directly to question 15.

10. Policy #3 should be implemented only for violent juvenile offenders.
    a. strongly agree
    b. agree
    c. disagree
    d. strongly disagree
    e. no opinion

11. Policy #3 should be implemented for both violent juvenile offenders and serious property offenders.
    a. strongly agree
    b. agree
    c. disagree
    d. strongly disagree
    e. no opinion

12. Policy #3 should be implemented only for juveniles who are
    a. over age 13
    b. over age 14
    c. over age 15
    d. over age 16
    e. any age

13. Policy #3 should be implemented only when a victim is an elderly person.
    a. strongly agree
    b. agree
    c. disagree
    d. strongly disagree
    e. no opinion

14. Other qualifications to Policy #3 (exclusion to adult system policy). Do you support Policy#3 but believe that it should be implemented with qualifications other than stated above? If so, please list such qualifications in the space provided below.

POLICY #4 THE FIXED OR DETERMINATE SENTENCING POLICY. THIS POLICY MANDATES THE USE OF FIXED OR DETERMINATE SENTENCING FOR VIOLENT OR SERIOUS JUVENILE OFFENDERS.

15. Policy #4 (the fixed or determinate sentencing policy) should be implemented in Massachusetts.
    a. strongly agree
    b. agree
    c. disagree
    d. strongly disagree
    e. no opinion

****If you answer (a) strongly agree or (b) agree to the above please answer questions 16-20. Otherwise proceed directly to question 21.

16. Policy #4 should be implemented only for violent juvenile offenders.
    a. strongly agree
    b. agree
    c. disagree
    d. strongly disagree
    e. no opinion

17. Policy #4 should be implemented for both violent juvenile offenders and serious property offenders.
    a. strongly agree
    b. agree
    c. disagree
    d. strongly disagree
    e. no opinion

18. Policy #4 should be implemented only for juveniles who are
    a. over age 13
    b. over age 14
    c. over age 15
    d. over age 16
    e. any age

19. Policy #4 should be implemented only when a victim is an elderly person
    a. strongly agree
    b. agree
    c. disagree
    d. strongly disagree
    e. no opinion

20. Other qualifications to Policy #4 (fixed or determinate sentence policy). Do you support Policy #4 but believe that it should be implemented with qualifications other than those stated above? If so, please list such qualifications in the space provided below.

21. Other Comments or Suggestions. Do you have other information, opinions, or comments regarding the current handling of violent juvenile offenders in Massachusetts? Do you have other suggestions as to future Massachusetts policy? If so, please use the following space to communicate your concerns. Feel free to use any additional space as needed.

CONTINUED

2 OF 3

22. Please state the title of your present job

23. How many years have you worked at your present job?

24. Circle the highest education level you have completed.
    a. high school
    b. some college
    c. graduated with two year college degree
    d. graduated with four year college degree
    e. graduated with advanced graduate or professional degree

25. How old were you on your last birthday

26. If you had to identify yourself as a member of one of the following groups, would it be
    a. black
    b. white
    c. Hispanic
    d. Asian
    e. Other (please specify)

27. Circle gender
    a. male
    b. female

Please enclose in return pre-stamped envelope and mail.

Thank you very much.

The Juvenile Justice Advisory Committee

VIOLENT JUVENILE OFFENDER STUDY

DATA COLLECTION FORM

Conducted by:

THE MASSACHUSETTS JUVENILE JUSTICE
ADVISORY COMMITTEE

1 1975
2 1977 YEAR OF THE "TARGETED" OFFENSE
3 1979

DYS Only ☐☐☐☐☐ BR or GR Number

REGION _____

☐☐☐☐☐☐ MID Number

RAP Only ☐☐ Identifier Number

Return to:

Statistical Analysis Center
Massachusetts Committee on
Criminal Justice
110 Tremont St., 4th Floor
Boston, MA 02108

BACKGROUND INFORMATION

☐☐☐ RESIDENCE (CODE SHEET 1)

☐☐☐☐☐☐ DATE OF BIRTH

☐ RACE (1=BLACK, 2=WHITE, 3=OTHER)

☐ SEX (1=MALE, 2=FEMALE)

☐☐ SCHOOL GRADE (77=NON-ATTENDANCE)

PARENT STATUS

☐ 1 TOGETHER
☐ 2 DIVORCED
☐ 3 WIDOWED
☐ 4 OTHER

CHILD CUSTODY

☐ 1 BOTH PARENTS
☐ 2 MOTHER ONLY
☐ 3 FATHER ONLY
☐ 4 OTHER RELATIVE
☐ 5 NON-RELATIVE
☐ 6 OTHER

☐ CONTACT WITH OTHER AGENCIES (1=YES, 2=NO)

☐☐☐☐☐☐ DATE OF REPORT

SOURCES

☐ FACE SHEET
☐ FIRST HOME INVESTIGATION
☐ CLIENT ELIGABILITY SURVEY
☐ OTHER

TARGET CHARGE INFORMATION

☐☐☐ COURT (SEE CODE SHEET 2)

☐☐ TARGET OFFENSE (CODE SHEET NUMBER 3)

☐☐☐☐☐☐ DATE OF ARRAIGNMENT

☐ COMMITMENT (1=DYS, 2=RAP, 3=OTHER)

☐☐☐☐☐☐ DATE OF COMMITMENT FOR TARGET CHARGE

☐☐☐☐☐☐ DATE OF INITIAL COMMITMENT

☐☐ OFFENSE TYPE (CODE SHEET NUMBER 3)

☐☐☐☐☐☐ DATE OF RECOMMITMENT FOLLOWING TARGET CHARGE

☐☐ OFFENSE TYPE

☐ >1 RECOMMITMENT (1=YES, 2=NO)

☐☐☐ FIRST SERVICE PROVIDED (SEE CODE SHEET NUMBER 4)

☐☐☐☐☐☐ BEGIN DATE OF FIRST SERVICE ☐☐☐ # DAYS AWOL

☐☐☐☐☐☐ END DATE OF FIRST SERVICE

☐☐☐ SECOND SERVICE PROVIDED (SEE CODE SHEET NUMBER 4)

☐☐☐☐☐☐ BEGIN DATE OF SECOND SERVICE ☐☐☐ # DAYS AWOL

☐☐☐☐☐☐ END DATE OF SECOND SERVICE

☐☐☐ THIRD SERVICE PROVIDED (SEE CODE SHEET NUMBER 4)

☐☐☐☐☐☐ BEGIN DATE OF THIRD SERVICE ☐☐☐ # DAYS AWOL

☐☐☐☐☐☐ END DATE OF THIRD SERVICE

☐☐☐☐☐☐ END DATE OF COMMITMENT

☐ CHECK IF MORE THAN THREE SERVICES PROVIDED ATTACH AND FILL OUT CONTINUATION SHEET

SERVICE CONTINUATION SHEET

☐☐	FOURTH SERVICE PROVIDED**	
☐☐☐☐☐☐	BEGIN DATE OF FOURTH SERVICE	☐☐ # DAYS AWOL
☐☐☐☐☐☐	END DATE OF FOURTH SERVICE	
☐☐	FIFTH SERVICE PROVIDED**	
☐☐☐☐☐☐	BEGIN DATE OF FIFTH SERVICE	☐☐ # DAYS AWOL
☐☐☐☐☐☐	END DATE OF FIFTH SERVICE	
☐☐	SIXTH SERVICE PROVIDED**	
☐☐☐☐☐☐	BEGIN DATE OF SIXTH SERVICE	☐☐ # DAYS AWOL
☐☐☐☐☐☐	END DATE OF SIXTH SERVICE	
☐☐	SEVENTH SERVICE PROVIDED**	
☐☐☐☐☐☐	BEGIN DATE OF SEVENTH SERVICE	☐☐ # DAYS AWOL
☐☐☐☐☐☐	END DATE OF SEVENTH SERVICE	
☐☐	EIGTH SERVICE PROVIDED**	
☐☐☐☐☐☐	BEGIN DATE OF EIGHTH SERVICE	☐☐ # DAYS AWOL
☐☐☐☐☐☐	END DATE OF EIGHTH SERVICE	
☐☐	NINTH SERVICE PROVIDED**	
☐☐☐☐☐☐	BEGIN DATE OF NINTH SERVICE	☐☐ # DAYS AWOL
☐☐☐☐☐☐	END DATE OF NINTH SERVICE	

☐ *Use another continuation sheet if more than 9 services.

**See code sheet #4.

DELINQUENCY CHARGE #	OFFENSE TYPE*	# OF COUNTS	OFFENSE TYPE*	# OF COUNTS	MORE? 1=yes 2=no	DATE OF ARRAIGNMENT	DISPOSITION**	DATE OF ASSIGNMENT OR COMMITTMENT	DATE OF TERMINATION OR RELEASE	# MONTHS PROBATION
01										
02										
03										
04										
05										
06										
07										
08										
09										
10										
11										
12										

*SEE CODE SHEET 3
**SEE CODE SHEET 4

☐ CHECK IF MORE HISTORICAL INFORMATION IS CONTAINED ON CONTINUATION SHEET - ATTACH

PRIOR JUVENILE HISTORY SHEET

DELINQUENCY CHARGE #	OFFENSE TYPE*	# OF COUNTS	OFFENSE TYPE*	# OF COUNTS	MORE? 1=yes 2=no	DATE OF ARRAIGNMENT	DISPOSITION**	DATE OF ASSIGNMENT OR COMMITTMENT	DATE OF TERMINATION OR RELEASE	# MONTHS PROBATION

*SEE CODE SHEET 3
**SEE CODE SHEET 4

☐ CHECK IF MORE HISTORICAL INFORMATION IS CONTAINED ON CONTINUATION SHEET - ATTACH

PRIOR JUVENILE HISTORY CONTINUATION SHEET

DELINQUENCY CHARGE #	OFFENSE TYPE*	# OF COUNTS	OFFENSE TYPE*	# OF COUNTS	MORE? 1=yes 2=no	DATE OF ARRAIGNMENT	DISPOSITION**	DATE OF ASSIGNMENT OR COMMITTMENT	DATE OF TERMINATION OR RELEASE	# MONTHS PROBATION
01										
02										
03										
04										
05										
06										
07										
08										
09										
10										
11										
12										

*SEE CODE SHEET 3
**SEE CODE SHEET 4

☐ CHECK IF MORE HISTORICAL INFORMATION IS CONTAINED ON CONTINUATION SHEET - ATTACH

SUBSEQUENT JUVENILE HISTORY SHEET

DELINQUENCY CHARGE #	OFFENSE TYPE*	# OF COUNTS	OFFENSE TYPE*	# OF COUNTS	MORE? 1=yes 2=no	DATE OF ARRAIGNMENT	DISPOSITION**	DATE OF ASSIGNMENT OR COMMITTMENT	DATE OF TERMINATION OR RELEASE	# MONTHS PROBATION

*SEE CODE SHEET 3
**SEE CODE SHEET 4

☐ CHECK IF MORE HISTORICAL INFORMATION IS CONTAINED ON CONTINUATION SHEET - ATTACH

SUBSEQUENT JUVENILE HISTORY CONTINUATION SHEET