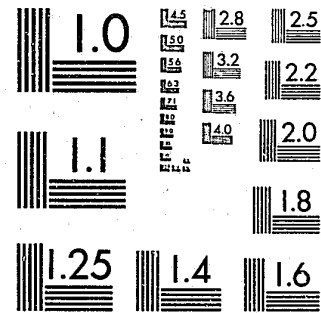


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THE USE OF JAILS FOR JUVENILES IN VIRGINIA
AN ASSESSMENT AND RECOMMENDATIONS

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VIRGINIA STATE CRIME COMMISSION
805 East Broad Street, Suite 701
Richmond, Virginia 23219

September 1983

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STUDY OF USE OF JAILS FOR JUVENILES

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Lou L. Hanks, Project Director
Joyce K. Brown, Research Analyst
Dale Bennett, Research Analyst

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Finally, the Commission and its staff acknowledge the able assistance provided by Mike McMillen and Joe Thome of the Community Research Center, University of Illinois, and by practicing attorneys Stephen Bricker and Jonathan Shapiro of Richmond and Alexandria.

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ACQUISITIONS

PREFACE

This project originally was planned as a comprehensive eighteen month study to culminate in recommendations and proposed legislation to reduce and eliminate the inappropriate use of adult jails for juveniles under the jurisdiction of the Commonwealth's juvenile and domestic relations district courts. However, for a number of reasons, the time for the study was limited to approximately seven months. Under these circumstances, both the scope of the study and the report had to be narrowed.

The most significant reductions in the scope of the study were in the amount and kind of public involvement and in the number and types of local needs assessments that could be done. The scope of the report and recommendations is narrowed accordingly. While the report contains no proposed legislation, it does contain recommendations that will require new legislation.

The methodologies used in this study include research and analysis of existing studies, data, and information; research and analysis of new and more current data and information; and questionnaires. Questionnaires were developed and sent to all judges of juvenile courts, all intake units of juvenile courts, and all sheriffs in the state. The Community Research Center of the University of Illinois is in the process of computerizing and analyzing the results of the questionnaires, and this analysis will be published under separate cover.

This report is intended to serve as a major resource document, both for those who will continue to study the issues and for those who will be implementing the recommendations contained in the report. It is the hope of the Crime Commission and its staff that this report will result in reducing and eliminating the inappropriate use of adult jails for juveniles under the jurisdiction of juvenile and domestic relations district courts in Virginia.

FINDINGS, CONCLUSIONS, AND RECOMMENDATIONS

Findings

This study reveals that there are a number of compelling reasons to be concerned about placing children in Virginia's adult jails, and that this practice cannot be isolated from the entire issue of the use of all forms of secure custody for children in Virginia's juvenile justice system. The findings are as follows:

1. The use of jails and other forms of secure custody for children is not decreasing in proportion to the decrease in juvenile arrests, juvenile crime, and serious crimes committed by juveniles.
2. In 1980, Virginia ranked sixth in the nation in the number of juveniles jailed.
3. During Fiscal Year 1982, 9,735 children were held in secure custody in Virginia's juvenile detention homes, and 3,756 children were held in secure custody pre- and post-dispositionally in Virginia's jails. During the same year, 1,240 complaints resulted in a jail sentence by the juvenile court, and 831 resulted in transfer to the circuit court. A total of 168 juveniles were held in jails not approved to house juveniles, and it is not known how many of these were transferred to circuit courts. A total of 1,252 children were received at the Reception and Diagnostic Center as a result of having been committed to the Department of Corrections.
4. Based upon data for the past several years, it appears that on the average, only 1 of every 5 children held in secure custody in Virginia pre-dispositionally will receive secure custody as a disposition.
5. In Fiscal Year 1982, only 16.2% of the juveniles held in Virginia's

jails were held for alleged or adjudicated offenses against persons.

6. According to Department of Corrections reports, during Fiscal Year 1980, a total of 19 children under age 15 were reported confined in local jails. During Fiscal Year 1981, a total of 12 children under age 15 were reported so confined, and one of these children was 12 years old. These confinements were apparent violations of Section 16.1-249B of the Code of Virginia.
7. During Fiscal Year 1982, 9 juveniles were reported confined in local jails as runaways, and 1 as a truant.
8. During Fiscal Year 1982, 118 children were reported detained in secure juvenile detention as a result of being Wards of the State (children with no legal guardian who are in the custody of the juvenile court awaiting placement). In addition, the following status and non-offenders were reported held in secure juvenile detention during Fiscal Year 1982: 40 for matters related to custody cases; 6 for truancy; 135 for incorrigibility/beyond parental control; 449 for in-state runaway; and 229 for out-of-state runaway.
9. A national study shows that juveniles in adult jails commit suicide at a rate five times greater than youths in the general population, and eight times greater than those placed in secure juvenile detention facilities.
10. As accurately as can be determined, Virginia is one of only seven states that allow jailing as a dispositional alternative for the juvenile court. In one of these states, although jailing is allowed in limited instances, it is rarely done.
11. Juveniles in adult jails in Virginia and nationwide are the victims of physical, sexual, and verbal assaults.

12. The Department of Corrections has no centralized, systematic reporting and records of incidents of suicides and physical and sexual assaults in local jails.
13. The Department of Corrections has no centralized, systematic reporting and records of the number of children held in local lockups.
14. Children in adult jails in Virginia often are held in isolation, in violation of the Board of Corrections' standards for jails and lockups approved to house juveniles.
15. Children in most of Virginia's jails do not receive needed education and rehabilitation services.
16. Frequently, juveniles are held in adult jails in Virginia because of convenience in transportation time and costs, because of inadequate transportation resources, and because of great distances to juvenile detention homes.
17. Juveniles are also held in adult jails in Virginia because no space is available in accessible juvenile detention homes.
18. Many juveniles are held in adult jails in Virginia for less than 24 hours. In 1980, a special survey by the Department of Corrections and the Division of Justice and Crime Prevention revealed that up to 20% of the children held in adult jails that year were there for less than 24 hours.
19. Litigation arising from the use of adult jails for children is increasing nationally and in Virginia. Nationally, litigation is resulting in decisions that this practice is unconstitutional and, in Virginia, children subjected to certain jail conditions are receiving awards for damages and attorneys' fees.

20. During Fiscal Year 1982, it cost approximately \$1,674,796 to hold juveniles under the jurisdiction of juvenile courts in jails in the Commonwealth. The State paid 80% of this total, or approximately \$1,339,837. It is projected that the Commonwealth will spend \$1,509,985 for this purpose in Fiscal Year 1983.
21. National standards discourage and prohibit the use of adult jails for children, and encourage the use of specific criteria based upon the juvenile's offense and legal history for making decisions about detention and the use of secure custody.
22. In 1978, a study applied National Advisory Committee (NAC) Criteria for Detention to 84 juvenile detentions in 10 judicial districts in Virginia. It was found that 55% did not meet NAC criteria, and that the percentage of children detained after a petition was filed against them varied from 6% in some judicial districts to 23% in others.
23. On the average, on any given day during Fiscal Year 1982, on a statewide basis, there were 243 vacant spaces in existing secure juvenile detention facilities, less-secure detention, crisis/runaway facilities, outreach detention, community youth homes, and family group homes. This number does not include vacant spaces that were available in volunteer emergency foster homes and other types of home shelter care.
24. During Fiscal Year 1982, a total of 22 children whose offense was recorded as child welfare matters were committed to the Department of Corrections, in apparent violation of Section 16.1-279D of the Code.
25. Since 1971, the total budgeted capacity of the learning centers and Reception and Diagnostic Center has declined by 595, going from

- 1,400 to 805. This takes into account the closing of Pinecrest and the opening of Oak Ridge, both in Richmond.
26. Appalachian and Oak Ridge Learning Centers are designed as secure facilities, and three of the learning centers have cottages which are more secure and can be used for more serious and difficult juvenile offenders.
27. Since 1976, Virginia has been participating in the federal Juvenile Justice and Delinquency Prevention Act, and has received an average of \$1,220,000 each year from the Act. One of the requirements of the Act for states participating in it is that by December 1985, states shall have made substantial progress in removing juveniles under the jurisdiction of juvenile courts from adult jails, and by December 1987, shall no longer place these juveniles in adult jails. There are only limited exceptions allowed to this requirement.
28. In February 1983, Senator Arlen Specter, of Pennsylvania, introduced two bills in the United States Senate. One of them, S.522, would require, with limited exceptions, that after December 8, 1985, no person under age eighteen shall be held in any jail or lockup for adults, and provides that any person aggrieved by a violation of the act may bring a civil action for damages and equitable relief. The other, S.520, would require that no state could assign juveniles who are non-offenders or status offenders to any secure detention, treatment, or correctional facility, and provides that any person aggrieved by a violation of the act may bring a civil action for damages and equitable relief.

Conclusions

1. Virginia has a substantial number and variety of programs, both secure and non-secure, that can be used instead of jail and secure juvenile detention, and these programs are not being utilized to the fullest extent.
2. Not all jails are designed, staffed, or have trained personnel to handle juveniles. Therefore, children in some adult jails are in greater danger of suicide, rape, and physical assault than children in secure juvenile detention homes and children in the general population.
3. All forms of secure custody for juveniles, including jails, secure juvenile detention, and learning centers continue to be used inappropriately, in some cases, with non-offenders being held in secure confinement and with many alleged offenders being held in local jails for convenience, and because of lack of access to more appropriate alternatives. There are still instances where children are placed in secure confinement in violation of provisions of the Code.
4. The criteria contained in Section 16.1-248 of the Code of Virginia for detaining children allow for a wide degree of interpretation and discretion, so that children receive different treatment throughout the Commonwealth in matters of detention and secure custody.
5. It is essential that new, more specific criteria be developed for detention and for the use of all forms of pre- and post-dispositional secure custody for juveniles in Virginia.
6. If alleged juvenile offenders were placed in appropriate facilities and programs, there could be more space in secure juvenile detention homes for alleged juvenile offenders needing secure custody.

7. More space would be available in learning centers if they were used more appropriately.
8. Many localities are in need of new or improved transportation resources so that children can be placed in the most appropriate available alternative.
9. Some localities need secure and non-secure holding space and/or facilities so that children can be placed in the most appropriate available alternative.
10. Some localities need to establish agreements with existing secure and non-secure facilities so that they may purchase space for children needing those placements.
11. Although funds have been provided to the Department of Corrections to maintain accurate, timely information systems, these systems remain inadequate, making it impossible to monitor what is happening to children in Virginia's juvenile justice system on a statewide basis.
12. There is a lack of sanctions and timely enforcement authority for violations of Code provisions relating to secure custody for children.
13. In many instances, it is possible to stop using adult jails for children and to implement more specific criteria for detention and the use of all forms of secure custody without major fiscal impacts and threats to the juvenile justice system and public safety.

(These findings and conclusions are documented and explained in other sections of this report.)

Recommendations

In view of the findings and conclusions enumerated above, the Crime Commission makes the following recommendations:

1. The Board of the Department of Corrections should promote the development, testing, and implementation of new, more specific criteria for detention and the use of all forms of pre- and post-dispositional secure custody for juveniles. The criteria should be based upon actual case studies, existing models and standards, examples of other states, and the requirements of the Juvenile Justice and Delinquency Prevention Act.
2. The new, more specific criteria should be developed over a one to two year period, and should be designed to result in the reduction and elimination of the inappropriate use of adult jails for juveniles under the jurisdiction of juvenile courts and to provide additional dispositional alternatives for juvenile court judges in lieu of the use of jails.
3. The General Assembly should, in the 1984 Session, enact legislation, in accord with the timetables and requirements of the Juvenile Justice and Delinquency Prevention Act, setting forth a phased timeframe for accomplishing the elimination of the inappropriate use of adult jails for juveniles under the jurisdiction of juvenile courts. This would allow time for the state and localities to plan and implement needed changes, services, and programs.
4. The effort to develop new criteria and to reduce and eliminate the inappropriate use of adult jails for juveniles under the jurisdiction of juvenile courts should begin now with initial needs assessments and legislative amendments, and accomplish substantial reduction of inappropriate jailing by December 1985, with elimination of the inappropriate use of jails by December 1987.
5. The new criteria for detention and the use of all forms of pre- and

post-dispositional secure custody should prohibit the use of adult jails for juveniles under the jurisdiction of juvenile and domestic relations district courts. The only exceptions to the prohibition should be as follows:*

- a. When a juvenile aged 15 or older who is in a secure detention home pre-dispositionally commits a new offense which is an act of violence and/or which constitutes a demonstrable danger to the staff and/or other detainees, a juvenile court judge, after a hearing, may order that the juvenile be detained in jail. In these instances, a juvenile so placed may be held only in a jail approved to house juveniles, and never in punitive isolation.
- b. When a juvenile aged 15 or older is alleged to have committed a violent crime, or crimes against persons and presents a threat to the safety of the community, and no secure juvenile detention facility is available, the juvenile may be detained for no more than 48 hours in an adult jail or lockup approved to house juveniles, but never in punitive isolation.
- c. Juveniles arrested by law enforcement officers may be held for up to six hours in an adult jail or lockup for identification, processing, and transfer to juvenile court officials, juvenile shelter, or juvenile detention facilities, if they are arrested for committing an act that could result in pre-trial jailing for an adult. In these instances, juveniles may be held only in facilities approved to house juveniles, and never in punitive isolation.
- d. When a juvenile aged 15 or older is arrested and is under the influence of alcohol or drugs, the juvenile may be held for up to

*Delegate Guest filed a dissenting opinion that may be found in the addendum to this report.

six hours in an adult jail or lockup, but only under constant supervision in facilities approved to house juveniles, and never in punitive isolation. When this is done, a determination must be made that there is no available acceptable alternative, such as a detention home, detoxification center, shelter or crisis care, or other suitable holding place for the juvenile.

- e. Juveniles aged 15 or older who are found guilty of certain traffic offenses in Titles 18.2 and 46.1 of the Code, where a jail sentence is required by the Code, may be held in adult jails or lockups, but only in facilities approved to house juveniles, and never in punitive isolation.
 - f. Juveniles transferred or waived to circuit courts may be held in adult jails or lockups prior to conviction, but only in facilities approved to house juveniles, and never in punitive isolation.
6. The Department of Corrections should provide financial incentives or penalties that encourage better utilization of existing programs and the use of the least restrictive appropriate alternative.
- The Department of Criminal Justice Services may enhance this approach by adopting similar measures in allocating funds available under the Juvenile Justice and Delinquency Prevention Act.
7. The Department of Corrections should develop and maintain centralized, systematic reporting and records of incidents of suicides and physical and sexual assaults in local jails.
8. The Department of Corrections should develop and maintain centralized, systematic reporting and records of the number of and types of children held in local lockups.
9. The Office of the Executive Secretary of the Supreme Court and the

District Courts Committee should provide information and training as appropriate for juvenile court judges in the use of more specific criteria for detention and secure custody decision making, and the use of the least restrictive appropriate alternative.

- 10. The Department of Corrections should provide information and training as appropriate for juvenile court intake staff in the use of more specific criteria for detention and secure custody decision making, and the use of the least restrictive appropriate alternative.
- 11. By February 1984, the Department of Corrections, with the assistance of the Department of Criminal Justice Services and the Community Research Center should perform two assessments at the local level. One should be a case-by-case survey in selected jurisdictions of children coming before juvenile court intake, following them through at least the adjudicatory hearing, and preferably through the dispositional hearing to obtain data to use in developing needed programs and services and in developing more specific criteria for detention and secure custody decisions. The other should be a needs assessment, by August 1984, for each juvenile court, or Department of Corrections Region to document program, service, and financial needs in preparation for eliminating the inappropriate use of adult jails for juveniles.
- 12. Juvenile court judges should consider establishing local and regional jail removal committees to assist in planning and developing services and programs needed.
- 13. The Department of Corrections with the assistance of other agencies should perform two assessments at the state level by November 1984. One should be a projection of the impact on State-operated juvenile

correctional programs, in terms of numbers and characteristics of children who may be entering these programs as a result of eliminating the inappropriate use of adult jails and the resulting needs. The other should be an estimate of the costs involved at the state and local levels to meet the needs identified as a result of eliminating the inappropriate use of adult jails for juveniles under the jurisdiction of juvenile courts.

14. The Department of Corrections and localities should construct no additional secure juvenile detention homes until the needs assessments recommended above are completed. Then, if additional secure juvenile detention facilities are needed, they should be placed in strategic areas of genuine need, accessible to localities that lack these facilities now. Caution should be exercised not to overbuild. A regional concept should be used whenever possible, and smaller units of up to 16 beds should be used where appropriate.
15. The Department of Corrections and localities should develop places more suitable than jails for juveniles to await transportation home or elsewhere, such as court- or community-based secure and non-secure holding rooms/areas, using existing facilities such as the courts, magistrates' offices, detoxification centers, hospitals, and so forth. Where appropriate, people could be paid, or volunteers could be used to supervise youths while they are waiting.
16. The Department of Corrections and localities should plan and develop transportation networks to meet the needs for transporting children to secure juvenile detention homes, to less-secure and non-secure programs, and to the Reception and Diagnostic Center.
17. The Department of Corrections and localities should explore and

develop alternative programs and services such as Outreach Detention, Less-secure Detention, Crisis/Runaway, Volunteer Emergency Foster Care, Shelter Care, and the Associated Marine Institutes' programs to meet needs identified as a result of eliminating the inappropriate use of adult jails for juveniles. A regional concept should be used whenever possible.

18. The Department of Corrections and localities should encourage juvenile court intake staff and judges to make more use of the Volunteer Emergency Foster Care Program.
19. The Department of Corrections and localities should consider establishing arbitration programs and making use of students in the Commonwealth's institutions of higher learning to staff, on a volunteer or paid basis, alternative programs for juveniles.
20. The Board of the Department of Corrections should be directed to monitor what is being done with children in the juvenile justice system.
21. The Department of Corrections should modify and improve existing information systems so that they have the capability to track decisions on a case-by-case basis at all points in the juvenile justice system and to provide readily accessible information.
22. The General Assembly should consider requiring the Department of Corrections to provide information annually about the number of juveniles held in each local jail during the preceding year (excluding those transferred to circuit courts) and the amount the State paid for this purpose. The General Assembly should consider reallocation of the funds used for those confinements to pay for program and service needs generated as a result of reducing and eliminating the

inappropriate use of adult jails for juveniles.

23. The Department of Criminal Justice Services should allocate funds available under the Juvenile Justice and Delinquency Prevention Act, as well as funds that may become available from other federal acts in a manner that will help meet the needs identified as a result of eliminating the inappropriate use of adult jails for children under the jurisdiction of juvenile courts.

For it is obvious that something is lacking in our present set up when we observe that regardless of the liberal provisions of our present statutes and the substantial reimbursements allowed by the State to all localities for carrying out the provisions of these statutes, yet with few exceptions no city or county in the State has worked out an effective or satisfactory plan of juvenile detention and despite the mandate of law approximately 2,650 children were detained in the jails of our Commonwealth last year.

From Report of the Virginia Advisory Legislative Council to the Governor and The General Assembly of Virginia, Richmond, 1949.

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OVERVIEW OF JUVENILE JUSTICE SYSTEM
OPERATIONS AND PRACTICES

Throughout society today, there is a growing awareness and concern about the extent of children's involvement in criminal activities, and much attention is being focused on the problems of juvenile crime. Contrary to popular belief however, juvenile crime in Virginia is decreasing.

Juvenile Population

Since 1978, the Commonwealth's total population has been over five million people each year, according to the Department of Planning and Budget's population projections. Of this total, juveniles under the age of eighteen have accounted for approximately 26 - 28%, or over 1,400,000.¹

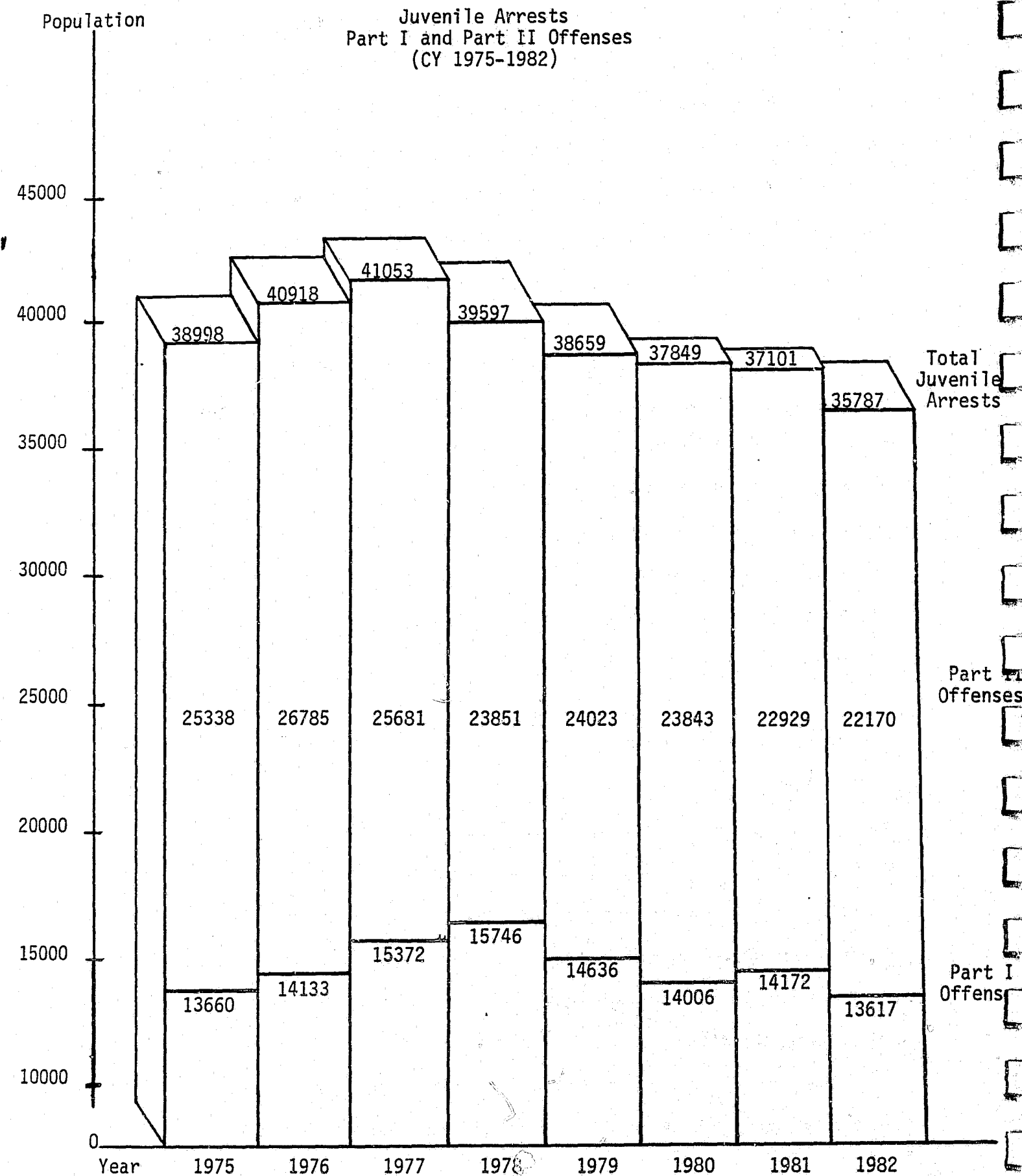
Historically males have represented a slightly larger portion of the juvenile population in the state, accounting for roughly 51% of the total, while females accounted for 49%. Also, whites have constituted the majority of the juvenile population, representing 75 - 78% of the total, while non-whites accounted for only 22 - 25%.²

Juvenile Arrests

There are numerous ways that a youth can come into contact with the juvenile justice system. One way is through contact with the police. According to the Department of State Police publication, Crime in Virginia, 1982, a total of 35,787 juveniles were arrested in 1982. (Refer to Chart A.) This is the lowest number of juvenile arrests since 1977, when the number reached a high of 41,053. The numbers have shown a consistent decrease since then, and represent an average of approximately 2.6% of the total juvenile population in the Commonwealth.³

Since 1975, juvenile arrests have accounted for approximately 11 - 16% of the total arrests in Virginia. Although the total number of arrests has

Chart A



increased each year since 1975, the percentage of that total representing juvenile arrests has constantly decreased.⁴

Juvenile Crime

For reporting purposes, offenses are categorized in two major groups. According to the Federal Bureau of Investigation, Part I offenses include murder, manslaughter, forcible rape, aggravated assault, burglary, robbery, larceny, and motor vehicle theft. Since 1975, only 35 - 40% of the juvenile arrests have been for Part I offenses. In numbers, this has accounted for roughly 13,617 to 15,746 Part I arrests. "Larceny" appears to be the Part I offense most often committed by juveniles, with "burglary" the next highest. "Murder, manslaughter, and forcible rape" accounted for the lowest number of juvenile arrests. Of the total number of juveniles arrested for Part I offenses for the past seven years, males have accounted for approximately 84 - 87%.⁵

Part II offenses include those less serious felonies not included in the Part I category, as well as misdemeanors. Since 1975, the majority of juvenile arrests have been for Part II offenses, accounting for 60 - 65% of the total juvenile arrests. In numbers, this represents approximately 22,170 to 26,785 juveniles.⁶

The highest number of juvenile arrests were for "All Other Offenses, except Traffic". "Run-aways, Juveniles Apprehended," accounted for the next highest number. Offenses such as "Public Drunkenness," "Disorderly Conduct," and "Curfew and Loitering" represented the smallest numbers of juvenile arrests. As was the case with Part I offenses, males again represented the largest portion of those arrested, accounting for 73 - 75% of the total.⁷

Although data indicate that the majority of youth arrests were for

offenses of a less serious nature, it is interesting to note that the vast majority were referred to the juvenile and domestic relations court by the police instead of being diverted from the juvenile justice system. There are several options available to a police officer in handling juveniles, both before and after arrest. Police may divert the child from the formal system by releasing him to the custody of a parent or guardian; refer him to a police, welfare, or social service agency; or refer him to court.

Since 1975, Virginia's police have released or diverted only 27 - 31% of the juveniles arrested, or 9,333 to 12,948 cases. (Refer to Chart B.) In 1982, police diverted more cases than in any year since 1977, with 10,625 cases being released to parents or guardians. Since 1975, the majority of cases handled by police have been referred to court. This accounts for 62-72% of the total cases, or in actual numbers, 23,316 to 27,612.⁸

Juveniles come into contact with the juvenile court not only as result of arrest, but also by referrals or complaints from a number of different sources such as school officials, social service workers, private citizens, or even parents and guardians.

Juvenile Court Intake

At intake, there is another opportunity to divert the child from the system. The intake officer decides whether to file a petition or to divert cases. Since 1977, 26.5 - 30.5% of the children coming to intake have been diverted from the system. Formal petitions were filed on 69.5 - 73.5% of the cases, or in actual numbers, 35,366 to 71,549 cases.⁹ (Refer to Chart C.)

Pre-dispositional Custody

When a petition has been filed against a juvenile, it must be decided whether to release or detain the child until his appearance in court.

Chart B

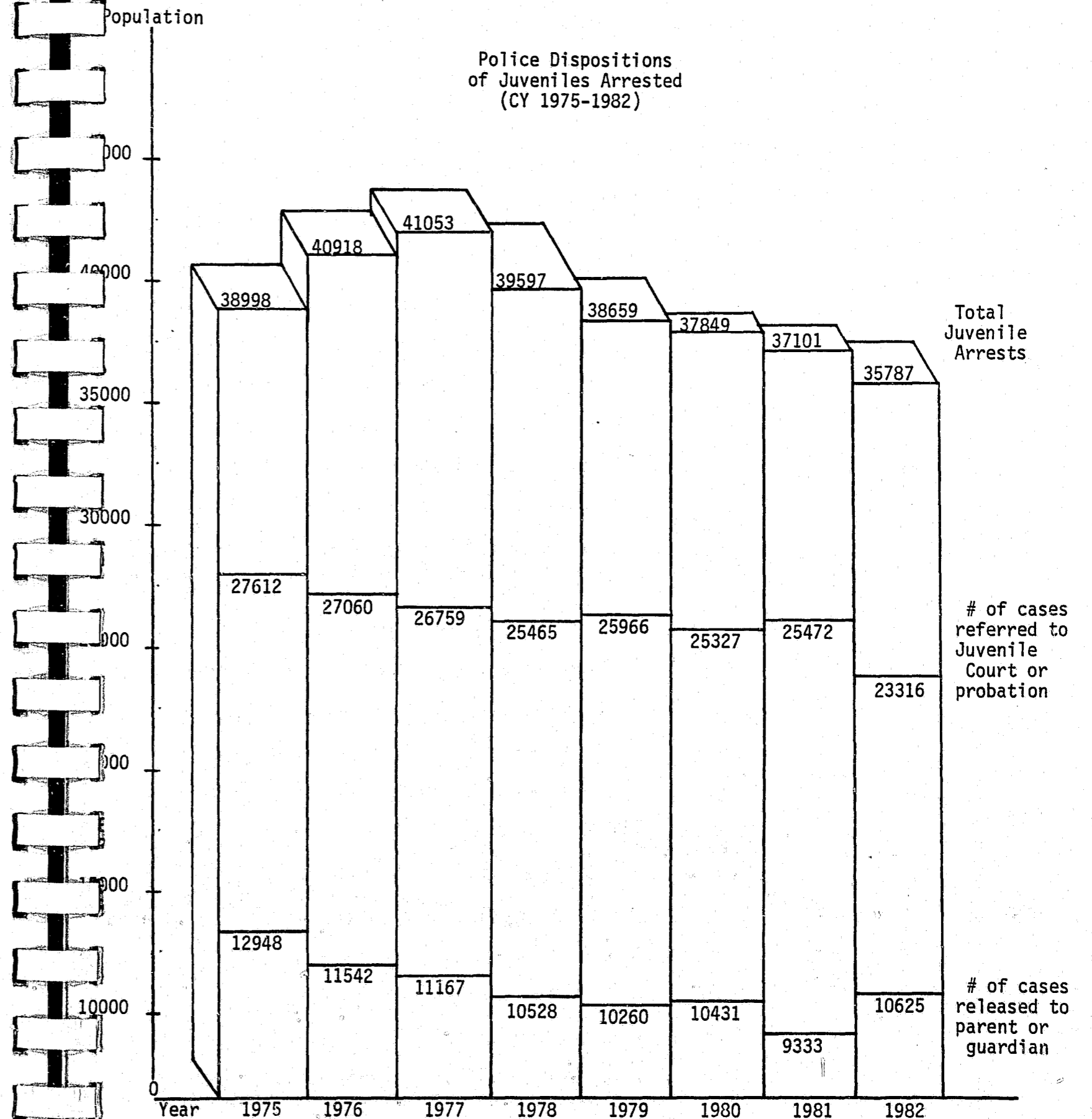
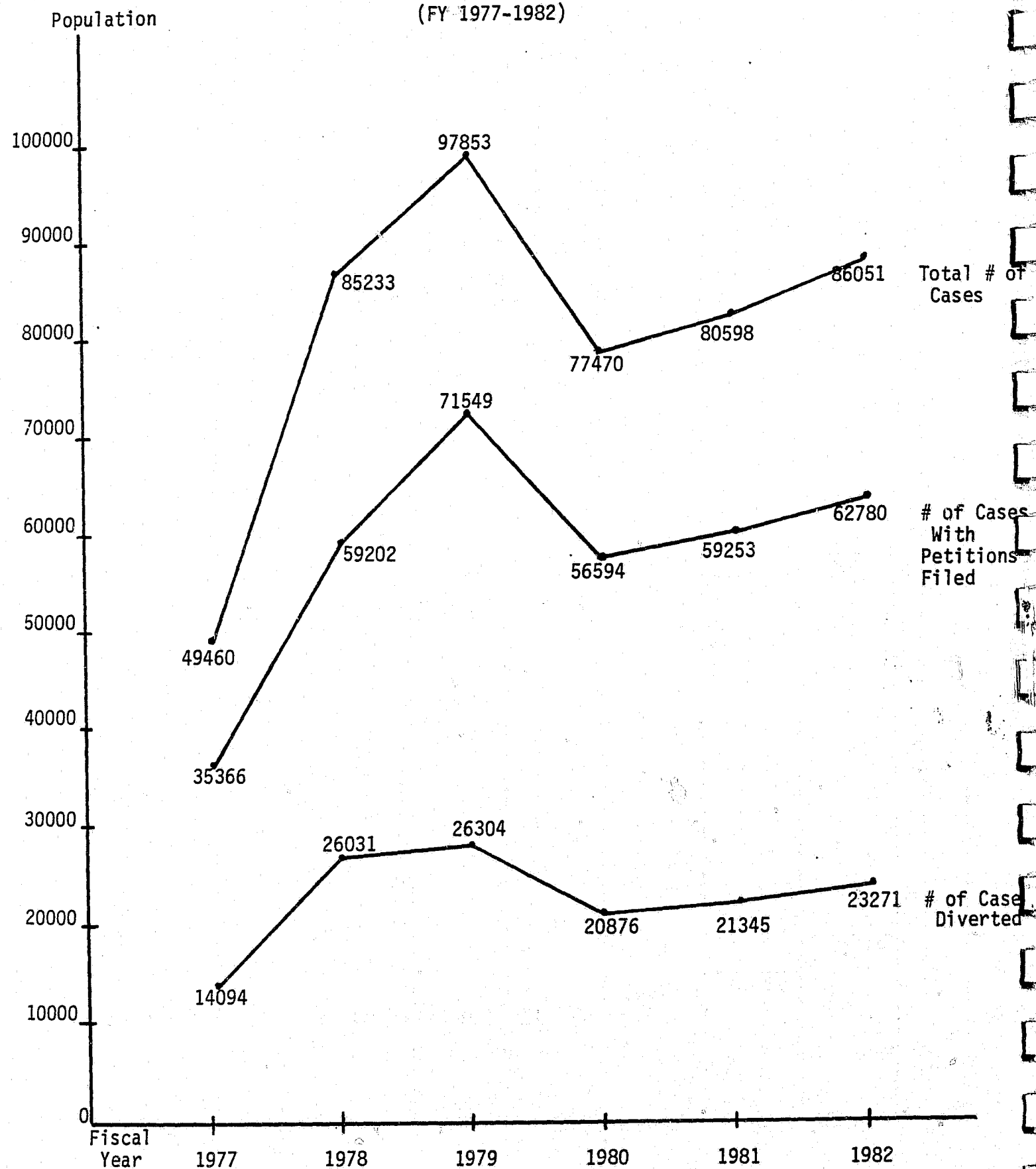


Chart C
 Juvenile and Domestic Relations District Court
 Intake
 (FY 1977-1982)



Children may be released to their parents or guardian. They also may be detained in secure custody or non-secure custody. Places for secure custody include juvenile detention homes and adult jails approved to house juveniles. Children may be detained in adult jails provided that certain conditions are met, and the jails are approved to house juveniles. Secure juvenile detention, less-secure detention, crisis intervention, outreach detention, and local jails are all types of pre-adjudicatory holding facilities for juveniles. Foster homes and other private home shelter care are also available.

Secure Pre-dispositional Custody

Although the majority of offenses committed by juveniles in the Commonwealth are less serious in nature, large numbers of juveniles are being held pre-dispositionally in secure custody. According to information provided by the Virginia Department of Corrections, an average of 9,565 juveniles per year have been held in Virginia's secure juvenile detention facilities since Fiscal Year 1976. (Refer to Chart D.) This accounts for approximately 61.3 - 71.2% of the total number of juveniles held in some type of temporary, pre-dispositional holding facility during those years.¹⁰

When a comparison is made between the use of secure detention and the use of jails for pre-dispositional secure custody, it is interesting to note that Fiscal Year 1977 showed an increase in the number of juveniles detained in secure detention and a decrease in the number of juveniles placed in jail compared to Fiscal Year 1976. Both jail and detention showed a decrease in Fiscal Year 1978, and an increase in Fiscal Year 1979. In Fiscal Year 1980, the number of juveniles held in secure detention decreased, while the number held in jail increased slightly. The opposite occurred in both Fiscal Year 1981 and Fiscal Year 1982, as secure detention figures increased while the number of juveniles detained in jail on a pre-trial basis decreased.¹¹ (Refer

Chart D

Juveniles Detained Pre-dispositionally (FY 1976-1982)

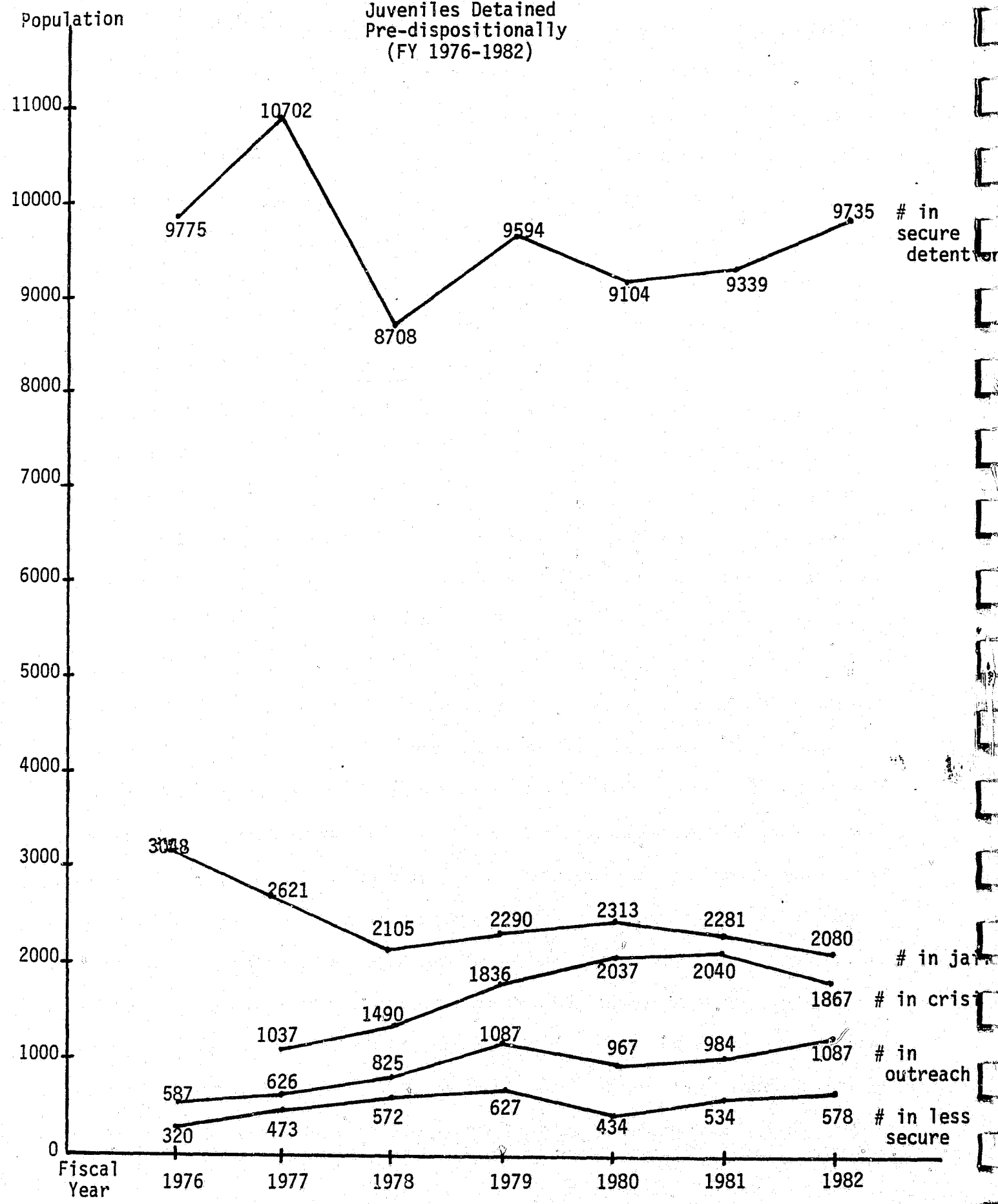
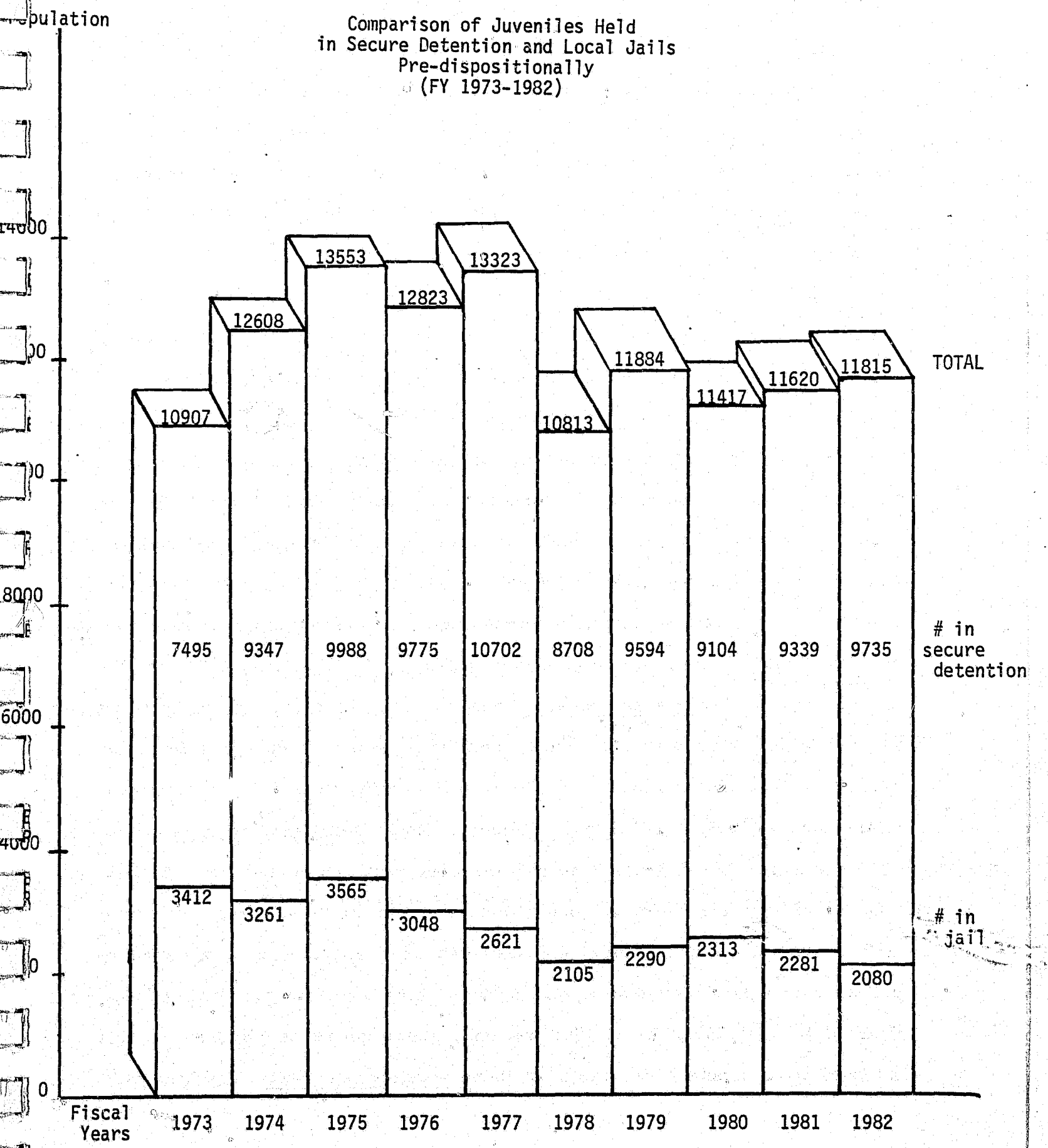


Chart E

Comparison of Juveniles Held in Secure Detention and Local Jails Pre-dispositionally (FY 1973-1982)



to Chart E.)

The 1978 National Jail Census ranked Virginia as the state with the highest incidence of jailing juveniles. In August 1980, a report entitled "An Analysis of State Variation", prepared by the National Juvenile Justice Assessment Center ranked Virginia sixth in the nation in the number of juveniles jailed and fifteenth in the jailing of juveniles per 100,000 juvenile population. When one combines the number of children being detained in secure detention each year with the number of juveniles being placed in adult jail facilities, it can be seen that the Commonwealth is detaining an average of 11,956 juveniles in some form of pre-dispositional secure custody each year.

Offenses of Children in Secure Detention

Statistical printouts provided by the Monitoring and Evaluation Unit of the Department of Corrections indicate that during Fiscal Years 1981 and 1982, the majority of children held in secure detention homes were detained with charges of "Crimes Against Property." (Refer to Tables I-V.) Of all the children held in secure detention during that time period, approximately 40% of the total offenses were property related. In Regions I-IV of the Commonwealth, breaking and entering was the alleged offense of the greatest number of juveniles detained during those two years. Region V information reveals that in Fiscal Year 1981, the majority of juveniles held for property offenses were charged with burglary, and in Fiscal Year 1982, petty larceny.

The category of "Miscellaneous" offenses represented the next highest number of juveniles held in secure detention during Fiscal Year 1981 and 1982. This category includes offenses such as fugitive/escape, violation of probation and parole, and other less serious types of offenses. During Fiscal Years 1981 and 1982, in all five regions, the majority of children in this category were detained as a result of being wards of the State (children with

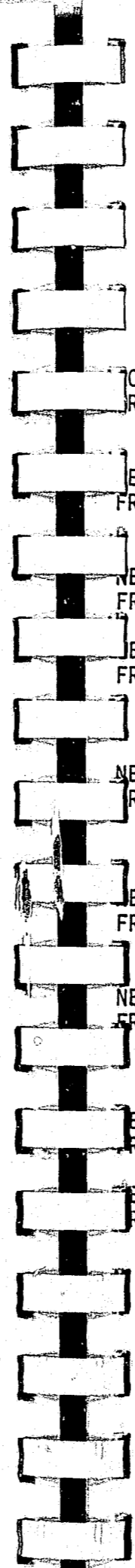


Table I
Most Frequent Offenses of
Juveniles in Secure Detention Facilities
By Region
(FY 1981-1982)

| 1981 | REGION I (Western) | 1982 |
|--|-----------------------|--|
| <u>PROPERTY</u> Breaking and Entering Auto Theft | | <u>PROPERTY</u> Breaking and Entering Grand Larceny |
| <u>STATUS</u> In-State Runaway Out-of-State Runaway | | <u>STATUS</u> In-State Runaway Out-of-State Runaway |
| <u>MISCELLANEOUS</u> State Ward | | <u>MISCELLANEOUS</u> State Ward |
| <u>PERSON</u> Simple Assault Felonious Assault Robbery-Other | | <u>PERSON</u> Simple Assault Felonious Assault |
| <u>ALCOHOL/DRUG</u> Drinking in Public Narcotics Possession (Misdemeanor) | | <u>ALCOHOL/DRUG</u> Drinking in Public Narcotics Possession (Misdemeanor) |
| <u>JUSTICE</u> Contempt of Court Failure to Appear | | <u>JUSTICE</u> Contempt of Court Failure to Appear |
| <u>MORALITY</u> Cursing/Abusing-Obscene Language Disturbing the Peace | | <u>MORALITY</u> Cursing/Abusing-Obscene Language Disorderly Conduct |
| <u>TRAFFIC</u> Reckless Driving | | <u>TRAFFIC</u> Hit and Run |
| <u>CUSTODY</u> Neglect-Dependent/Abandoned | | <u>CUSTODY</u> Neglect-Dependent/Abandoned |

Table II
 Most Frequent Offenses of
 Juveniles in Secure Detention Facilities
 By Region
 (FY 1981-1982)

| | <u>1981</u> | <u>REGION II</u> (Central) | <u>1982</u> |
|--------------------|--|--|--|
| MOST FREQUENT | <u>PROPERTY</u> Breaking and Entering Grand Larceny | <u>PROPERTY</u> Breaking and Entering Grand Larceny | <u>PROPERTY</u> Breaking and Entering Petty Larceny |
| NEXT MOST FREQUENT | <u>MISCELLANEOUS</u> State Ward | <u>MISCELLANEOUS</u> State Ward | <u>MISCELLANEOUS</u> State Ward |
| NEXT MOST FREQUENT | <u>PERSON</u> Simple Assault Felony Assault | <u>STATUS</u> In-State Runaway Incorrigible | <u>STATUS</u> In-State Runaway Incorrigible |
| NEXT MOST FREQUENT | <u>STATUS</u> In-State Runaway Incorrigible | <u>PERSON</u> Simple Assault Felony Assault | <u>PERSON</u> Simple Assault Felony Assault |
| NEXT MOST FREQUENT | <u>ALCOHOL/DRUG</u> Drinking in Public Narcotics Possession (Misdemeanor) | <u>ALCOHOL/DRUG</u> Drinking in Public Narcotics Possession (Misdemeanor) | <u>ALCOHOL/DRUG</u> Drinking in Public Narcotics Possession (Misdemeanor) |
| NEXT MOST FREQUENT | <u>JUSTICE</u> Failure to Appear Contempt of Court | <u>JUSTICE</u> Failure to Appear Contempt of Court | <u>JUSTICE</u> Failure to Appear Contempt of Court |
| NEXT MOST FREQUENT | <u>MORALITY</u> Cursing/Abusing-Obscene Language Disorderly Conduct | <u>MORALITY</u> Disorderly Conduct Cursing/Abusing-Obscene Language | <u>MORALITY</u> Disorderly Conduct Cursing/Abusing-Obscene Language |
| NEXT MOST FREQUENT | <u>CUSTODY</u> Neglect-Dependent/Abandoned | <u>CUSTODY</u> Neglect-Dependent/Abandoned | <u>CUSTODY</u> Neglect-Dependent/Abandoned |
| NEXT MOST FREQUENT | <u>TRAFFIC</u> Hit and Run | <u>TRAFFIC</u> Reckless Driving | <u>TRAFFIC</u> Reckless Driving |

Table III
 Most Frequent Offenses of
 Juveniles in Secure Detention Facilities
 By Region
 (FY 1981-1982)

| | <u>1981</u> | <u>REGION III</u> (Northern Virginia) | <u>1982</u> |
|--------------------|--|---|---|
| MOST FREQUENT | <u>PROPERTY</u> Breaking and Entering Grand Larceny | <u>PROPERTY</u> Breaking and Entering Grand Larceny | <u>PROPERTY</u> Breaking and Entering Grand Larceny |
| NEXT MOST FREQUENT | <u>MISCELLANEOUS</u> State Ward | <u>MISCELLANEOUS</u> State Ward | <u>MISCELLANEOUS</u> State Ward |
| NEXT MOST FREQUENT | <u>PERSON</u> Simple Assault Felony Assault | <u>PERSON</u> Simple Assault Felony Assault | <u>PERSON</u> Simple Assault Robbery-Other |
| NEXT MOST FREQUENT | <u>JUSTICE</u> Failure to Appear Contempt of Court Escape | <u>JUSTICE</u> Failure to Appear Contempt of Court | <u>JUSTICE</u> Failure to Appear Contempt of Court |
| NEXT MOST FREQUENT | <u>STATUS</u> In-State Runaway Out-of-State Runaway | <u>STATUS</u> In-State Runaway Incorrigible | <u>STATUS</u> In-State Runaway Incorrigible |
| NEXT MOST FREQUENT | <u>ALCOHOL/DRUG</u> Drunk and Disorderly Narcotics Possession (Misdemeanor) | <u>ALCOHOL/DRUG</u> Drunk and Disorderly Narcotics Possession (Misdemeanor) | <u>ALCOHOL/DRUG</u> Drunk and Disorderly Narcotics Possession (Misdemeanor) |
| NEXT MOST FREQUENT | <u>MORALITY</u> Cursing/Abusing-Obscene Language Disorderly Conduct | <u>MORALITY</u> Cursing/Abusing-Obscene Language Indecent Exposure Disorderly Conduct | <u>MORALITY</u> Cursing/Abusing-Obscene Language Indecent Exposure Disorderly Conduct |
| NEXT MOST FREQUENT | <u>TRAFFIC</u> Hitchhiking No License | <u>TRAFFIC</u> No License | <u>TRAFFIC</u> No License |
| NEXT MOST FREQUENT | <u>CUSTODY</u> Neglect-Dependent/Abandoned | <u>CUSTODY</u> None | <u>CUSTODY</u> None |

Table IV
Most Frequent Offenses of
Juveniles in Secure Detention Facilities
By Region
(FY 1981-1982)

| | <u>1981</u> | <u>REGION IV</u> (East Central) | <u>1982</u> |
|--------------------|--|--|--|
| MOST FREQUENT | <u>PROPERTY</u> Breaking and Entering Grand Larceny | <u>PROPERTY</u> Breaking and Entering Petty Larceny | <u>PROPERTY</u> Breaking and Entering Petty Larceny |
| NEXT MOST FREQUENT | <u>MISCELLANEOUS</u> State Ward | <u>MISCELLANEOUS</u> State Ward | <u>MISCELLANEOUS</u> State Ward |
| NEXT MOST FREQUENT | <u>PERSON</u> Simple Assault Felonious Assault | <u>PERSON</u> Simple Assault Robbery-Other | <u>PERSON</u> Simple Assault Robbery-Other |
| NEXT MOST FREQUENT | <u>STATUS</u> Out-of-State Runaway In-State Runaway | <u>STATUS</u> In-State Runaway Out-of-State Runaway | <u>STATUS</u> In-State Runaway Out-of-State Runaway |
| NEXT MOST FREQUENT | <u>MORALITY</u> Cursing/Abusing-Obscene Language Concealed Weapon | <u>MORALITY</u> Cursing/Abusing-Obscene Language Disorderly Conduct | <u>MORALITY</u> Cursing/Abusing-Obscene Language Disorderly Conduct |
| NEXT MOST FREQUENT | <u>ALCOHOL/DRUG</u> Narcotics Possession (Misdemeanor) Drunk and Disorderly | <u>ALCOHOL/DRUG</u> Drunk and Disorderly Narcotics Possession (Misdemeanor) | <u>ALCOHOL/DRUG</u> Drunk and Disorderly Narcotics Possession (Misdemeanor) |
| NEXT MOST FREQUENT | <u>JUSTICE</u> Failure to Appear Contempt of Court | <u>JUSTICE</u> Failure to Appear Contempt of Court | <u>JUSTICE</u> Failure to Appear Contempt of Court |
| NEXT MOST FREQUENT | <u>CUSTODY</u> Neglect-Dependent/Abandoned | <u>TRAFFIC</u> Hit and Run | <u>TRAFFIC</u> Hit and Run |
| NEXT MOST FREQUENT | <u>TRAFFIC</u> Hit and Run Reckless Driving No License | <u>CUSTODY</u> Neglect-Dependent/Abandoned | <u>CUSTODY</u> Neglect-Dependent/Abandoned |

Table V
Most Frequent Offenses of
Juveniles in Secure Detention Facilities
By Region
(FY 1981-1982)

| <u>1981</u> | <u>REGION V</u> (Southeast) | <u>1982</u> |
|--|--|--|
| <u>PROPERTY</u> Burglary Petty Larceny | <u>PROPERTY</u> Burglary Petty Larceny | <u>PROPERTY</u> Petty Larceny Burglary |
| <u>PERSON</u> Simple Assault Robbery-Other | <u>PERSON</u> Simple Assault Robbery-Other | <u>PERSON</u> Simple Assault Robbery-Other |
| <u>MISCELLANEOUS</u> Material Witness | <u>MISCELLANEOUS</u> Material Witness | <u>MISCELLANEOUS</u> State Ward Material Witness |
| <u>MORALITY</u> Cursing/Abusing-Obscene Language Disorderly Conduct | <u>MORALITY</u> Cursing/Abusing-Obscene Language Disorderly Conduct | <u>MORALITY</u> Cursing/Abusing-Obscene Language Disorderly Conduct |
| <u>STATUS</u> Out-of-State Runaway In-State Runaway | <u>STATUS</u> Out-of-State Runaway In-State Runaway | <u>STATUS</u> Out-of-State Runaway In-State Runaway |
| <u>ALCOHOL/DRUG</u> Narcotics Possession (Misdemeanor) Drunk and Disorderly | <u>ALCOHOL/DRUG</u> Narcotics Possession (Misdemeanor) Drunk and Disorderly | <u>ALCOHOL/DRUG</u> Drunk and Disorderly Narcotics Possession (Misdemeanor) |
| <u>JUSTICE</u> Escape Failure to Appear | <u>JUSTICE</u> Escape Failure to Appear | <u>JUSTICE</u> Failure to Appear Escape |
| <u>TRAFFIC</u> Reckless Driving | <u>TRAFFIC</u> Reckless Driving | <u>TRAFFIC</u> Reckless Driving Hitchhiking |
| <u>CUSTODY</u> Neglect-Dependent/Abandoned | <u>CUSTODY</u> Neglect-Dependent/Abandoned | <u>CUSTODY</u> Temporary Custody Protective Custody |

no legal guardian who are in the custody of juvenile court awaiting placement) or material witnesses.

"Crimes Against Persons" represented the third largest category of offenses for which juveniles were held in secure detention during Fiscal Years 1981 and 1982. In all five regions, among children charged with crimes against persons, most of them were charged with the offense of simple assault. Felonious assault and robbery were the offenses for which the next highest number of juveniles were detained in this category. The more severe offenses of murder, rape, and manslaughter accounted for a very small number of charges in all five regions of the State during these two fiscal years.

Although the 1977 Code Revision attempted to remove all status offenders from secure detention facilities, nearly 10% of all offenses of those in secure detention for Fiscal Years 1981 and 1982 were status related. In all five regions, the majority of juveniles held with status offense charges were in-state runaways (499 during Fiscal Year 1982), with out of state runaways being the next largest group (229 during Fiscal Year 1982). The offense of truancy accounted for the least number of detainees with status charges (6 during Fiscal Year 1982). In addition to these status offenses, there were also 135 children placed in secure detention facilities with charges of incorrigibility in Fiscal Year 1982. In total, during Fiscal Years 1981 and 1982, 1,973 of the children detained were charged with status offenses.

During Fiscal Years 1981 and 1982, according to statistical printouts provided by the Monitoring and Evaluation Unit of the Department of Corrections, an average of 1,360 juveniles were in secure detention homes awaiting release to the Department of Corrections. The majority of these juveniles (43 - 45%) were charged with "Crimes Against Property." Of those

awaiting release charged with property crimes, the majority were charged with breaking and entering during both years, and grand larceny represented the next highest number.

The offense category "Miscellaneous" accounted for the next largest group of those awaiting release in juvenile detention homes. In both Fiscal Years 1981 and 1982, within the "Miscellaneous" offense category, violation of probation/parole-original offense delinquent was the most frequent offense for juveniles being held for release.

Utilization of Secure Detention and Jails

Although the use of secure detention has dominated the way in which juveniles have been detained pre-dispositionally since Fiscal Year 1976, it is of importance to note that in Fiscal Year 1982, average utilization of secure detention facilities was only 80%. This percentage has decreased since Fiscal Year 1980, when only fifteen facilities were in operation, but operated at 84.8% of total capacity. This means that on the average, on any given day, there were 82 spaces available that could have been used to house juveniles in these facilities, as opposed to adult jail facilities.¹² Instead, apparently, jails were being used for juveniles, even when these spaces were available. (See Appendix A for more detailed information about the utilization of existing secure juvenile detention homes.)

Realizing that operation at 100% of capacity may not be attainable all of the time, available spaces were also calculated based on operation at 90% of capacity. In this case, figures indicate that, on the average, on any given day, there would have been 47 spaces available in juvenile detention homes.

As previously mentioned, another option for secure placement of juveniles is adult jails. In order for a juvenile to be placed in jail, he must be at least 15 years of age and charged with a delinquent offense. He must be

kept in a jail approved by the Department of Corrections, and must be kept totally separated by sight and sound from adult inmates. Virginia has a total of 96 local jails. Of these, approximately 60 have been approved/certified by the Board of Corrections to house juveniles. These jails are located in every region of the state.

According to the Department of Corrections report, Commitments to Jails, for Fiscal Years 1980 and 1981, children under age 15 were confined in adult jail facilities. In Fiscal Year 1980, 19 children under the age of 15 were placed in jail and in Fiscal Year 1981, 12 children under 15 years of age were placed in jail, with one of these being only 12 years old.

In Fiscal Year 1981-1982, on any given day, there were roughly 125 - 200 juveniles in these 60 jails.¹³ Statistics indicate that approximately 3,764-4,835 juveniles have been jailed annually since Fiscal Year 1977, and of those, approximately 2,080 - 3,048 have been confined on a pre-trial basis.¹⁴ (Refer to Chart F.)

During Fiscal Year 1982, a total of 168 juveniles were held in non-approved jails. It is not known how many of this number were transferred to adult courts, nor how many were held in pre- or post-dispositional status.¹⁵ Of all the pre-adjudicatory holding facilities available, jail has been used for 13.5 - 22.2% of the total number of juveniles detained.

Offenses of Children in Jails

Statistical printouts provided by the Department of Corrections revealed that in Fiscal Years 1981 and 1982, the majority of juveniles held in adult jail facilities were held with charges of "Crimes Against Property." (Refer to Tables VI-X.) This accounted for approximately 47% of the total juveniles held in jails. It is important to note that this section pertains to all children held

Chart F
 Juveniles Placed in
 Adult Jail Facilities
 (FY 1977-1982)

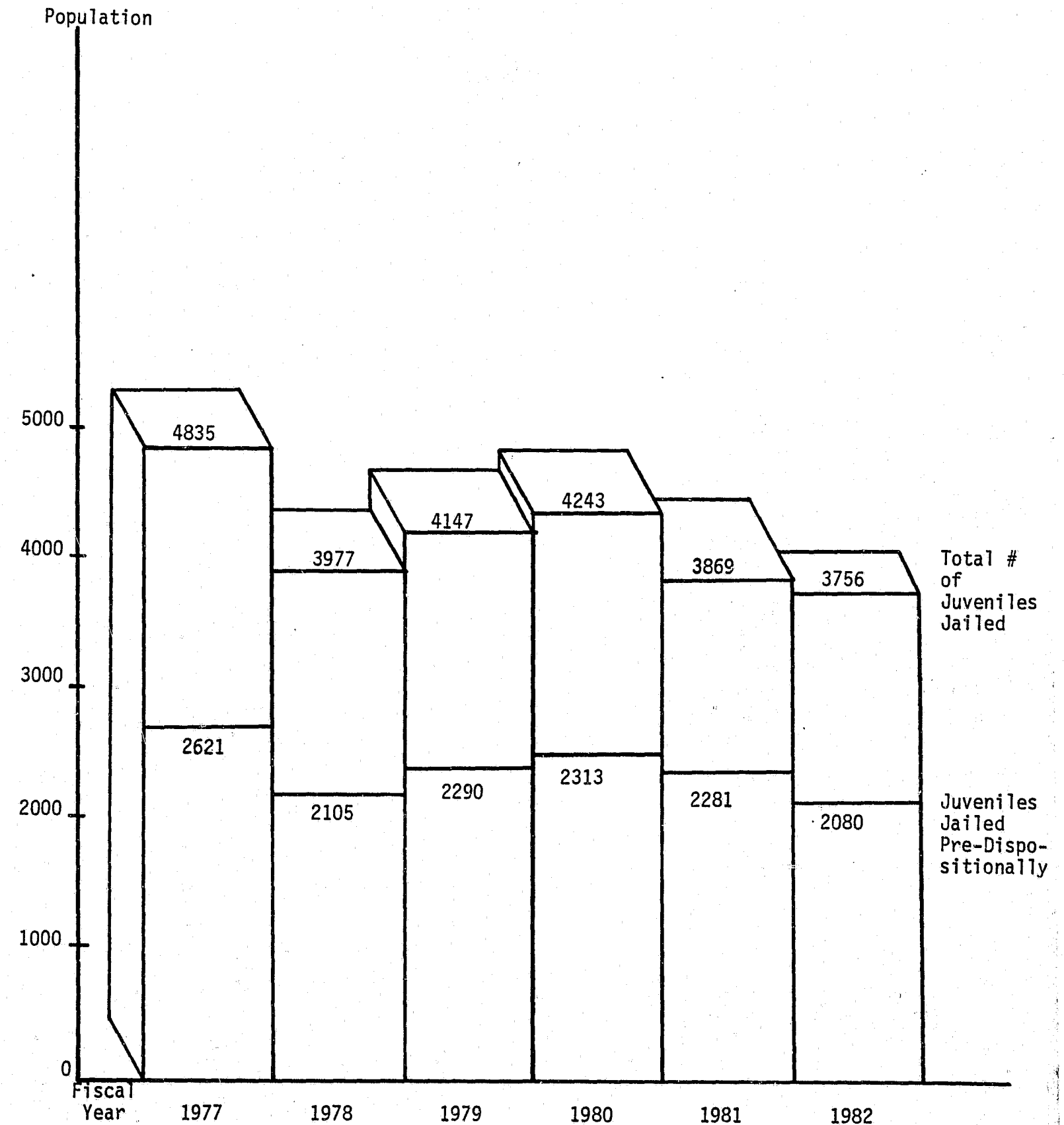


Table VI
Most Frequent Offenses of
Juveniles in Adult Jail Facilities
By Region
(FY 1981-1982)

| | <u>1981</u> | <u>REGION I</u> (Western) | <u>1982</u> |
|--------------------|--|------------------------------|--|
| MOST FREQUENT | <u>PROPERTY</u> Larceny (FT) Burglary (FT) | | <u>PROPERTY</u> Larceny (FT) Burglary (FT) |
| NEXT MOST FREQUENT | <u>ALCOHOL/DRUG</u> Drunkenness (FT) Marijuana Possession | | <u>ALCOHOL/DRUG</u> Drunkenness (FT) Dangerous Drugs (FT) |
| NEXT MOST FREQUENT | <u>PERSON</u> Assault (FT) Simple Assault | | <u>JUSTICE</u> Probation Violation Contempt of Court |
| NEXT MOST FREQUENT | <u>JUSTICE</u> Probation Violation Contempt of Court | | <u>PERSON</u> Assault (FT) Simple Assault |
| NEXT MOST FREQUENT | <u>TRAFFIC</u> Driving Under the Influence-Liquor Traffic (FT) | | <u>TRAFFIC</u> Driving Under the Influence-Liquor Traffic (FT) |
| NEXT MOST FREQUENT | <u>MISCELLANEOUS</u> Stated Charge Not Clear | | <u>MISCELLANEOUS</u> Stated Charge Not Clear |
| NEXT MOST FREQUENT | <u>MORALITY</u> Trespassing Disorderly Conduct | | <u>MORALITY</u> Trespassing Disorderly Conduct |
| NEXT MOST FREQUENT | <u>JUVENILE</u> Runaway | | <u>JUVENILE</u> Runaway |

*(FT)- Free Text-Specific Charge Unknown

Table VII
Most Frequent Offenses of
Juveniles in Adult Jail Facilities
By Region
(FY 1981-1982)

| | <u>1981</u> | <u>REGION II</u> (Central) | <u>1982</u> |
|--------------------|--|-------------------------------|--|
| MOST FREQUENT | <u>PROPERTY</u> Larceny (FT) Burglary (FT) | | <u>PROPERTY</u> Larceny (FT) Burglary (FT) |
| NEXT MOST FREQUENT | <u>PERSON</u> Assault (FT) Simple Assault | | <u>PERSON</u> Assault (FT) Simple Assault |
| NEXT MOST FREQUENT | <u>JUSTICE</u> Probation Violation Contempt of Court Parole Violation | | <u>JUSTICE</u> Probation Violation Failure to Appear |
| NEXT MOST FREQUENT | <u>ALCOHOL/DRUG</u> Drunkenness (FT) Marijuana Possession | | <u>ALCOHOL/DRUG</u> Drunkenness (FT) Marijuana Possession |
| NEXT MOST FREQUENT | <u>TRAFFIC</u> Driving Under the Influence-Liquor Traffic (FT) | | <u>TRAFFIC</u> Traffic (FT) Driving Under the Influence-Liquor |
| NEXT MOST FREQUENT | <u>MORALITY</u> Trespassing Disorderly Conduct | | <u>MORALITY</u> Trespassing Disorderly Conduct |
| NEXT MOST FREQUENT | <u>MISCELLANEOUS</u> Stated Charge Not Clear | | <u>MISCELLANEOUS</u> Stated Charge Not Clear |
| NEXT MOST FREQUENT | <u>JUVENILE</u> Runaway | | <u>JUVENILE</u> Runaway |

*(FT)-Free Text - Specific Charge Unknown

Table VIII
 Most Frequent Offenses of
 Juveniles in Adult Jail Facilities
 By Region
 (FY 1981-1982)

| | <u>1981</u> | <u>REGION III</u> (Northern Virginia) | <u>1982</u> |
|--------------------|--|--|--|
| MOST FREQUENT | <u>PROPERTY</u> Larceny (FT) Burglary (FT) | | <u>PROPERTY</u> Larceny (FT) Burglary (FT) |
| NEXT MOST FREQUENT | <u>PERSON</u> Robbery (FT) Assault (FT) | | <u>JUSTICE</u> Probation Violation Failure to Appear |
| NEXT MOST FREQUENT | <u>JUSTICE</u> Failure to Appear Probation Violation | | <u>PERSON</u> Robbery (FT) Assault (FT) |
| NEXT MOST FREQUENT | <u>ALCOHOL/DRUG</u> Drunkenness (FT) Drunk and Disorderly | | <u>ALCOHOL/DRUG</u> Drunkenness (FT) Marijuana (FT) |
| NEXT MOST FREQUENT | <u>TRAFFIC</u> Driving Under the Influence-Liquor Traffic (FT) | | <u>TRAFFIC</u> Driving Under the Influence-Liquor Traffic (FT) |
| NEXT MOST FREQUENT | <u>MISCELLANEOUS</u> Stated Charge Not Clear | | <u>MORALITY</u> Trespassing Disorderly Conduct |
| NEXT MOST FREQUENT | <u>MORALITY</u> Trespassing | | <u>MISCELLANEOUS</u> Stated Charge Not Clear |
| NEXT MOST FREQUENT | <u>JUVENILE</u> Runaway | | <u>JUVENILE</u> None |

*(FT)- Free Text- Specific Charge Unknown

Table IX
 Most Frequent Offenses of
 Juveniles in Adult Jail Facilities
 By Region
 (FY 1981-1982)

| | <u>1981</u> | <u>REGION IV</u> (East Central) | <u>1982</u> |
|--|---|------------------------------------|---|
| | <u>PROPERTY</u> Larceny (FT) Burglary (FT) | | <u>PROPERTY</u> Larceny (FT) Burglary (FT) |
| | <u>PERSON</u> Robbery (FT) Assault (FT) | | <u>PERSON</u> Robbery (FT) Assault (FT) |
| | <u>ALCOHOL/DRUG</u> Marijuana Possession Drunkenness (FT) | | <u>JUSTICE</u> Escape Resisting Officer |
| | <u>JUSTICE</u> Resisting Officer Probation Violation | | <u>ALCOHOL/DRUG</u> Marijuana Possession Drunkenness (FT) |
| | <u>MORALITY</u> Trespassing Disorderly Conduct | | <u>MORALITY</u> Trespassing |
| | <u>MISCELLANEOUS</u> Stated Charge Not Clear | | <u>MISCELLANEOUS</u> Stated Charge Not Clear |
| | <u>TRAFFIC</u> Traffic (FT) Moving Traffic Violation | | <u>TRAFFIC</u> Driving Under the Influence-Liquor Hit and Run |
| | <u>JUVENILE</u> Free Text Runaway | | <u>JUVENILE</u> None |

*(FT)- Free Text- Specific Charge Unknown

Table X
 Most Frequent Offenses of
 Juveniles in Adult Jail Facilities
 By Region
 (FY 1981-1982)

| | <u>REGION V</u> (Southeast) | |
|--------------------|---|---|
| | <u>1981</u> | <u>1982</u> |
| MOST FREQUENT | <u>PROPERTY</u> Burglary (FT) Larceny (FT) | <u>PROPERTY</u> Burglary (FT) Larceny (FT) |
| NEXT MOST FREQUENT | <u>PERSON</u> Robbery (FT) Assault (FT) | <u>PERSON</u> Robbery (FT) Assault (FT) |
| NEXT MOST FREQUENT | <u>JUSTICE</u> Probation Violation Failure to Appear | <u>JUSTICE</u> Probation Violation Resisting Officer |
| NEXT MOST FREQUENT | <u>ALCOHOL/DRUG</u> Marijuana-Sell Marijuana-Possession | <u>ALCOHOL/DRUG</u> Marijuana-Possession Drunkness (FT) |
| NEXT MOST FREQUENT | <u>MORALITY</u> Trespassing Public Peace (FT) | <u>TRAFFIC</u> Traffic (FT) Moving Traffic Violation |
| NEXT MOST FREQUENT | <u>TRAFFIC</u> Traffic (FT) Moving Traffic Violation | <u>MISCELLANEOUS</u> Stated Charge Not Clear |
| NEXT MOST FREQUENT | <u>MISCELLANEOUS</u> Stated Charge Not Clear | <u>MORALITY</u> Trespassing Disorderly Conduct |
| NEXT MOST FREQUENT | <u>JUVENILE</u> Runaway | <u>JUVENILE</u> None |

*(FT)- Free Text-Specific Charge Unknown

in adult jails, since the data did not distinguish pre- and post-dispositional jailings. Regions I-IV, for both years, indicated that larceny was the property crime for most juveniles held in jails. Region V, for both years, indicated that burglary was the offense for most juveniles held in jails.

The second largest number of juveniles in adult jail facilities in Fiscal Years 1981 and 1982 were charged with "Crimes Against Persons." During Fiscal Year 1982, only 16.2% of the juveniles in jails had offenses against persons. In this category, for both years, Regions I and II reported that assault (unspecified) was the offense of the majority of juveniles held in jails. Regions III, IV, and V indicated that robbery was the offense for which most juveniles were detained in jails.

"Crimes Against Public Justice" accounted for the third largest number of juveniles in jails in Fiscal Years 1981 and 1982. During Fiscal Year 1981, Regions I, II, and V reported that violation of probation was the offense for the majority of juveniles charged with justice crimes. Region III indicated that the offense of failure to appear accounted for their largest number, and Region IV reported that resisting an officer was theirs. During Fiscal Year 1982, Regions I, II, III, and V again reported that probation violation was the offense for which the majority of juveniles were jailed. Region IV indicated that their number one justice offense for juveniles jailed was the offense of escape.

As was the case with secure detention, juveniles charged with status offenses were also held in adult jail facilities during Fiscal Years 1981 and 1982. In total during those two years, approximately 37 juveniles held in adult jails were charged with status offenses. During Fiscal Year 1981, Regions I-V indicated the primary status offense charge of those juveniles jailed was runaway. During Fiscal Year 1982, Regions I and II again

indicated that runaway was the primary status offense, and Regions III-V reported no juveniles with status offense charges were jailed.

Again, as with secure detention, juveniles awaiting release to the Department of Corrections were held in adult jail facilities during Fiscal Years 1981 and 1982. Of the 34 held for release during Fiscal Year 1981, 21 were charged with "Crimes Against Property." Burglary and larceny appeared to be the most significant offenses within this category. Approximately 9 were charged with "Crimes Against Persons," with assault being the most prevalent offense within this category.

During Fiscal Year 1982, only 10 juveniles awaiting release were held in jails. Of those, 6 were charged with "Crimes Against Property." Again, burglary and larceny were the significant offenses within that category. There were 3 juveniles held for release with charges of "Crimes Against Persons." In this category, all three were charged with the offense of robbery.

In Fiscal Year 1980, a survey completed by the Division of Justice and Crime Prevention and the Department of Corrections revealed that up to 20% of the children held in adult jails that year were held for periods of less than 24 hours. It was noted that this usually is a result of inadequate transportation, inadequate intake services, inadequate alternative services, and sometimes, the lack of commitment to minimize juvenile jail confinement.¹⁶

Non-Secure and Less-Secure Pre-dispositional Custody

Utilization of Crisis Intervention

Temporary emergency shelter care for crisis intervention has shown a constant increase in utilization between 1977 and 1982. Juveniles in crisis facilities have accounted for approximately 6.7 - 13.7% of the pre-dispositional placements made by the juvenile court since Fiscal Year 1977. In actual

numbers, this represents roughly 1,037 - 1,867 juveniles.¹⁷

Among the 8 crisis facilities in the Commonwealth, there is a combined capacity of 100. Utilization of this alternative is 76%. This means that an average of 24 spaces were available but not used during that time.¹⁸

As with secure detention, 100% utilization is often unattainable because of turnover, therefore, if crisis facilities were used at 90% of capacity, approximately 14 spaces would have been available, on the average. (See Appendix A for more detailed information about the utilization of existing crisis/runaway programs.)

Utilization of Outreach Detention

Outreach detention is yet another type of non-secure detention which is offered through several of Virginia's secure detention facilities. Outreach detention has accounted for only 4.1 - 7.1% of the total alternative placements since Fiscal Year 1976. A total of 587 - 1,087 juveniles have been placed in outreach detention since that time.¹⁹

There are only five outreach detention programs located throughout the State, with a total capacity of 108. In Fiscal Year 1982, utilization of this total capacity was only 93%, leaving 13 spaces available for placements.²⁰

Since 100% utilization is sometimes not attainable, figures were also calculated for 90% utilization of outreach capacity. This showed that 7 spaces would have been available for alternative placements. (See Appendix A for more detailed information about the utilization of existing outreach detention programs.)

Offenses of Children in Less-Secure Detention

Statistical printouts provided by the Monitoring and Evaluation Unit of the Department of Corrections indicate that during Fiscal Years 1981 and 1982, the majority of juveniles detained in less-secure detention facilities were

Table XI
 Most Frequent Offenses of
 Juveniles in Less-Secure Detention Facilities
 By Region
 (FY 1981-1982)

| | <u>1981</u> | <u>REGION I</u> (Western) | <u>1982</u> |
|--------------------|---|--|--|
| | | NO LESS-SECURE FACILITIES | |
| | <u>1981</u> | <u>REGION II</u> (Central) | <u>1982</u> |
| | | NO LESS-SECURE FACILITIES | |
| | <u>1981</u> | <u>REGION III</u> (Northern Virginia) | <u>1982</u> |
| MOST FREQUENT | <u>STATUS</u> In-State Runaway | | <u>STATUS</u> In-State Runaway |
| NEXT MOST FREQUENT | <u>MISCELLANEOUS</u> Violation of Probation/Parole- Original Offense Delinquent | | <u>MISCELLANEOUS</u> Violation of Probation/ Parole-Original Offense Status |
| NEXT MOST FREQUENT | <u>PROPERTY</u> Vandalism-Public Property | | <u>CUSTODY</u> Adjudication of Custody |
| NEXT MOST FREQUENT | <u>PERSON</u> Simple Assault | | <u>PERSON</u> Simple Assault |
| NEXT MOST FREQUENT | | | <u>ALCOHOL/DRUG</u> Driving Under the Influence of Alcohol |
| NEXT MOST FREQUENT | | | <u>PROPERTY</u> Petty Larceny |

Table XII
 Most Frequent Offenses of
 Juveniles in Less-Secure Detention Facilities
 By Region
 (FY 1981-1982)

| | <u>1981</u> | <u>REGION IV</u> (East Central) | <u>1982</u> |
|--|---|------------------------------------|---|
| | | | |
| | <u>PROPERTY</u> Breaking and Entering | | <u>PROPERTY</u> Grand Larceny |
| | <u>STATUS</u> Out-of-State Runaway | | <u>PERSON</u> Use of Firearm in Committing a Felony Simple Assault |
| | <u>MISCELLANEOUS</u> Violation of Probation/Parole- Original Offense Delinquent | | <u>STATUS</u> Out-of-State Runaway |
| | <u>ALCOHOL/DRUG</u> Sale or Distribution of Drugs | | <u>MISCELLANEOUS</u> Violation of Probation/Parole- Original Offense Delinquent |
| | <u>MORALITY</u> Profanity or Abuse Over Telephone | | |
| | <u>PERSON</u> Simple Assault | | |

Table XIII

Most Frequent Offenses of
Juveniles in Less-Secure Detention Facilities
By Region
(FY 1981-1982)

| | 1981 | REGION V (Southeast) | 1982 |
|--------------------|---------------|---|---------------|
| MOST FREQUENT | PROPERTY | Burglary | STATUS |
| NEXT MOST FREQUENT | STATUS | Incorrigible | PROPERTY |
| NEXT MOST FREQUENT | MISCELLANEOUS | Violation of Probation/Parole- Original Offense Delinquent | MISCELLANEOUS |
| NEXT MOST FREQUENT | PERSON | Simple Assault | PERSON |
| NEXT MOST FREQUENT | ALCOHOL/DRUG | Narcotics Possession- (Misdemeanor) | MORALITY |
| NEXT MOST FREQUENT | MORALITY | Disorderly Conduct Cursing/Abusing-Obscene Language | ALCOHOL/DRUG |
| NEXT MOST FREQUENT | CUSTODY | Adjudication of Custody Temporary Custody | CUSTODY |
| NEXT MOST FREQUENT | TRAFFIC | Reckless Driving Hitchhiking No License | JUSTICE |
| NEXT MOST FREQUENT | JUSTICE | Other | TRAFFIC |
| | | | Hit and Run |

held with charges of "Status Offenses." (Refer to Tables XI-XIII.) These juveniles accounted for roughly 48% of the total less-secure population. Regions I and II have no less-secure detention programs/facilities. Region III reported that for both years, in-state runaway was the alleged offense for the majority of those juveniles detained. Region IV indicated that out-of-state runaways accounted for their largest portion of juveniles detained with charges of status offenses. In Fiscal Year 1981, Region V reported the offense of incorrigibility to be their primary status offense charge, and in Fiscal Year 1982, in-state runaway was the primary charge of juveniles detained for status offenses.

The second largest number of juveniles detained in less-secure detention facilities were charged with "Crimes Against Property," and accounted for approximately 23% of the total less-secure population.

During Fiscal Year 1981, Region III indicated vandalism of public property to be the primary offense for those juveniles detained with charges of property crimes. Region IV reported that breaking and entering was the primary property offense, and Region V indicated that the primary offense was burglary.

During Fiscal Year 1982, Region III statistics show that petty larceny was the primary property offense of the majority of juveniles detained in less-secure facilities. Region IV indicated that grand larceny was the primary property offense, and Region V reported that petty larceny was their primary property offense.

Utilization of Less-Secure Detention

The detention of juveniles in less-secure detention facilities accounted for the smallest percentage of pre-adjudicatory placements since Fiscal Year 1976, representing only 2.3 - 4.2% of all juveniles detained. In actual

numbers, this was approximately 320 - 627 juveniles during that time period.²¹

There are only 3 less-secure detention facilities in Virginia with a combined capacity of 38. In Fiscal Year 1982, utilization of the total less-secure detention capacity was 70%, which means that 11 spaces were available on the average on any given day.²² If this were calculated at 90% utilization, there would have been approximately 8 spaces available. (See Appendix A for more detailed information about the utilization of existing less-secure detention programs.)

All Pre-dispositional Detention

In summary, during Fiscal Year 1982, a total of 15,347 juveniles were placed in all types of pre-dispositional detention. Of that total, 11,815 were held in either secure detention or jail. However, it is important to note that when available spaces were calculated in secure, less-secure, outreach, and crisis detention facilities, there were, on the average, 130 spaces available which could have been used as alternatives to detaining juveniles in jails or secure detention homes.²¹

Making these calculations for 90% utilization, 76 spaces would have been available as alternatives to placing juveniles in adult jail facilities and secure detention.

Court Hearings and Dispositions

It would appear that because such a large number of juveniles are thought to need secure confinement, the dispositions of the complaints against these juveniles would be of a stricter nature. However, this is not what the data indicate.

Since Fiscal Year 1977, an average of over 63,000 court hearings have been held each year for juveniles in the Commonwealth's juvenile courts. Of

the complaints heard, 21 - 26% were dismissed, resulting in 74 - 79% having a formal court disposition rendered.²⁴ Of the dispositions handed out by the juvenile court, the majority were less severe measures, falling into categories such as the issuance of reprimands, continuing the case, fines or restitution, and referrals to other agencies, among others. These accounted for roughly 33 - 54% of the total dispositions rendered.²⁵ (Refer to Chart G.)

Supervised Probation

Complaints resulting in supervised probation accounted for the next highest number of dispositions. Of the total court dispositions, supervised probation has accounted for roughly 10 - 18% since Fiscal Year 1977, or 6,869 to 8,156.²⁶ (Refer to Chart H.)

Jail Sentence

The more severe dispositional alternatives that may be rendered by the court represent a relatively small proportion of the total dispositions handed down by the juvenile court. Since Fiscal Year 1977, an average of approximately 1,111 complaints have resulted in a jail sentence. This represents only 1.5 - 2.0% of the total dispositions rendered, or 883 - 1,240. Complaints that resulted in a suspended jail sentence accounted for approximately the same percentage.²⁷

Community Youth Home

Another dispositional alternative available to the juvenile court is placement in a community youth home. In Fiscal Year 1982, a total of 321 children were placed in these facilities.

Among the 27 community youth homes in the State, there was a combined capacity in Fiscal Year 1982 of 319. (The Fairfax Boys Community Youth Home was opened in April, 1982.) The total utilization rate was 76%, with 4 homes operating at above 90%, and 23 homes operating at below 90%. On the

Chart G
 Juvenile Court Hearings and Dispositions
 Rendered on Complaints
 (FY 1977-1982)

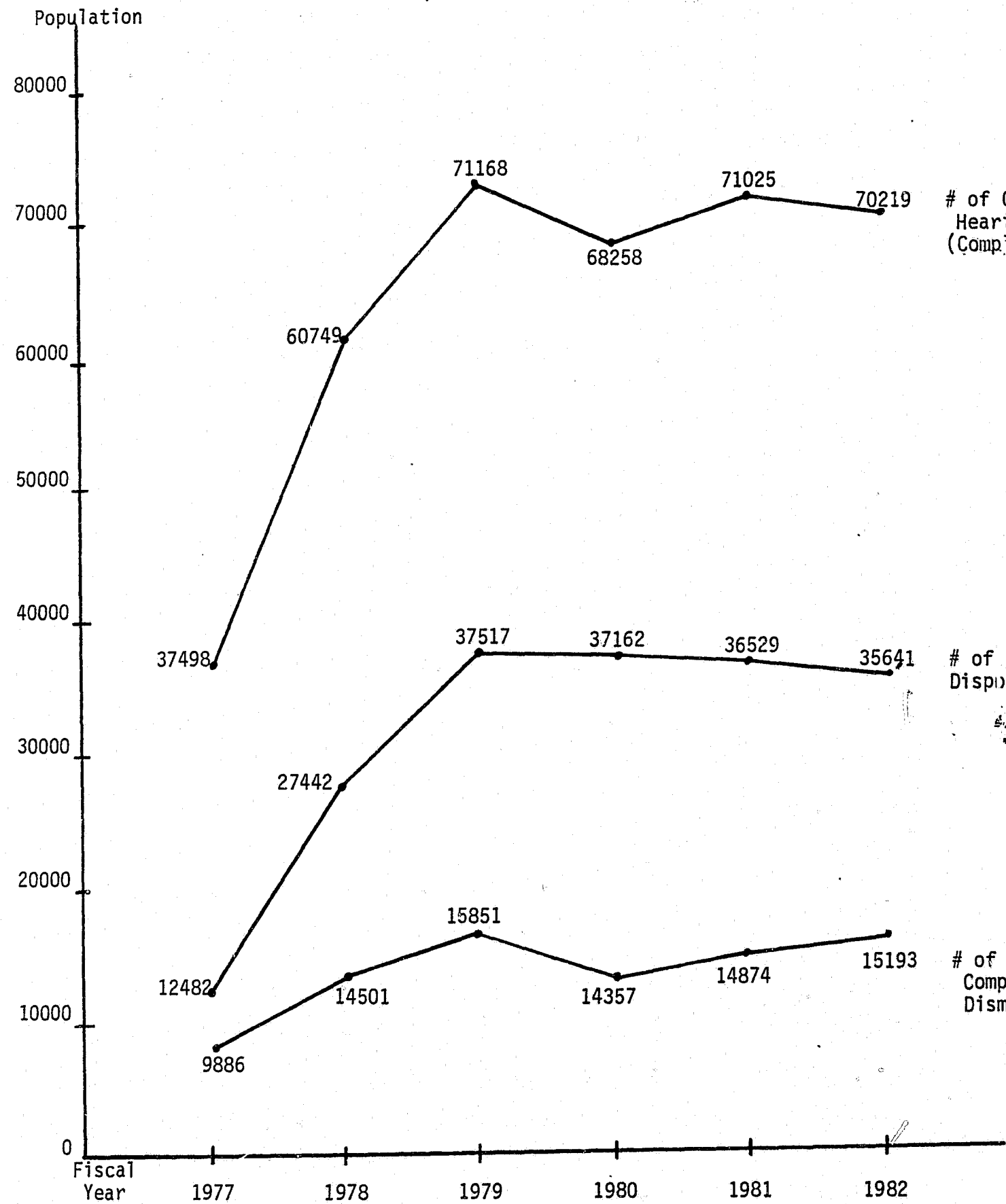
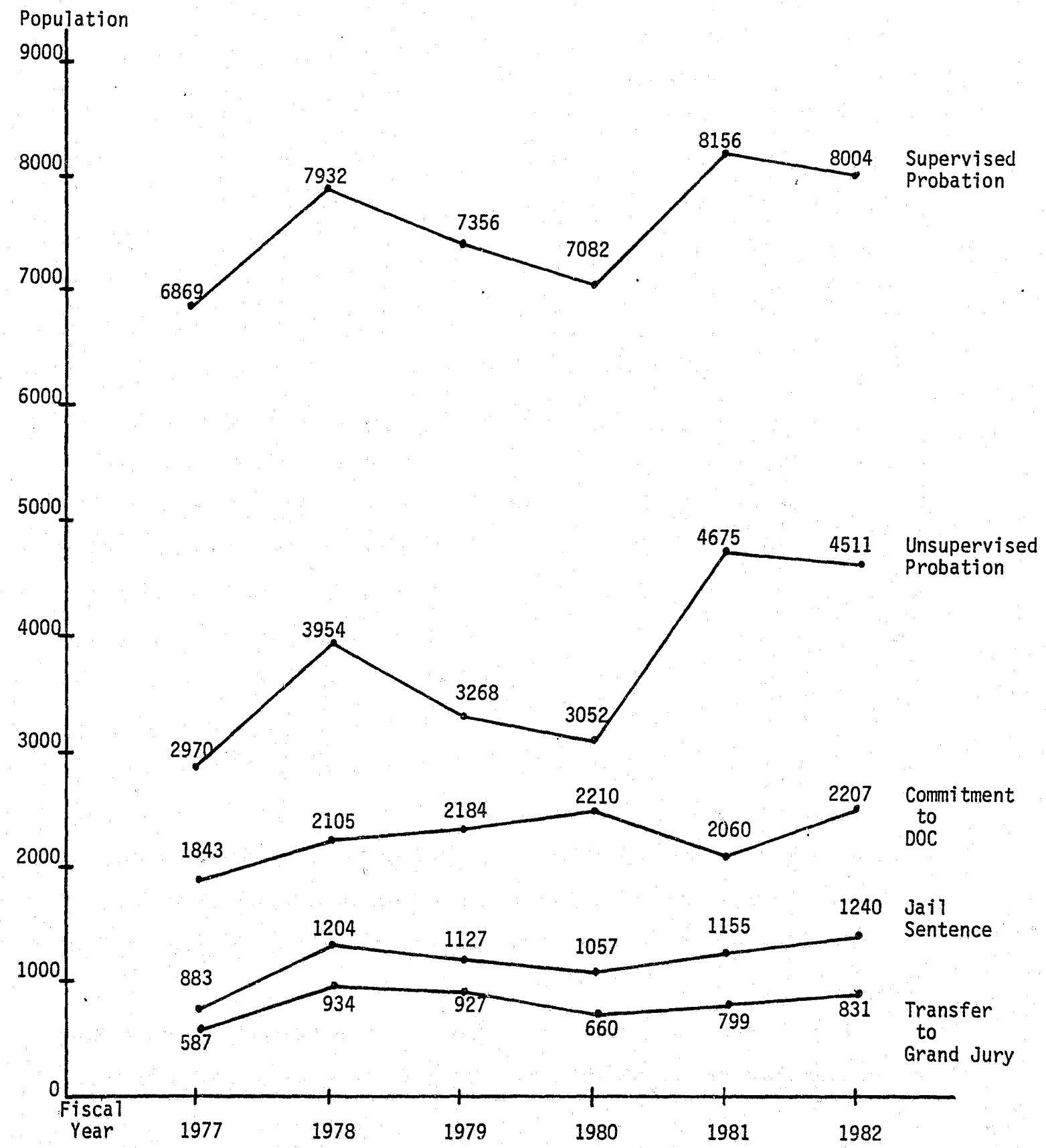


Chart H
 Juvenile Court Dispositions Rendered On
 Complaints
 (FY 1977-1982)



average in Fiscal Year 1982, there were 80 available spaces in these homes. If the homes had operated at 90% of capacity, there would have been approximately 50 spaces available.²⁸

Commitment to Department of Corrections

Commitment to the State Department of Corrections is another dispositional alternative used in a relatively small number of complaints. Since Fiscal Year 1977, an average of 2,101 complaints each year ended in commitment to the Department of Corrections.²⁹ This accounts for roughly 3.4% of the total dispositions handed down by the juvenile court. Since Fiscal Year 1976, the number of juveniles received in direct State care has remained consistent, averaging approximately 1,280 per year.³⁰

Offenses of Children Committed to Department of Corrections

According to a Fiscal Year 1982 report by the Research and Reporting Unit of the Department of Corrections entitled Children Committed, the majority (61.6%) of the children that were received into direct State care were committed for "Crimes Against Property." (Refer to Table XIV.) Breaking and entering was the most frequent property offense for which juveniles were committed. The second most frequent category of offenses for juveniles committed was "Miscellaneous." The offense of violation of probation/parole-original offense delinquent was the most common in this category. Approximately 16.5% of the juveniles were committed for "Offenses Against Persons." In this category, assault was the most common offense. It is interesting to note that of the children committed to the Department of Corrections during Fiscal Year 1982, 22 were committed for child welfare matters.

When a child is committed to the Department of Corrections, he is sent to the Reception and Diagnostic Center for assessment. From there, he is

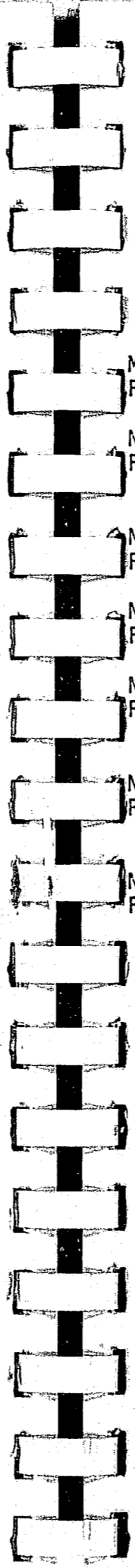


Table XIV
Most Frequent Offenses of
Juveniles Received Into Direct State Care
(FY 1981-1982)

| <u>1981</u> | <u>1982</u> |
|---|---|
| <u>PROPERTY</u> Breaking and Entering | <u>PROPERTY</u> Breaking and Entering |
| <u>MISCELLANEOUS</u> Violation of Probation/Parole- Original Offense Delinquent | <u>MISCELLANEOUS</u> Violation of Probation/Parole- Original Offense Delinquent |
| <u>PERSON</u> Assault and Battery | <u>PERSON</u> Assault and Battery |
| <u>MORALITY</u> Offense Not Available | <u>MORALITY</u> Offense Not Available |
| <u>ALCOHOL/DRUG</u> Narcotics Possession (Misdemeanor) | <u>JUSTICE</u> Offense Not Available |
| <u>JUSTICE</u> Offense Not Available | <u>ALCOHOL/DRUG</u> Narcotics Possession (Intent to Sell) |
| <u>TRAFFIC</u> Offense Not Available | <u>TRAFFIC</u> Offense Not Available |

sent to a special placement, a group home, or to one of the seven State learning centers. According to several Department of Corrections personnel, approximately 98% of the children received in direct State care are placed in a State learning center.

Learning Centers

The total budgeted capacity for Virginia's seven learning centers and the Reception and Diagnostic Center was 805 in Fiscal Year 1982. Since Fiscal Year 1971, the total budgeted capacity for these facilities has declined by 595, taking into account the closing of Pinecrest and the opening of Oak Ridge, both in the Richmond area.³¹ (Refer to Table XV.)

Since Fiscal Year 1980, the average length of stay in learning centers has ranged from 5.5 months to 12.7 months. The average length of stay in the Reception and Diagnostic Center since Fiscal Year 1980 has been one month.³²

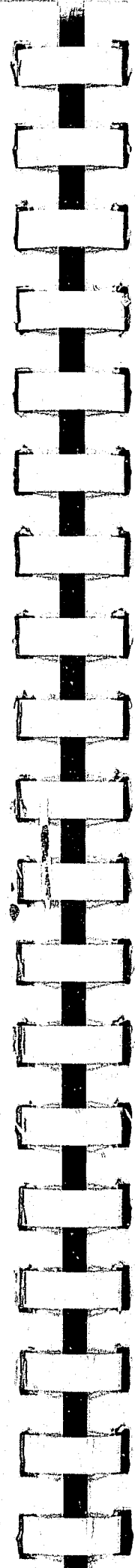
Utilization rates for learning centers have been calculated on a calendar year basis. Since Calendar Year 1980, yearly utilization of these facilities has averaged over 100% each year, with the exception of Barrett in Calendar Year 1981, which showed a 98.9% utilization rate.³³

Appalachian and Oak Ridge Learning Centers are designed as maximum security facilities. Three of the learning centers have cottages which are more secure to be used for the serious and difficult juvenile offenders.

Transfer or Waiver to Circuit Court

When a juvenile is age fifteen or older and has been charged with an offense that would be punishable by imprisonment in the penitentiary if committed by an adult, he may under certain circumstances, be transferred to the circuit court. Since Fiscal Year 1977, this type of disposition has accounted for roughly 1 - 2% of the total dispositions rendered by the court,

Table XV
Comparison of Budgeted Capacities
at State Learning Centers
(FY 1971, 1975, 1978, 1981, 1982)



| | <u>FY 1971</u> | <u>FY 1975</u> | <u>FY 1978</u> | <u>Fy 1981/1982</u> |
|---------------------------------|----------------|----------------|----------------|---------------------|
| Appalachian | 60 | 50 | 50 | 40 |
| Barrett | 135 | 120 | 100 | 90 |
| Beaumont | 390 | 325 | 265 | 200 |
| Bon Air | 175 | 160 | 160 | 135 |
| Hanover | 300 | 225 | 150 | 110 |
| Natural Bridge | 90 | 90 | 80 | 60 |
| Pinecrest | 40 | 40 | 40 | Closed |
| Oak Ridge | Not Open | Not Open | Not Open | 40 |
| <u>TOTAL</u> | 1190 | 1010 | 845 | 675 |
| Reception and Diagnostic Center | 210 | 230 | 155 | 130 |

or for 587 - 934 complaints.³⁴

REFERENCES

¹Commonwealth of Virginia, Department of Planning and Budget, Projected Population, 1978-1982.

²Ibid.

³Commonwealth of Virginia, Department of State Police, Crime in Virginia, 1975-1982.

⁴Ibid.

⁵Ibid.

⁶Ibid.

⁷Ibid.

⁸Ibid.

⁹Commonwealth of Virginia, Department of Corrections, Virginia Juvenile Justice Information System, Court Service Unit Intake Report, FY 1977-1982.

¹⁰Commonwealth of Virginia, Department of Corrections, Detention Summaries and Production Reports, FY 1976-1982.

¹¹Commonwealth of Virginia, Department of Corrections and Division of Justice and Crime Prevention, Juveniles in Jail in Virginia: An Assessment of the Impact of Removing Juveniles From Local Jails, July 1981, p. 34.

¹²Commonwealth of Virginia, Department of Corrections, Evaluation and Monitoring Unit, April 1983.

¹³Commonwealth of Virginia, Department of Corrections, Population Summary of Adult Institutions, Youth Institutions, and Local Jails, FY 1981-1982.

¹⁴Ibid, Statistical Reports, FY 1977-1982.

¹⁵Ibid.

¹⁶Juveniles in Jail in Virginia: An Assessment of the Impact of Removing Juveniles from Local Jails, p. 58.

¹⁷Commonwealth of Virginia, Department of Corrections, Detention Summaries and Production Reports, FY 1976-1982.

¹⁸Ibid, Evaluation and Monitoring Unit, April 1983.

¹⁹Ibid, Detention Summaries and Production Reports, FY 1976-1982.

- ²⁰ Ibid, Evaluation and Monitoring Unit, April 1983.
- ²¹ Ibid, Detention Summaries and Production Reports, FY 1976-1982.
- ²² Ibid, Evaluation and Monitoring Unit, April 1983.
- ²³ Ibid.
- ²⁴ Ibid, Virginia Juvenile Justice Information System, Court Report #2, FY 1976-1982.
- ²⁵ Ibid.
- ²⁶ Ibid.
- ²⁷ Ibid.
- ²⁸ Department of Corrections, Evaluation and Monitoring Unit, April 1983.
- ²⁹ Court Report #2, FY 1977-1982.
- ³⁰ Department of Corrections, Children Committed, FY 1976-1982.
- ³¹ Department of Corrections, Budgeted Capacities of Learning Centers, 1983.
- ³² Ibid.
- ³³ Ibid, Evaluation and Monitoring Unit, April 1983.
- ³⁴ Court Report #2, FY 1977-1982.

Jailing has severely damaging psychological effects on adolescents. For every 100,000 put in jail, 12 will not come out alive. They will kill themselves. No matter what the charge, for them jail is the death penalty.

From "Juveniles and Jail", National Coalition for Jail Reform, 1983.

JAIL CONDITIONS AND DANGERS

Jail Conditions Nationally

Justice Darrell V. McGraw, Jr. speaking for the Supreme Court of Appeals of West Virginia, stated in 1979 that "the confinement of juveniles in jails is a precursor to suicide, to sexual and physical abuse and to psychological harm."¹ The consequences of jailing juveniles in adult facilities are detrimental not only to the child, but also to the community to which he is returned. These juveniles are victims of deplorable jail conditions, isolation, and physical and emotional abuse. Even short term or pre-trial detention in adult facilities allows exposure to this abuse and exploitation.

The plight of juveniles in our jails has been described as follows:

Most of the children in these jails have done nothing, yet they are subjected to the cruelest of abuses. They are confined in overcrowded facilities, forced to perform brutal exercise routines, punished by beatings by staff and peers, put in isolation, and whipped. They have their heads held under water in toilets. They are raped by both staff and peers, gassed in their cells, and sometimes stomped or beaten to death by adult prisoners.² A number of youths not killed by others end up killing themselves.

Children placed in adult facilities are subjected to horrifying jail conditions. Corrections officials themselves document the poor state of the majority of city and county facilities in American Jails:

The buildings are old, badly designed, poorly equipped, and, in most instances, in need of urgent repairs. They are not properly heated, ventilated, nor lighted; they do not have the necessary facilities for the preparation and service of food, proper and adequate provisions for bathing and laundering are missing; sanitary arrangements are, for the most part, primitive and in a bad state of repair; only in rare instances are there proper hospital facilities or means for caring for the sick and infirmed; religious services are infrequent; educational activities are almost completely unknown. . . . Recreation is mostly restricted to card playing, and, in general, complete idleness is the order of the day. Filth, vermin, homosexuality and degeneracy are rampant and are the rule rather than the exception.

The Children's Defense Fund found in a study of 449 jails in nine states that, "most jails are old, dirty and decrepit, with insufficient sanitary, food or medical facilities. Only 9.8 percent of the jails in our study reported any educational activities; only 12.4 percent reported any recreational activities."⁴

Juveniles in jails remain inactive and idle while the conditions of the jail environment erode their emotional and physical well-being. According to the Community Research Forum jails are built for adults who have committed criminal acts,

and jails do not provide an environment suitable for the care and keeping of delinquents or status offenders. . . . The lack of sensory stimuli, extended periods of absolute silence or outbreaks of hostility, foul odors and public commodes, and inactivity and empty time can be an intolerable environment for a child.

What has been described above is not a problem that occurs in a few instances in a few places. It is virtually a national crisis that exists in a majority of the states. The following are specific cases that document the existence of these conditions in our juvenile justice system. In the landmark case, D.B. v. Tewksbury, several facts concerning the conditions of the Columbia County Correctional Facility (CCCF) in St. Helens, Oregon were cited:

There is no natural light in the cells occupied by children. . . . Children held in CCCF are not issued sheets, mattress covers, or pillows. . . . Those children placed in isolation cells sleep on cement floors. . . . Children using toilet facilities . . . and children showering are visible to other children and to corrections officers. . . . Children in CCCF are sometimes placed in either of two isolation cells. These are 8' x 8' windowless concrete block rooms barren of all furniture and furnishings. . . . Near the center of the isolation cell there is a sewer hole which is the only facility for urination and defecation. Lighting and the mechanics for flushing the sewer hole for each isolation cell are controlled outside the cell by the corrections staff. Lights in the isolation cells are sometimes left on or off for long periods of time. Sometimes the sewer hole is not flushed for long periods. When the mechanism for the sewer hole is flushed by a corrections staff officer, water and sewage gushes onto the cell floor.

The conditions in the Lawrence County Jail in Ironton, Ohio were identified as factual allegations in Doe v. Burwell:

The individual cells in the cell blocks are approximately four feet wide and seven feet long. Each cell contains a bed, a commode, and a shower. The cells contain no other furniture or fixtures. . . . Defendants fail to provide plaintiffs with supplies necessary to maintain personal hygiene, such as soap, shampoo, toothpaste and toothbrushes. . . . Defendants confine plaintiffs to their cell blocks during the entire period of their confinement, except when plaintiffs meet with visitors. Defendants fail to provide plaintiffs with opportunities or facilities for exercise or recreation.

There is no greater authority on the condition of jails and lockups than a juvenile who has been there. Here is the testimony of Frank, a child who was held in an isolation cell or "time-out" room:

While you were in there, you would rip up the walls and there would be nails sticking out of the walls. The floor would be torn up 'cause the whole thing was carpeting. When I was in there, you be in there and you would be locked up and there wouldn't be nobody down there around the time-out room, so if you had to go to the bathroom, people went right in the time-out room, 'cause there wouldn't be nobody around. When I was in there, I'd have to smell it. There would be glass on the floor from broken light bulbs, nails sticking to the wall and you'd sleep in there. You would be all cramped up, you know, 'cause you'd have to curl up in a ball or sleep crosswise in there and it was cold. You didn't get no blankets and it was really hard to breathe.

Victor Streib, in Juvenile Justice in America, summarizes the effects of jail conditions upon children this way:

County jails are the worst examples of incarceration units, are generally in the worst state of repair, offer the fewest services to children, and have the fewest facilities for inmates. To believe that such an institution will instill respect in a child for the majesty of law is foolish. It is equally foolish to believe that a child in such a depressing, hostile, antihuman environment, devoid of counselors, parents, friends, or any manifestations of normal society, would resolve to begin acting less hostile, more human, and relate to normal society in a more acceptable manner.

Jail Conditions in Virginia

In the monitoring report prepared by the Division of Justice and Crime Prevention for Fiscal Year 1981, it is stated that:

There are many areas of concern with regard to the overall living conditions facing juveniles housed in jails. These include the placement of juveniles in isolation cells, the lack of dayroom areas to juvenile cell blocks, the consequences that result when walkway area doors located between juvenile cell blocks remain closed, the overcrowding of juveniles into individual cells, . . . the lack of recreational, educational, and treatment-oriented programs for juveniles, the lack of specialized training in juvenile areas for correctional officers, and general unsafe conditions that exist in jails."¹⁰

These observations are based upon visits of 62 city and county jails in Virginia.

Virginia incarcerates an extremely high number of juveniles. Therefore the conditions of the jails in which Virginia places its juveniles becomes an even more important issue. A number of Virginia's jails were constructed many years ago and were not designed to provide protection of juvenile inmates. In December 1981, an article in the Richmond Times Dispatch noted that:

many of Virginia's jails were built more than 50 years ago; a handful predate the turn of the century. Though sheriffs manage to keep these aging jails clean and sanitary, they were built in a different era, when society and the courts allowed localities to lock criminals behind bars without access to exercise, work, or medical attention."¹¹

This is a problem for rural areas of the State, in particular.

Overcrowding is a problem Virginia's jails have been faced with for some time. Housing juveniles in these jails compounds the overcrowding problem.

"On November 17, 1981, more than half of the State's 92 local jails, four jail farms, and three jail facilities at State prisons had more inmates than their rated capacity. In total, local jails held 6,399 inmates on November 17, 1981; 18% more than their rated capacity of 5,429."¹²

This overcrowding not only presents a problem for the jail system as a whole, but it also results in crowded confinement of juveniles. Because of general crowding in most jails, three or four juveniles may have to share a

cell designed for only one or two individuals, or a juvenile cell block may exceed its rated capacity. This results in juveniles having to sleep on mattresses placed on the concrete floor."¹³

This overcrowding is caused, in part, by attempts to comply with the "sight and sound" separation mandate for the incarceration of juveniles in adult facilities. One sheriff comments that "the majority of jails operating in Virginia were neither designed for programs nor the proper housing of juveniles. Consequently, jail administrators in an effort to house juveniles separate from adults must overcrowd those areas for juvenile housing."¹⁴ The placement of juveniles in overcrowded facilities or cells is not a beneficial situation for juveniles.

Overcrowding is just one of the consequences of the "sight and sound" separation mandate. In order to achieve separation, jail administrators are forced to place juveniles in isolation cells and/or to close walkway doors between juvenile and adult cell blocks. Isolation has severe ramifications for the emotional stability of a juvenile and can lead to suicide. (This will be discussed later in this report.) It also means that "there is usually no other inmate to prevent or stop a suicide attempt or call for a correctional officer"¹⁵ in case of an emergency.

When the Division of Justice and Crime Prevention monitored local jails in Fiscal Year 1981, it was discovered that 26, or 42% of the jails surveyed regularly or on occasion used isolation cells to house juveniles, and, that many times, jail officials were forced to close walkway doors in order to insure separation. Closed doors can restrict air flow, thereby forcing temperatures during the warm months to reach unbearable levels. Closed walkway doors may often hamper a juvenile's ability to communicate with a correctional officer in an emergency, and interrupt a youth's sleep by

opening and closing heavy steel doors during checks every thirty minutes.¹⁶

Thirty-three, or 53% of the 62 jails visited during the Fiscal Year 1981 monitoring used closed walkway doors to ensure separation of juveniles from adults. The monitoring also revealed that 16, or 26% of the jails used isolation cells as well as closed walkway doors resulting in an even more dangerous situation for juveniles. Therefore, the placement of juveniles in overcrowded jails or cells, the use of isolation cells, and the practice of keeping walkway doors closed causes inhumane and unsafe living conditions for juveniles in adult jails in Virginia.

Another area of concern is the lack of access by juveniles to recreational, educational, and treatment programs. Because a number of jails use isolation cells for confining youth, little space is available for movement and exercise. "Isolation cells and holding cells offer little space for any type of activity other than remaining in the bunk."¹⁷ Jails do not provide adequate day room areas and space adjacent to, or in close proximity to the juvenile cell blocks. The Fiscal Year 1981 monitoring found that 12, or 20% of the 62 jails surveyed had no day room areas for juveniles. This presents the same lack of available space for activity as isolation cells.

A survey conducted in 1980 by the Division of Justice and Crime Prevention revealed that most local jails offer little more than a place to sleep and eat. For example, the survey found:

Fifty-nine of the 96 jails and jail farms in Virginia have neither indoor nor outdoor recreation.

Seventy-five of 96 have no educational services.

Only 20 have libraries that are equipped with anything but donated books and magazines.¹⁸

The separation requirements tend to multiply this problem. According

to the 1981 annual plan of the Council on Criminal Justice, Crime and the Justice System in Virginia:

providing separation can often have the negative effect of excluding youths from educational, recreational, and other treatment programs which do exist. Juveniles cannot participate in such programs at the same time as adult inmates, and it is generally difficult, if not impossible to implement separate programs for juveniles when there may be only one or two youths in jail at a given time.¹⁹

Juveniles are also not provided the proper treatment programs which they require. This is a result of the fact that Virginia's jails were built and designed for the incarceration and treatment of adults and do not include the special services needed to handle and rehabilitate juveniles.

Jailers and custodial officers are not given the necessary training for dealing with juvenile-related matters. "Of the 120-hour basic training course required to be completed by jailers and custodial officers, only two hours are devoted to the juvenile offender/juvenile justice system. In-service training standards mandate 24 hours of training every two years; one hour of which is devoted to the juvenile offender."²⁰ Juveniles are put into the care of jailers and custodial officers who have not been properly trained to respond to the particular needs and treatment of juvenile offenders.

Therefore, the removal of juveniles from Virginia's jails would end exposure to unsafe and improper jail conditions, such as isolation, and its traumatic effects, as well as provide for better treatment and rehabilitation through juvenile programs which are directed towards the special needs of children in trouble.

Physical and Sexual Assault in the Nation's Jails

Bill (age 12), Brian (age 13) and Dan (age 14) were suspected of stealing some coins from a local store. They were placed in a cell with one older boy and two men. The first night, the men decided to

have a little fun. As Billy and Brian lay sleeping, the men placed matches between Billy's toes and in Brian's hands, lit them and watched them burn, laughing as the boys awoke in pain and horror. The second night the boys, too afraid to sleep, lay awake listening to the other men talk about how they hadn't had a woman in a long time and how these boys would do just fine. . . . The men tore off the boys' clothing and then, one by one, each of the men forcibly raped the three brothers . . .

Two nights later the abuse was repeated: The men poured water on Dan's mattress, filled Billy's and Brian's mouths with shaving cream, stripped the boys naked and raped them. Finally, after five days of terror in jail, the boys were brought before a judge.

The judge allowed Dan to go home. . . . But Billy and Brian, awaiting transfer to the Dept. of Youth Services, were sent back to the County jail. Upon their return, the boys begged not to be put in a cell with adults. But the trusty ignored their pleas and led them back to the same cell they had been in before, where the same men waited for them.²¹

What you have just read is not a fictitious tale used to illustrate a point; it is a true story that gives insight into the abuse that juveniles placed in jails with adults are subjected to. "The most widely recognized harm (of incarcerating children) is the physical and sexual abuse such children suffer at the hands of adults and juveniles in the same facility."²²

The assault, rape, and torture of juveniles is well documented by the media and is the subject of numerous lawsuits against public officials who are responsible for the administration and operation of these facilities. "The general level of physical and sexual abuse is common knowledge to those who work in jails. The stark reality of this situation was captured by Prince George's County (Maryland) Circuit Court Judge David Ross, who recently told a Washington Post reporter: 'One of the reasons you shouldn't break the law is that you get raped in that jail.'"²³

A recent series of articles in The Washington Post has brought to public view the problem of rape and assault in the Prince George's County, Maryland Jail. One of the cases concerned an eighteen year old waiter, who was arrested and charged with malicious destruction of property, a result of an

argument with his landlady. Before his acquittal, he was held in the Prince George's County Detention Center, where two fellow inmates raped him. "The two rapists grabbed him in a cell, beat him on his face and chest, and raped him anally." When a guard returned, the waiter reported the rape and asked to be moved. He wasn't moved until two days later. "In the meantime, he says he was raped again and again."²⁴

The articles point out that people in jail live by what is known as "the inmate code". "This is how jail inmates define that code: The strong, violent inmates exploit the weaker, non-violent ones. In many cases, exploitation takes the form of rape."²⁵ Juveniles are thrust into a situation where they cannot win because they are the weak and nonviolent.

These assaults and beatings lead to severe reactions, such as suicide, as well as emotional and mental stress that can and usually do affect a child throughout the remainder of his life.

The following stories are just a few documented examples of the numerous and widespread incidences of physical and sexual abuse in our juvenile justice system:

On May 31, 1982, Christopher Peterman, 17, died of brain injuries after a prolonged beating by his five cellmates, all 17 years old, in the Ada County Jail in Boise, Idaho. Peterman was in jail for failing to pay \$73 in traffic fines. He was beaten for 14 hours before he died.²⁶

Ironically, Christopher Peterman's death probably would not have occurred if Ada County Jail officials had taken notice of an incident involving his cellmates two weeks earlier.

In May 1982, in Boise, Idaho, 17-year-old Ricky Yellen was arrested for possession of smoking tobacco. He was put in the juvenile cell in the Ada County Jail in Boise. Also in the cell were four other juveniles who had been charged with a total of 50 criminal acts, including 32 felonies. Several had histories of violence. Although the jail officials were supposed to check the cell at least hourly, they were nowhere to be seen when, on May 18, over a three-hour period, the other juveniles brutally beat Yellen in his head, stomach, and back,

and forced his head down the toilet bowl in the cell.²⁷

The Children's Defense Fund, in its nine-state study, discovered frequent instances where juveniles were held in the same cell with violent adults. These included:

A sixteen year old boy was confined with²⁸ a man charged with murder who raped the boy on three occasions.

A fifteen year old girl was mistakenly confined with adult female offenders²⁹ in a county jail, where she was molested and raped repeatedly.

The National Coalition for Jail Reform cites the case of "four teenaged boys who were jailed on suspicion of stealing beer. They were found dead of asphyxiation after being left alone in a cell in an Arizona jail for eleven hours. A defective gas heater was blamed."³⁰

Not only are juveniles abused by fellow inmates, but also they are subjected to abuse by guards, who are responsible for their care and protection .

The Youth Law Center reports the story of a 15-year-old girl in Ironton, Ohio, "who had been placed in the jail for five days for running away from home, even though her parents had informed the judge that she had returned home voluntarily after three days and they wanted no further court involvement. While in the jail, she was sexually assaulted by a 22-year-old male jailer on duty at the time."³¹

The American Bar Association cites the example of "a fourteen-year-old who was serving ninety days on a chain gang for petty larceny. He was shot in the face by a trustee guard, lost both eyes, and suffered brain damage."³²

The matter of rape and assault in our nation's jails has come before the Supreme Court. Steven Ney, Chief Staff Counsel for the ACLU National Prison Project states that:

A case was argued in the Supreme Court on November 10 called Wade vs. Haynes which involved a sexual assault on a prisoner who had been triple-celled with another prisoner, beaten, and sexually assaulted. He was 18-years-old, five feet eight inches, and 130 pounds. The prison guard who assigned him to the cell knew that this inmate should have been separated from more aggressive inmates. Nonetheless, although there was an empty available cell, he placed him in the cell with the other inmates.³³

Descriptions of incidents such as the ones above could go on and on, but as a U.S. Department of Justice official stated, "the cases of assault and rape of juveniles are too many to be enumerated and too common to be denied."³⁴

Physical and Sexual Assault in Virginia's Jails

In recent years, there have been several incidents of rape and assault of juveniles in Virginia's jails. In a series of articles entitled "Virginia's Jails: Crisis Behind Bars" in the Richmond Times-Dispatch, it was reported that "a 16-year-old youth was forced to commit sodomy twice while being held in the Stafford County Jail on July 11 and 12 [1981]."³⁵ Before 1979, when the Richmond City Jail was denied approval for the confinement of juveniles, there were several incidents of rape and assault that resulted in lawsuits. In October 1979, damages were awarded in Link v. City of Richmond and Doe v. City of Richmond for the rapes of two juveniles in the City Jail.

In Link, the suit alleges that Link was "repeatedly raped, forced to commit sodomy and assaulted by five other inmates on April 1, [1978], the day after he arrived at the jail. He was similarly attacked twice a day for the next 11 days, each attack lasting 'a substantial amount of time,' the suit claimed." Link was 17 at the time and was in a juvenile tier. The suit also claims that "there was only one officer in charge of six juvenile tiers and that no officer ever responded to Link's 'yells and screams'

during the attacks." The suit said that "as a result of his experience, Link has had to undergo 'extensive psychological and related counseling and therapy.'"³⁶

Damages were also awarded to a juvenile rape victim in Smith v. City of Richmond in September 1980. A case in which no damages were awarded, Jones v. City of Richmond, involved a juvenile whose throat was slit by another inmate in the Richmond City Jail.³⁷ It should be noted here that the Richmond City Jail was recently approved to hold juveniles.

In August 1982, a lawsuit by a juvenile against the warden of the Mecklenburg Correctional Center was settled. The juvenile was seventeen years old at the time of the settlement and fifteen when he first entered the corrections system. After conviction of second-degree murder, he was sent to the Southampton Correctional Center where he was labeled as a behavioral problem mainly because he was trying to protect himself from other inmates. From Southampton, he was transferred to the Powhatan Correctional Center. While there, the juvenile refused to leave his cell for almost a year. In pleas to the guards and the warden, he said that he was afraid that he would be raped because of his small size and young age. The youth was then sent to the Mecklenburg Correctional Center. There he was raped by another inmate for over a month before any action was taken. During the investigation of this incident, it was discovered that the rapist had bribed the guard to turn his back and ignore what was happening. A lawsuit was filed, but it was settled out of court the day before the case was to be heard by the U.S. District Court, Eastern District of Virginia.³⁸

Perhaps the most widely publicized case involving the rape of a juvenile in a Virginia jail is Boe v. County of Chesterfield. On June 30,

1980, John Boe, (a fictitious name used for protective purposes) was placed in the Chesterfield County Jail on a conviction of petty larceny for cashing a bad check for \$17.00. "Over the next several days, four youths brutally and forcibly attacked young John Boe. They beat him about the head and body, such that he lost consciousness. Thereafter, he was tied up, gagged, and raped."³⁹ The four youths who attacked Boe "had been convicted on charges of consensual sodomy following an alleged assault on another inmate there in April 1980. They had acted as a 'gang of four' during their incarceration and should have been separated."⁴⁰ No corrective action was taken by jail officials until on or about July 4. As a result of the assault, the juvenile has been under psychiatric care since the incident. According to Stephen Bricker, lawyer for the plaintiff, Boe has experienced "diminished self-esteem and severe depression."⁴¹

On July 15, 1979, Haywood Williams, Jr., then a 44-year-old City Jail inmate, wrote a letter to Norfolk Circuit Court Judge John Harper complaining about conditions at the Norfolk City Jail. "In addition to lax security, Williams' letter also complained of homosexual assaults on juvenile inmates by other inmates."⁴²

There was a sexual assault of a juvenile inmate in the Roanoke City Jail on June 26, 1979. In December 1979, an eighteen-year-old Roanoke man was "convicted of forcing a 16-year-old boy to have oral sex with him. The offense occurred while the attacker was allegedly standing outside the bars of the juvenile offender section of the old City Jail. The youth was inside the bars of the juvenile section when he was forced to commit sodomy."⁴³ The juvenile was serving time on reckless driving charges.

More recently, a suit was brought against the Director of the Department of Corrections for an alleged assault in the Roanoke City Jail.

Doe v. Director, Department of Corrections, alleges that "negligent acts caused plaintiff to be the victim of a sexual assault on January 26, 1982, by an adult and two juveniles while plaintiff was incarcerated in the juvenile section of the Roanoke City Jail."⁴⁴ It was also noted in the case that "defendants failed to transfer plaintiff's adult attacker into the State penal system after he was convicted of sexual crimes and had turned eighteen years old."⁴⁵

The aforementioned cases involve only those incidents of rape and assault of juveniles in jails across the nation and in Virginia that we are aware of. As the Reverend George Ricketts, explains, "For every one (incident of rape or assault) reported, in which a trial is held, there are certainly a half-dozen more that occur. They aren't reported, either out of fear or because they are mentioned to someone but ignored."⁴⁶ Mr. Ricketts is a member of the State Crime Commission and Executive Director of the Chaplain Service of the Churches of Virginia.

To subject our youth to such torture and abuse in adult facilities is totally unnecessary and it is time that the public demanded solutions to alleviate it.

Juvenile Suicide in our Nation's Jails

One of the most tragic consequences of jailing juveniles in adult facilities is suicide. A study done in 1980 by Michael Flaherty for the Community Research Forum proves the hypothesis that the suicide rate among children held in adult jails and lockups is higher than that among youth in the general population. Corrections Magazine reported that:

a Community Research Center study found that youths are nearly eight times more likely to commit suicide in adult jails than in juvenile detention centers[12.3 per 100,000 compared to 1.6 per 100,000], and five times more likely to kill themselves in police lockups than

detention centers[8.6 per 100,000 compared to 1.6 per 100,000].⁴⁷ The study also found that the suicide rate among children in the general population is 2.7 per 100,000. Juveniles in adult jails commit suicide at a rate more than four times greater than those in the general population. The rate of suicide for juveniles in adult lockups is more than three times greater than children in the general population.⁴⁸ "Seventeen of the 21 jail suicides reported in the study occurred where there was 'sight and sound' separation between juveniles and adults."⁴⁹

Flaherty gives us several observations that are pertinent to his data and conclusions. First, it must be realized that even confidential confession of juvenile suicide in jails and lockups is an embarrassing situation. Since his data responses are subject to this degree of bias, such bias would be likely to contribute to an underestimation of the suicide rate.

Secondly, the study found that the average length of stay for youth in lockups was less than two days, and in jails, less than seven days. In contrast, the suicide rate for children in the general population is calculated for a year, or 365 days. "In other words, children in adult jails and lockups kill themselves more frequently than . . . children in the general population despite the fact that children in jails and lockups have less time in which to commit suicide."⁵⁰

Thirdly, it must be recognized that techniques for suicide are much more limited in jails and lockups. Therefore, it is more difficult for youths to kill themselves in jails and lockups than in the general population. "Together, these considerations imply that the problem of juvenile suicide in adult jails and lockups may well be even more serious than is suggested by our data per se."⁵¹

"Individual isolation has often been listed as a major source of juvenile

suicide."⁵² Expert testimony in Lollis v. New York State Department of Social Services describes the serious emotional stress experienced by a juvenile held in isolation.

In my opinion, extended isolation of a youngster exposes him to conditions equivalent to 'sensory deprivation'. This is a state of affairs which will cause a normal adult to begin experiencing psychotic-like symptoms, and will push a troubled person in the direction of serious emotional illness.

What is true in this case for adults is of even greater concern with children and adolescents. Youngsters are, in general, more vulnerable to emotional pressure than mature adults; isolation is a condition of extraordinarily severe psychic stress; the resultant impact on the mental health of the individual exposed to such stress will always be serious, and can occasionally be disastrous.⁵³

Mark Soler states in the Brigham Young University Law Review that "the lack of sensory stimuli, extended periods of absolute silence or outbreaks of hostility, foul odors, and public commodes, as well as inactivity and empty time constitute an intolerable environment for a child."⁵⁴ "Even short-term confinement can have devastating consequences. Most jail suicides occur within 48 hours of admission."⁵⁵ Oftentimes a child sees suicide as his only escape from this "intolerable environment."

As stated earlier, in attempts to comply with the "sight and sound separation" mandate, many jails and lockups utilize isolation for the incarceration of juveniles. "In an effort to achieve separation, children in some jails are placed in the most secure isolation cells in the facility. The feelings of fear, confusion and hopelessness which generally accompany incarceration are compounded by this isolation, and panic can result. This can produce long-term emotional and psychological consequences, and suicide . . . is always a serious possibility."⁵⁶

Although jail and lockup officials and personnel often do this in order to protect the juvenile from other inmates, this practice can and does have deadly ramifications. Therefore, our juvenile justice system is

inadvertently facilitating and contributing to a high rate of suicide among juveniles held in adult jails and lockups.

Psychological depression has been identified as another cause of juvenile suicide in jails.⁵⁷ The nature of the incarceration process and the experience of being in jail leads to a state of depression in these juveniles, which can and does result in suicide.

Ken Wooden, author of Weeping in the Play Time of Others, states that "from what I have been able to research, the most immediate cause of suicide is the first 24 hours of confinement, no matter where it is. That initial shock of being taken from free society and placed in a cell, behind bars, locked up, is so dramatic and depressing."⁵⁸

A majority of the children in jail nationwide are status offenders. They have been put there for acts which are not crimes if committed by adults. The child becomes confused because he feels that his offense does not warrant the severity of punishment that he is receiving. Therefore, the child develops the feeling that he has been done an injustice. "Besides being terrifying and lonely . . . the kids perceive being jailed as totally unnecessary . . . to a truant and a curfew violator and a runaway . . . if they're jailed with people who have committed robbery, homicide . . . the word 'justice' becomes ridiculous. Especially if they, say, ran away from an intolerable situation."⁵⁹

Experts have testified that a lack of peer relationships can also lead to suicide. "Children frequently commit suicide because they're unable to achieve meaningful positive and important peer relationships with other children. This is particularly true in a high suicide age today, which is between the ages of 11 and 14 years."⁶⁰ This situation is created when a child is put into a jail or lockup with adults with whom the child cannot

establish "meaningful positive and important" peer relationships.

Another cause of juvenile suicide in jails is the threat or actual occurrence of physical and sexual abuse by adult inmates. Dr. Bruce Danto of the American Association of Suicidology states that "most of the suicides that I have studied and reported in some of my writings have dealt with kids who have been sodomized and sexually assaulted in the incarceration setting."⁶¹ Therefore, we see that when a child is placed in an adult facility, he is subjected to an environment that is very likely to encourage suicide.

The following are documented incidents of suicide by juveniles who were being held in adult jails and lockups in other states. The Juvenile Justice Digest reports the case of a West Virginia youth:

In late October, Kanawha County Sheriff Kemp Melton suspended three deputies, two for allegedly falsifying records relating to the time during which a juvenile hanged himself in a cell. The records allegedly falsified pertain to security inspections of the cell areas. Deputies are supposed to inspect the cell area every 30 minutes and record the inspections. The juvenile who hanged himself, Michael Jeffrey, died in the jail about 3:30 p.m. on September 30.⁶²

Two juveniles ended their lives in the Blount County jail in Tennessee. On October 5, 1982, "Timothy Joe Davis, 17 . . . had no pulse beat when he was found hanging by part of a flowered bed sheet from a vent in an isolation cell at the jail."⁶³ One reporter offered this description of Davis' cell: "Cockroaches scuddle freely over two tiny windows in the heavy concrete door. The air is hot and still in the cramped, dimly-lit cell. The cell is for troublemakers at the Blount County jail. Two weeks ago, it was for hanging."⁶⁴

A young female also took her life in this facility. "A teenage girl committed suicide in Blount County some four years ago, Hobbs confirmed. . . . The girl was 16 and confined in the juvenile section."⁶⁵ She

"apparently hanged herself by her belt while officers were completing paper work to send her to a detention center."⁶⁶

Just recently, a juvenile suicide occurred in another Tennessee county jail. On January 17, 1983, "Ernest Trescott, 17, a runaway from Warren, Ohio, was picked up by police in a restaurant in Kimball, Tennessee, after complaints of disorderly behavior. The boy was locked in the Marion County Jail, where he hanged himself the next day. He had not been charged with anything and would have been released."⁶⁷

Hanging is just one method a juvenile can use to take his life. The Children's Defense Fund states in its 1976 report:

We learned of one 16-year-old boy in Seminole County, Florida, who was waived to adult court for purse-snatching. He spent 201 days in jail, between October 1974 and June 1975, while his case in adult court was repeatedly continued. Although he became increasingly disturbed, nothing was done in jail to help him. On the 202nd day of his incarceration in jail, he set a fire in which eleven people, including the boy himself, died.⁶⁸

Testimony before the President's Crime Commission included the case of a thirteen year old Indiana boy, who had been in five foster homes. He "drove his current foster father's car to the county jail and asked the sheriff to lock him up. The child was segregated from adults pending a hearing for auto theft. A week later his body was found hanging from the bars of his cell; a penciled note nearby read, 'I don't belong anywhere.'"⁶⁹

Even the threat of having to return to a jail facility can provoke suicide, as evidenced in the story of a Chicago juvenile. "A teenager convicted of rape who spent four months in jail and once wrote that the experience would give him 'nightmares for years' killed himself rather than risk going behind bars again, police said. John F. Moore was to be sentenced Thursday for a rape conviction, but instead got a gun and shot himself in the head."⁷⁰

Juvenile Suicide in Virginia's Jails

There have been few documented incidents of suicide or attempted suicide by juveniles in jails in Virginia. As Flaherty pointed out in his study, it must be realized that even confidential confession of juvenile suicide in jails and lockups is an embarrassing situation. Therefore, suicides and attempts are often not reported and, when they are, it is very difficult to gain access to the records. As a result, incidents of suicides and attempted suicides are not widely known or publicized.

In 1982, suit was filed against former Hopewell Sheriff Joseph Orlando and one of his deputies concerning a juvenile suicide in the Hopewell City Lockup on September 18, 1981. William A. Yates "used his belt to hang himself in the lockup, where he was being held after being arrested on a charge of public drunkenness."⁷¹ The suit seeks \$750,000 in damages and "alleges that Orlando, as sheriff, failed to provide proper supervision of his employees in their care of persons under their custody. According to the suit, authorities at the lockup should have taken the youth's belt away from him when he was placed in a cell."⁷²

The Serious Incident Reports of the Virginia Department of Corrections showed that there was a juvenile suicide on March 30, 1981, when a fourteen-year-old white male hanged himself with a rope in a jail in the Department of Corrections' Northern Region (Region III).⁷³

Another juvenile suicide occurred in a Tidewater jail on April 27, 1981. A young female, under 18 years of age, committed suicide by hanging herself. She was awaiting trial on narcotics charges.

On September 19, 1980, a sixteen-year-old female attempted suicide in the Clarke County Jail. According to a letter, dated September 25, 1980, from the Clarke County Sheriff's Department to the Director of the

Department of Corrections, the juvenile was found at approximately 2:55 P.M. in the shower area of her cell block with a bed sheet around her neck. The letter also noted that she was housed in this cell block alone.

Just recently, there was a widely publicized juvenile suicide attempt in the Henrico County Jail. "I don't know if I killed that man, but if I did, I can't live with myself," wrote John Robert Ballard on a sheet of yellow legal paper, apparently before he cut his wrists in what authorities believe was a suicide attempt on the night of February 1, 1983."⁷⁴ The seventeen-year-old youth was one of four people being held in connection with the murder of former City Councilman J. Edward Lawler. Henrico County Sheriff James H. Turner, III "characterized the wounds as 'not serious,' but said Ballard had to have thirteen stitches in one arm and nine in the other. . . . Turner said he believed it was a genuine suicide attempt."⁷⁵

Something must be done to remove these emotionally immature juveniles from adult jails and place them in programs that are designed to provide them with the rehabilitation, treatment, and counseling they require. This kind of action will help prevent these young people from resorting to suicide to escape their dilemma.

The preceding stories and data "suggest that the policy of incarcerating children in adult jails and lockups may be contributing to a relatively high rate of suicide among these children."⁷⁶ It is clearly seen that the jail environment can and often does lead to juvenile suicide.

In summarizing policy implications of their study of juvenile suicides in jails, the Community Research Forum states: "The important point here is that nearly 500,000 juveniles experience these detrimental conditions each year. If the physical and emotional well-being of juvenile offenders is to

be a matter of concern, every effort must be made to prohibit the jailing of juveniles."⁷⁷

Mark Soler, Director of the Youth Law Center, reminds us:

The juvenile justice system was expressly created to remove children from the punitive forces of the criminal justice system. The practice of jailing juveniles, however, directly contravenes this purpose. Exposing a boy or girl to the punitive conditions of jail may jeopardize his or her emotional and physical well-being and may handicap future rehabilitative efforts.⁷⁸

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⁵⁵Susan Schneider and David Lambert, "Juveniles in Jail: A Brutal, Useless Experience," Youth Law News, October 1982, p. 14.

⁵⁶Ibid, p. 15.

⁵⁷Flaherty, p. 5.

⁵⁸An Investigation by Children of the Inappropriate Incarceration of Children, p. 13.

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- ⁵⁹Children's Defense Fund, p. 21.
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- ⁶²"Youth Hangs Self in West Virginia Jail," Juvenile Justice Digest, Vol. 7, No. 22, November 16, 1979, p. 10.
- ⁶³"Youth Hangs Self in Blount County Jail," Maryville-Alcoa(Tenn.) Times, October 5, 1982.
- ⁶⁴Leslie Henderson, "Troubled Teen Ended His Life in Blount Jail," Knoxville Journal, October 18, 1982, sec. A, p. 1.
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- ⁶⁸Children's Defense Fund, p. 25.
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- ⁷⁰"Teen Kills Self Rather Than Face Jail Again," Richmond News Leader, November 20, 1982.
- ⁷¹"Suit Filed in Youth's Jail Hanging," Richmond Times-Dispatch, May 1982.
- ⁷²Ibid.
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- ⁷⁵Ibid.
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To say that the jailing of children is not a major problem in this country is to ignore the reality of the numbers of children jailed, and the tragedies that occur while jailing continues. . . . I would ask each of you to look at the conditions in the jails and the dangers which they pose, and then think what you would do to keep your children out of such places.

From Statement of Mark I. Soler, Executive Director, Youth Law Center, San Francisco, California, Before the Subcommittee on Juvenile Justice of the Judiciary Committee of the United States Senate, February 24, 1983.

LITIGATION REGARDING JUVENILES IN JAIL

Over the years, the federal courts have handed down decisions and set precedents concerning the legal rights of juveniles in jail. Development of these legal rights is discussed using cases that have been heard by federal courts as well as the Supreme Court.

Right to Treatment

It has been recognized that individuals involuntarily committed to institutions for treatment have a "right" to such treatment, and that those who do not in fact receive treatment suffer a violation of that right.

In addressing the issue of right to treatment, the courts have made rulings in cases concerning the institutionalization of the mentally ill. In turn they have found a constitutional basis for this right through the right of due process and freedom from cruel and unusual punishment. They have also based this right on the principle of the "least restrictive alternative" as well as the "quid pro quo" theory.

In 1966, the Federal District Court of Washington, D.C. first recognized the right to treatment for an involuntarily committed individual in Rouse v. Cameron. The majority opinion found that Congress had "established a statutory right to treatment in the 1964 Hospitalization of the Mentally Ill Act."¹ It concluded that there were several situations in which confinement without treatment might violate constitutional standards. These situations exist when 1) commitment is summary and without procedural safeguards, which may violate right to procedural due process, 2) there is a difference in length of confinement if the individual had been convicted, which raises equal protection questions as well as due process since the need for treatment was not met, and 3) there is confinement for an

indefinite period without treatment of one not found criminally responsible, which may constitute cruel and unusual punishment. Five years later, the District Court held, in Wyatt v. Stickney, that patients involuntarily confined in a hospital do have a constitutional right to treatment.

In 1974, the case of Donaldson v. O'Connor was heard before the U.S. Fifth Circuit Court. The opinion of this court held that a patient has a "constitutional right to such individual treatment as will give him a reasonable opportunity to be cured or to improve his mental condition."² This case was appealed to the U.S. Supreme Court under the name of O'Connor v. Donaldson. The Supreme Court decided to rule on a narrower issue rather than the broad issue of right to treatment. It ruled that a "state cannot constitutionally confine (on the basis of mental illness alone) a nondangerous individual who is capable of surviving safely in freedom by himself or with the help of willing and responsible family members or friends."³

The U.S. Supreme Court has never decided whether a constitutionally-based right to treatment exists. However, it did address the plight of children in the juvenile justice system in Kent v. United States in 1966. It commented that "there is evidence, in fact, that there may be grounds for concern that the child receives the worst of both worlds: that he gets neither the protections afforded to adults nor the solicitous care and regenerative treatment postulated for children."⁴ In 1967, in In re Gault, the court "reiterated the view of Kent that juvenile justice procedures need not meet the constitutional requirements of adult criminal trials, but must provide essential 'due process and fair treatment.'"⁵

The Lower Courts have used several approaches for a constitutional basis for right to treatment. One is the "quid pro quo" theory. This

principle contends that individuals who are mentally ill or incompetent who are committed to the custody of the state may lose constitutional procedural protections, but they gain rehabilitative treatment.

They have also utilized the due process clause of the Fourteenth Amendment. This has been done through adoption of the opinion in Wyatt v. Stickney. It holds that deprivations of liberty on the grounds that "confinement is for humane therapeutic reasons and then fails to provide adequate treatment violates the very fundamentals of due process."⁶ In 1972, in Jackson v. Indiana, the Court held that "due process requires that the nature and duration of confinement must bear some reasonable relation to the purpose for which the individual is committed."⁷

Other courts have based the right to treatment on the Eighth Amendment's prohibition against cruel and unusual punishment. Their reasoning rests on the Supreme Court's ruling in Robinson v. California that punishment of certain statuses, such as drug addiction, constitutes cruel and unusual punishment. Mental illness and other incompetency is considered a status and the drastic curtailment of liberty accompanying confinement without treatment is considered cruel and unusual punishment. Some courts have also found that the state has a constitutional duty to protect involuntarily committed inmates from harm. They have expanded this principle in New York Association for Retarded Children, Inc. v. Rockefeller to include a right to at least a minimum level of psychological treatment.

The Lower Courts have also used the principle of the "least restrictive alternative" available. This contends that the curtailment of fundamental liberties through involuntary confinement must follow the "least restrictive alternative" available. This is found in Shelton v. Tucker where the Court

held that the state violates an individual's constitutional rights when it confines him and fails to provide minimally adequate treatment and habitation in the least restrictive setting possible. Some courts have followed the rulings in Rouse v. Cameron directly and found a basis for right to treatment in state statutory and constitutional provisions.

Experts in the field of juvenile justice have agreed that the right to treatment doctrine applies with equal force to the confinement of children in jails. The juvenile justice system is premised on the goal of rehabilitation and juvenile courts have always been considered analogous to social welfare agencies, designed to provide treatment and assistance for children who have violated criminal sanctions or demonstrated socially unacceptable behavior. The courts have also recognized this principle. In 1954, in White v. Reid, the Court noted that the commitment of the child to an adult jail rather than to a nonpunitive educational facility "cannot withstand an assault for violation of fundamental constitutional safeguards."⁸

There are two cases which have based the right to treatment on state statutory or constitutional law. In Creek v. Stone (1967), the Court concluded that the District of Columbia Juvenile Court Act "established not only an important policy objective, but, in an appropriate case, a legal right to a custody that is not inconsistent with the parens patriae premise of the law."⁹ The Seventh Circuit Court ruled in Nelson v. Heynie that the Indiana Juvenile Court Act provided a statutory basis for the right to rehabilitative treatment.¹⁰

Due Process

In Morgan v. Sproat, the Court based its decision on two concepts. The first is that juveniles are incarcerated for the purpose of care and rehabilitation. Jackson v. Indiana held that the program at a facility must

reasonably relate to that purpose. The second is that juveniles are incarcerated without being provided all the due process protections afforded adults in criminal cases. "Denial of due process is constitutionally impermissible unless the incarceration of juveniles serves beneficent, rather than punitive, purposes. . . . For these reasons, the courts have held that due process requires that the incarceration of juveniles be for rehabilitation and treatment."¹¹

Other courts have also based their decisions on this principle. Gary v. Louisiana held that the state may curtail one's liberty in a non-criminal context only if there is rehabilitative treatment exchanged for the equivalent denial of liberty. The court held in Inmates of Boy's Training School v. Affleck that "due process in the juvenile justice system requires that the post adjudicative stage of institutionalization further this goal of rehabilitation"¹² rather than the goals of punishment, deterrence, and retribution in the criminal justice system. In Baker v. Hamilton, the judge ruled that the system of selective pre- and post-dispositional placement of juveniles in jails constituted punishment of the juveniles as adults without the due process protections afforded adults. The Court concluded that regardless of how well-intentioned the juvenile court judges may have been, their acts constituted violations of the Fourteenth Amendment. On a more general basis, the Court ruled in Pena v. New York State Division for Youth that absence of rehabilitative treatment of youth confined in the juvenile justice system constitutes a violation of due process rights guaranteed under the Fourteenth Amendment.

In the case of Osorio v. Rios in 1976, the court ruled that a "Puerto Rico statute permitting juveniles to be jailed in an adult facility without some form of notice and hearing prior to the confinement decision was

violative of the Constitution."¹³ Ruling on the question of equal protection, the Court held, "we think that if a juvenile is to be jailed like an adult under the conditions revealed in this proceeding for a substantial, as opposed to a relatively brief period, the juvenile is denied equal protection of the law unless afforded, prior to incarceration, the same basic procedures granted to adults."¹⁴

Cruel and Unusual Punishment

Several courts have addressed the right to treatment for juveniles through the Eighth Amendment prohibition against cruel and unusual punishment. The Court ruled in 1974 in Cox v. Turley that confinement without a phone call or probable cause hearing (same procedural rights as adults) violated rights guaranteed under the Eighth Amendment. "The worst and most illegal feature of all these proceedings was in lodging the child with the general population of the jail without his ever seeing an official of the court."¹⁵

Osorio v. Rios held that "mere use of an adult facility is not per se a violation of the Eighth Amendment although facts presented raised serious questions about Eighth Amendment violations in particular facilities used."¹⁶

In 1975, in Swansey v. Elrod, because the incarceration was devastating to the juvenile and the physical conditions were reprehensible, the Court found that the incarcerations violated the Eighth Amendment. It stated that ". . . juveniles are different and should be treated differently. Thus, the evolving standards of decency that mark the progress of a maturing society require that a more adequate standard of care be provided for pre-trial detainees."¹⁷

The decision in Baker v. Hamilton was also based on the cruel and unusual punishment prohibition. It mentioned cramped quarters, poor

illumination, poor air circulation, and broken locks as well as the lack of outdoor exercise or recreation and the absence of any attempt at rehabilitation as cruel and unusual punishment.

Some courts have cited other characteristics of the incarceration of juveniles as violations of the Eighth Amendment. One court ruled in Lollis v. New York State Department of Social Services that isolation in a bare room without reading materials or other forms of recreation constitutes cruel and unusual punishment. It relied on expert opinion that such isolation is "cruel and inhuman." The cases of Cox v. Turley, Woodhous v. Virginia, Nelson v. Heynie, State v. Wilt and State v. Strickler concluded that confinement that subjects those incarcerated to assaults and threats of violence constitutes cruel and unusual punishment.

In State ex rel. R.C.F. v. Wilt, the Court addressed the use of jail for "shock value." It stated that:

The theory held by some well-meaning but untrained and misguided souls that the 'shock effect' of temporary incarceration can be beneficial to juveniles is hereby specifically disapproved. The confinement of juveniles in jails is a precursor to suicide, to sexual and physical abuse and to psychological harm; the confinement of juveniles with adults in poorly constructed, ill-equipped and sometimes mismanaged jails may well contribute to crime rather than reduce it.¹⁸

Recent Decisions

Recently, several state and federal courts have expanded on the legal issues involving the rights of juveniles in jail. In September 1982, the Second U.S. Circuit Court of Appeals heard the case of Martin v. Strasburg, which challenged the constitutionality of preventive, pre-trial detention in the state of New York. Judge Winter, writing for the majority, states that "we affirm on the grounds that the statutory scheme and practice (under the New York Family Court Act) violates the Due Process Clause of the Fourteenth Amendment in that the period of pre-trial

detention is utilized principally to impose punishment before adjudication of the alleged criminal acts."¹⁹ Judge Newman, in a concurring opinion, views the issue in a different light. He writes that "in my judgement, the Due Process Clause forbids the exercise of such unbridled discretion (by family court judges) to inflict a deprivation as serious as loss of liberty in advance of trial on the basis of a highly uncertain prediction of future criminal behavior."²⁰

The case of Doe v. Burwell challenged the confinement of children in the Lawrence County Jail in Ironton, Ohio in April 1982. The plaintiffs were a fifteen year old girl, who had been placed in jail for running away from home and was raped by a male jailer, and a sixteen-year old male, who was jailed for minor theft. These children, as well as the other 170 children confined in this jail each year, had been subjected to cruel and inhumane conditions and treatment. Therefore, a settlement was reached in which the "defendants agreed to totally cease placing any juveniles in the county jail and agreed to pay the two named plaintiffs damages totalling \$40,500."²¹

Another important case decided in 1982 by the West Virginia State Supreme Court was State ex rel v. H. K. Taylor. The Court, "citing extensively from early West Virginia cases, held that even for short-term diagnostic testing, status offenders may not be sent to prison-like facilities used to confine delinquents. The Court also found that the child's right to rehabilitative treatment in the least restrictive setting had been violated by the disposition in this case."²²

Perhaps the most important and far reaching court opinion regarding the jailing of juveniles is contained in D.B. v. Tewksbury. It challenges the constitutionality of the confinement of children in the Columbia County

Correctional Facility (CCCF) in St. Helens, Oregon. In 1982, Judge Helen F. Frye wrote her opinion concerning three major issues. First, the Court cited the rehabilitative purpose of the juvenile justice system. When children are denied some of the due process guarantees that are afforded adults, it must be offset by a measure of special care and solicitude. Citing various conditions of the jail itself as well as testimony from defendant Tewksbury, the Director of the Columbia County Juvenile Department, Judge Frye held that "punishment is the treatment of choice of Columbia County's Juvenile Department for its detained children. This 'treatment' has little or nothing to do with simple detention, rehabilitation, or even the protection of society."²³ Therefore, since the purpose of detaining children in CCCF is for punishment rather than rehabilitation, there exists a violation of the Due Process Clause of the Fourteenth Amendment.

Next, Judge Frye ruled on the question of the jailing of status offenders. She states in the opinion of the Court that:

A child who has run away from home or is out of parental control is clearly a child in distress, a child in conflict with his family and his society. But nobody contends he is a criminal. A runaway child or a child out of control, as an addict or insane person, may be confined for treatment or for the protection of society, but to put such a child in jail - any jail - with its criminal stigma, constitutes punishment and is a violation of that child's due process rights under the Fourteenth Amendment to the United States Constitution. No child who is a status offender may be lodged constitutionally in an adult jail.²⁴

Therefore, Judge Frye contends that jailing a juvenile who has committed a status offense is a violation of that juvenile's due process rights.

The Court went on to discuss the question of confining children accused of crimes in jail. Judge Frye chooses to rely on the "fundamental fairness" doctrine as put forth in In re Gault. A child is not guaranteed the same rights as adults under due process, such as trial by jury, grand

jury indictment, and bail. "The state can deny juveniles some of the protections it cannot deny adults, but implicit in this power is a 'special solicitude.' It is this special solicitude that requires a separate system for juvenile offenders. There is a separate system, after all."²⁵ The Court rules that "when children who are found guilty of committing criminal acts cannot be placed in adult jails, it is fundamentally unfair to lodge children accused of committing criminal acts in adult jails."²⁶ The Court went on to say that even if:

the jails in which these children are lodged are modern, 'enlightened' kinds of jails--ones which provide different methods of discipline, care, and treatment appropriate for individual children according to age, personality, and mental and physical condition . . . (and) these jails are adequately staffed and provide reasonable measures of comfort, privacy, medical care, food, and recreation . . . to lodge a child in an adult jail pending adjudication of criminal charges against that child is a violation of that child's due process rights under the Fourteenth Amendment to the United States Constitution.²⁷

This case will have a great impact on the juvenile justice system. "Because the ruling came from a federal judge, it has statewide, as well as national implications."²⁸ In summary, this ruling concludes that the United States Constitution prohibits the placement of any juvenile in any adult jail.

Litigation in Virginia

In the last decade, there have been several lawsuits concerning the abuse of juvenile inmates in Virginia's correctional system. Most of these have been individual actions which seek monetary damages or injunctive relief. There have been virtually no class actions of this nature in Virginia. Therefore, these cases do not have the wide scope and far-reaching implications as found in D.B. v. Tewksbury; however, they are important because of their identification of problems in the system.

One of the first cases concerning the rights of prisoners in Virginia is

Woodhouse v. Commonwealth of Virginia. This action, decided before the United States Fourth Circuit Court of Appeals on July 27, 1973, concerns the rights of prisoners to be protected from violence and sexual assaults by other prisoners. Although the plaintiff was an adult, this decision may also be applied to other prisoners, adult or juvenile. The court states that:

while occasional, isolated attacks by one prisoner on another may not constitute cruel and unusual punishment, confinement in a prison where violence and terror reign is actionable. A prisoner has a right, secured by the eighth and fourteenth amendments, to be reasonably protected from constant threat of violence and sexual assault by his fellow inmates, and he need not wait until he is actually assaulted to obtain relief.²⁹

The decision went on to establish a test to determine whether relief should be granted. The court should ascertain:

- 1) whether there is a pervasive risk of harm to inmates from other prisoners, and, if so,
- 2) whether the officials are exercising reasonable care to prevent prisoners from intentionally harming others or from creating an unreasonable risk of harm.³⁰

Since juveniles are the most vulnerable of all inmates to attack and assault, a state cannot constitutionally place a juvenile in a facility where there is a high risk of harm and assault by other inmates.

A similar case, Doe v. Swinson, decided in 1976, involved a jury verdict and award of \$50,000 damages to an "inmate of a county jail who was subjected to homosexual rapes by other inmates, based on finding that the county sheriff who operated the jail was negligent in failing to protect the inmate against such attacks."³¹

In 1979 and 1980, several lawsuits involving assault of juveniles in the Richmond City Jail were brought against the City of Richmond. These were initiated by individuals who sought monetary damages for relief. In

October 1979, Link v. City of Richmond and Doe v. City of Richmond were settled. Relief in these two cases was sought because the two juveniles involved had been raped. Damages in the amount of \$10,500 were awarded in Link and \$35,000 in Doe. Another case, Jones v. City of Richmond, arose out of an attack on a juvenile by another inmate. The suit alleged that the juvenile was slit in the throat by a fellow prisoner. The plaintiff lost this case and no damages were awarded. In September 1980, damages totalling \$35,000 were awarded in Smith v. City of Richmond as relief for a juvenile who had been raped in the City Jail.³²

Another individual damages case, Doe v. Warden, Mecklenburg Correctional Center, et al., was settled out of court in August 1982. This suit was brought by a juvenile who had been raped for over a month in the Mecklenburg Correctional Center. This youth had been in several facilities where he had been labeled as a behavioral problem mainly because he was trying to protect himself from other inmates. It was discovered that the guard responsible for the youth's safety had been bribed to turn his back while the assaults were carried out. A settlement of \$48,000 was reached just before the case was to be heard by the United States District Court, Eastern District of Virginia.³³

In Dillon v. Director, Department of Corrections, a juvenile sought relief because of a sexual assault by an adult and two juvenile inmates in the Roanoke City Jail. Although the fact that the attack occurred was not disproven, the United States District Court, Western District of Virginia, dismissed the case on other grounds. It contended that action could not be brought against the Director for several reasons. First, "the Director of the VDOC is not liable for isolated acts of negligence occurring in local jails."³⁴ Secondly, "the Eleventh Amendment bars an award of monetary

relief against the Director in his official capacity."³⁵ Lastly, since "the Director is not sued by his name, but by his title . . . 'the demand made upon him, is not made personally, but officially (and) the state itself may be considered as a party on the record."³⁶

Perhaps the most widely publicized lawsuit concerning the assault of an incarcerated juvenile is Boe v. County of Chesterfield:

The plaintiff's claim is based on the failure of the defendants to provide for the safety and security of the plaintiff, which failure resulted in the violent and repeated physical and sexual assault of the plaintiff by other inmates at the Chesterfield County Jail. The plaintiff asserts that the acts of the defendants in failing to provide for his safety and security violated his rights under the United States Constitution to the due process of law and to be free from cruel, and unusual punishment, and his rights under state common law.³⁷

The juvenile had been placed in the Chesterfield County Jail on a minor check charge on June 30, 1980. While there, he was beaten to unconsciousness and then tied, gagged, and raped. Four of his assailants had pleaded guilty to raping a young prisoner two months earlier. The suit reached U.S. District Court for the Eastern District of Virginia on May 13, 1982. Two of the defendants were found guilty, and \$36,500 was awarded in damages.

There is a general concensus in Virginia that cases such as the ones above will come before the courts in increasing numbers during the next few years. In the eleven months between October 1978 and September 1979, 993 civil suits were filed in the U.S. District Court in Alexandria. Of these, 442 were filed by prisoners. In addition to these suits, "more than 800 prisoner suits have been filed so far this year (1979) with other federal courts in the Eastern District of Virginia. And 2,000 prisoner suits have been initiated during the past year in state courts, according to a spokesman in the Virginia Attorney General's Office."³⁸ More recently,

"filings in the Fourth Circuit passed 2,000 for the first time in 1980 and continued to increase in 1981. In 1981, prisoner claims were 35.2 percent of all the filings in the circuit."³⁹

Lawsuits filed by juveniles concerning abuse or assault fall into one of two categories. The first includes suits which seek individual damages. These cases are "becoming routine in the courts and the number filed will probably increase."⁴⁰ The second includes those cases known as "class action suits." This type of suit usually seeks relief for a class of plaintiffs who are in the same basic situation, or subjected to the same basic conditions of confinement. There have been relatively few class action suits filed in the courts of Virginia. "In light of the recent Tewksbury decision in Oregon, the American Civil Liberties Union is looking for a case of this nature that would have statewide implications for the juvenile justice system."⁴¹

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- ¹²Inmates of Boy's Training School v. Affleck, 346 F.Supp. 1364 (D.R.I. 1972).
- ¹³Robert E. Shepherd, Jr., Litigation Involving Children in Adult Jails, May 1983, presented to the Joint Legislative Subcommittee to Study Detaining Children in Jails, May 25, 1983, p. 1.
- ¹⁴Osorio v. Rios, 429 F.Supp. 570 (D.P.R. 1976).
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- ²³"Juveniles in Oregon: A Landmark Decision?," Institutions Etc., Vol. 5, No. 10, October 1982, p.10.
- ²⁴Ibid.
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- ³⁰Ibid.
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- ³²Interview with Stephen W. Bricker, former Juvenile Justice Counsel for the American Civil Liberties Union, March 9, 1983.
- ³³Interview with Jonathan Shapiro, lawyer for the plaintiff in Doe v. Warden, Mecklenburg Correctional Center, et al., March 16, 1983.
- ³⁴Dillon v. Director, Department of Corrections, 552 F.Supp. 32 (1982).
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Obviously, however, a large factor in the decision [to detain] is the official's intuitive impression of the juvenile. Unfortunately, the use of specific written criteria tempering these impressions appears not to be the practice in most jurisdictions. Moreover, even when stated as policy, specific criteria often have little relationship to the decision finally made. The tendency of the juvenile justice system to make decisions based on impressionistic data is indeed strong.

From "Juvenile Detention Criteria: State of the Art and Guidelines for Change," Edward P. Mulvey and J. Terry Saunders, Criminal Justice Abstracts, June, 1982.

CRITERIA FOR DECISION MAKING IN THE
JUVENILE JUSTICE SYSTEM

It has been argued frequently that secure pre-trial detention can be one of the most traumatic experiences in a child's life.¹ The socially destructive effects of detention on young children have been portrayed thoroughly by several authors. Studies have suggested that a child's self-esteem may be destroyed when he or she is coercively removed from home and subjected to impersonal bureaucratic detention procedures such as strip searches, institutional clothing, and routinized programs.² Moreover, a detention center's environment may serve to promote rather than discourage future delinquency behavior. Sherwood Norman of the National Council on Crime and Delinquency reported that detaining a child "in forced association with other delinquents intensifies his hostility to society and exalts his status in the delinquent group."³

Many legal issues also dictate a judicious use of secure pre-trial detention. Confinement prior to trial seriously hinders the opportunity to prepare an effective defense.⁴ Moreover, the fact that a child is detained prior to trial may adversely affect a judge's decision to release the child to a non-secure post-trial setting.⁵ Although the U.S. Supreme Court has stopped short of granting adult due process rights to juveniles at the pre-adjudicatory level, several lower court decisions have attacked the indiscriminate use of juvenile pre-trial detention. On April 18, 1983, the Supreme Court agreed to hear the case of Schall v. Martin, formerly called Martin v. Strasburg, on appeal from the U.S. Second Circuit Court of Appeals, which ruled that pre-trial detention of juveniles under the New York Family Court Act violated the 14th Amendment rights of due process.

In light of these findings, recent legislative action across the country is attempting to restrict pre-trial detention. Two of the major goals of the Juvenile Justice and Delinquency Prevention Act are to reduce the use of secure detention and to provide alternatives to detention for youth involved in the juvenile justice system.⁷ Several states have enacted legislation to narrow the allowable conditions for pre-trial detention. Many states now require that a child must be released from pre-trial secure custody unless: 1) the child poses a significant risk to the public safety or property; or 2) there is a substantial threat to an orderly court process (e.g., the child is likely to threaten witnesses, not appear for court hearings, or run away pending transfer to another jurisdiction).⁸

The Community Research Center cites the need for more objective criteria:

Recent evidence documenting persistent nationwide detention abuse certainly indicates that state statutes governing pre-trial detention--though increasingly more specific--are still too broad to be meaningful. The wide discretion afforded detention decision-makers (e.g., police, court intake staff, and judges) to decide what constitutes a threat to the public safety or court process provides a large loophole to detain virtually any child referred to court. Clearly, more specific and objective detention criteria are required to define which juveniles should be eligible and not eligible for secure pre-trial detention.

Pre-dispositional Criteria

Criteria Proposed by the National Advisory Committee (NAC)

In 1980, the National Advisory Committee on Juvenile Justice and Delinquency Prevention issued a volume of standards for the administration of juvenile justice. The intent of the National Advisory Committee's Criteria for Detention and Release is that "most juveniles subject to the jurisdiction of the family court for delinquency, noncriminal misbehavior, and neglect and abuse be released to the custody of their parents, guardian, or primary caretaker

without imposition of any substantial restraints on liberty and, when this is not possible, that the least restrictive alternative be employed."¹⁰

The National Advisory Committee sets forth the following criteria for detention and conditional release in delinquency:

Written rules and guidelines should be developed by the agency responsible for intake services to govern detention decisions in matters subject to the jurisdiction of the family court over delinquency.

A juvenile accused of a delinquent offense should be unconditionally released unless detention in a secure or nonsecure facility or imposition of conditions on release is necessary to protect the jurisdiction or process of the family court; to prevent the juvenile from inflicting serious bodily harm on others or committing a serious property offense prior to adjudication, disposition, or appeal; or to protect the juvenile from imminent bodily harm.

In determining whether detention or conditioned release is required, an intake officer should consider:

- a. The nature and seriousness of the alleged offense;
- b. The juvenile's record of delinquent offenses, including whether the juvenile is currently subject to the dispositional authority of the family court or released pending adjudication, disposition, or appeal;
- c. The juvenile's record of willful failures to appear at family court proceedings; and
- d. The availability of noncustodial alternatives, including the presence of a parent, guardian, or other suitable person able and willing to provide supervision and care for the juvenile and to assure his/her presence at subsequent proceedings.

If unconditional release is not determined to be appropriate, the least restrictive alternative should be selected. Release should not be conditioned on the posting of a bail bond by the juvenile or by the juvenile's family, or on any other financial condition. . . . In no case should a juvenile be detained in a facility in which he/she will have regular contact with adults accused or convicted of a criminal offense.¹¹

The National Advisory Committee recommends specific and objective criteria based primarily on a child's legal status at the time of arrest to define eligibility for secure pre-trial detention.¹² The criteria for detention in secure facilities for delinquency are as follows:

Juveniles subject to the jurisdiction of the family court over delinquency should not be detained in a secure facility unless:

- a. They are fugitives from another jurisdiction [with a delinquent complaint or petition pending against them];
- b. They request protection in writing in circumstances that present an immediate threat of serious physical injury;
- c. They are charged with murder in the first or second degree;
- d. They are charged with a serious property crime or a crime of violence other than first or second degree murder which if committed by an adult would be a felony, and
 - i) They are already detained or on conditional release in connection with another delinquency proceeding;
 - ii) They have a demonstrable recent record of willful failures to appear at family court proceedings;
 - iii) They have a demonstrable recent record of violent conduct resulting in physical injury to others; or
 - iv) They have a demonstrable recent record of adjudications for serious property offenses; and
- e. There is no less restrictive alternative that will reduce the risk of flight, or of serious harm¹³ to property or the physical safety of the juvenile or others.

It should be noted that criteria a-d above determine only eligibility for secure detention. They do not mandate secure detention. These criteria are "intended to prevent detention of juveniles in secure facilities because of the lack of less restrictive alternatives; because of the unavailability of a parent, relative, or other adult with substantial ties to the juvenile who is willing and able to provide supervision and care; or in order to provide 'treatment'."¹⁴

The National Advisory Committee's criteria for detention and release for noncriminal misbehavior are as follows:

Persons subject to the jurisdiction of the family court over noncriminal misbehavior should not be detained in secure detention facilities. A juvenile subject to that jurisdiction should be placed in a foster home or shelter facility pending adjudication, disposition, or appeal only when the juvenile is in danger of imminent bodily harm and no less coercive measure will reduce the risk or when there is no person willing and able to provide supervision and care.

Written rules and guidelines should be developed by the agency responsible for intake services to govern detention and release decisions.

In determining whether detention or conditioned release is required, the intake officer should consider:

- a. The nature and seriousness of the alleged conduct;
- b. The juvenile's age and maturity;
- c. The nature and number of contacts with the intake unit or

- d. The outcome of those contacts; and
- e. The presence of a parent, guardian, or other adult able and willing to provide supervision and care for the juvenile.

If unconditional release is determined not to be appropriate, the least restrictive alternative should be selected. When it is necessary to provide temporary custody for a juvenile pending a noncriminal misbehavior proceeding, every effort should be made to provide such custody in the least restrictive setting possible and to assure that contact with juveniles detained [for delinquency] or who have been adjudicated delinquent is minimized. In no case should a juvenile be placed in a facility in which he/she has regular contact with adults accused or convicted of a criminal offense.¹⁵

The National Advisory Committee's criteria for imposition of protective measures in neglect and abuse cases are as follows:

Written rules and guidelines should be developed by the agency responsible for intake services to govern imposition of protective measures prior to adjudication or disposition of matters submitted pursuant to the jurisdiction of the family court over neglect and abuse.

In determining whether to impose conditions to protect a juvenile alleged to be neglected and abused or to place the juvenile in emergency custody, the intake officer should consider: the nature and seriousness of the alleged neglect or abuse and the circumstances in which it occurred; the juvenile's age and maturity; the nature and number of contacts with the intake unit and the family court which the family has had; and the presence of a parent, guardian, relative, or other person with whom the juvenile has substantial ties, willing and able to provide supervision and care.

Conditions should not be imposed on a juvenile's parents, guardian, or primary caretaker unless necessary to protect the juvenile against any of the harms set forth in Standard 3.113(b)-(i).*

Juveniles should not be placed in emergency custody unless:

- a. They are unable to care for themselves and there is no parent, guardian, relative, or other person willing and able to provide supervision and care;
- b. There is a substantial risk that they would suffer one of the forms of neglect or abuse set forth in Standard 3.113(b)-(h)* if they were returned home;
- c. There is a substantial risk that they will fail to or be prevented from appearing at any family court proceeding resulting from the filing of the complaint; and
- d. There is no other measure that will provide adequate protection.

When in accordance with the above criteria and factors it is determined that emergency custody is required every effort should be made to provide such custody in the most homelike setting possible.

*See Standards for the Administration of Juvenile Justice, p. 254.

Juveniles subject to the neglect and abuse jurisdiction of the family court should not be placed in detention or correctional facilities or facilities housing juveniles or adults accused of or found to have committed a delinquent or criminal offense.¹⁶

Criteria Proposed by the Institute of Judicial Administration and the American Bar Association (IJA-ABA)

A set of standards prepared under the supervision of the Institute of Judicial Administration and the American Bar Association Joint Commission on Juvenile Justice Standards was published in 1980. "The standards are intended to serve as guidelines for action by legislators, judges, administrators, public and private agencies, local civic groups, and others responsible for or concerned with the treatment of youths at local, state, and federal levels"¹⁷

The IJA and ABA recommend the following standards and criteria to apply to arrested juveniles and the officers who arrest them:

The holding of an arrested juvenile in any police detention facility prior to release or transportation to a juvenile facility should be prohibited.¹⁸

The observations and recommendations of the police concerning the appropriate interim status for the arrested juvenile should be solicited by the intake official, but should not be determinative of the juvenile's interim status.¹⁹

5.6 Guidelines for status decision.

A. Mandatory release. Whenever the juvenile has been arrested for a crime which in the case of an adult would be punishable by a sentence of [less than one year], the arresting officer should, if charges are to be pressed, release the juvenile with a citation or to a parent, unless the juvenile is in need of emergency medical treatment (Standard 4.5 A. 1. b.), requests protective custody (Standard 5.7), or is known to be in a fugitive status.

B. Discretionary release. In all other situations, the arresting officer should release the juvenile unless the evidence as defined below demonstrates that continued custody is necessary. The seriousness of the alleged offense should not, except in cases of a class one juvenile offense involving a crime of violence, be sufficient grounds for continued custody. Such evidence should only consist of one or more of the following factors as to which reliable information is

available to the arresting officer:

1. that the arrest was made while the juvenile was in a fugitive status;
2. that the juvenile has a recent record of willful failure to appear at juvenile proceedings.²⁰

5.7 Protective Custody

A. Notwithstanding the issuance of a citation, the arresting officer may take an accused juvenile to an appropriate facility designated by the intake official if the juvenile would be in immediate danger of serious bodily harm if released, and the juvenile requests such custody.

B. A decision to continue or relinquish protective custody should be made by the intake official in accordance with Standard 6.7.²¹

The IJA-ABA guidelines for release and detention at court intake are as follows:

6.6 Guidelines for Status Decision

A. Mandatory Release: The intake official should release the accused juvenile unless the juvenile:

1. is charged with a crime of violence which in the case of an adult would be punishable by a sentence of one year or more, and which if proven is likely to result in commitment to a security institution, AND one or more of the following additional factors is present:

- A. the crime charged is a class one juvenile offense;
 - B. the juvenile is an escapee from an institution or other placement facility to which he/she was sentenced under a previous adjudication of criminal conduct;
 - C. the juvenile has a demonstrable recent record of willful failure to appear at juvenile proceedings, on the basis of which the official finds that no measure short of detention can be imposed to reasonably ensure appearance; or
2. has been verified to be a fugitive from another jurisdiction, an official of which has formally requested that the juvenile be placed in detention.

B. Mandatory Detention: A juvenile who is excluded from mandatory release under subsection A should not, protanto, be automatically detained. No category of alleged conduct or background in and of itself should justify a failure to exercise discretion to release.

C. Discretionary Situations

1. Release vs. Detention: In every situation in which the release of an arrested juvenile is not mandatory, the intake official should first consider and determine whether the juvenile qualifies for an available diversion program, or whether any form of control short of detention is available to reasonably reduce the risk of flight or misconduct. If no such measure will suffice, the official should explicitly state in writing the reasons for rejecting each of these forms of release.
2. Unconditional vs. Conditional or Supervised Release: In order to minimize the imposition of release conditions on persons who would appear in court without them, and present no substantial risk in the interim, each jurisdiction should develop guidelines for the use of various forms of release based upon the resources and programs available, and analysis of the effectiveness of each form of release.
3. Secure vs. Non-Secure Detention: Whenever an intake official determines that detention is the appropriate interim status, secure detention may be selected only if clear and convincing evidence indicates the probability of serious physical injury to others, or serious probability of flight to avoid appearance in court. Absent such evidence, the accused should be placed in an appropriate form of nonsecure detention, with²² foster home to be preferred over other alternatives.

The IJA-ABA standards for protective detention are:

6.7 Protective Detention.

- A. Placement in a nonsecure detention facility solely for the protection of an accused juvenile should be permitted only upon the voluntary written request of the juvenile in circumstances that present an immediate threat of serious bodily harm to the juvenile if released.
- B. In reaching this decision, or in reviewing a protective custody decision made by the arresting officer, the intake official should first consider all less restrictive alternatives, and all reasonably ascertainable factors relevant to the likelihood and immediacy of²³ serious bodily harm resulting from interim release or control.

The IJA-ABA standards prohibit the use of adult jails for the detention of accused juveniles.²⁴

Criteria Proposed by the National Council on Crime and Delinquency

The National Council on Crime and Delinquency in its Standards and Guides for the Detention of Youth, state the following criteria for admission to detention:

Criteria for Admission to Detention

NCCD criteria for detention aim to strengthen the role of the probation officer in helping the child and the family in the community, pending court disposition. Detention should not be used unless failure to do so would be likely to place the child or the community in danger.

Children Who Should be Detained:

Children apprehended for delinquency should be detained for the juvenile court when, after proper intake interviews, it appears that casework by a probation officer would not enable the parents to maintain custody and control, or would not enable the child to control his own behavior. Such children fall into the following groups:

- (a) Children who are almost certain to run away during the period the court is studying their case, or between disposition and transfer to an institution or another jurisdiction.
- (b) Children who are almost certain to commit an offense dangerous to themselves or the community before court disposition or between disposition and transfer to an institution or another jurisdiction.
- (c) Children who must be held for another jurisdiction; e.g., parole violators, runaways from institutions to which they were committed by a court, or certain material witnesses.

In certain unusual cases non-delinquent material child witnesses may have to be detained for adult courts. Occasionally, children who require secure custody may be given overnight detention care as a courtesy to officials who are transporting them across a large state or from one state to another.

Children Who Should not be Detained:

Children should not be detained for the juvenile court when, after proper intake interviews, it appears that casework by a probation officer would be likely to help parents maintain custody and control, or would enable the child to control his own behavior. Such children and others who should not be detained fall into the following groups:

- (a) Children who are not always certain to run away or commit other offenses before court disposition or between disposition and transfer to an institution or another jurisdiction. Included in this category are children involved in

delinquency through accidental circumstances, and those whose parents can exercise such supervision that, even without casework service, there would be little likelihood of repeated offense pending court disposition.

- (b) Neglected, dependent, and nondelinquent emotionally disturbed children, and delinquent children who do not require secure custody but must be removed from their homes because of physical or moral danger or because the relationship between child and parents is strained to the point of damage to the child. Detention should not be used as a substitute for shelter care.
- (c) Children held as a means of court referral. Detention should not be used for routine overnight care. Release to parents after 24 or 48 hours usually indicates that the child would not have been detained had effective court intake procedure functioned earlier.
- (d) Children held for police investigation or social investigation who do not otherwise require secure custody. Detention should not be used as merely a convenient way to hold a child for an interview, or for an investigation into his unsubstantiated connection with other offenses, or to facilitate the apprehension of suspected accomplices unless he himself is involved and the situation is serious.
- (e) Children placed or left in detention as a corrective or punitive measure. Other state or local facilities should be used for corrective purposes. The court should not permit a case to be continued in order to teach the child a lesson. Detention should not be used as a punishment or a substitute for a training school.
- (f) Psychotic children, and children who need clinical study and treatment and do not otherwise need detention. Detention should not be used as a substitute for a resident clinical study and treatment center.
- (g) Children placed in detention because of school truancy. Truancy is a school problem which should be handled in the school system through social services and special classes or schools when necessary. The court should cooperate with the schools, but detention should not be used as a control for truancy.
- (h) Children who are material witnesses, unless secure custody is the only way to protect them or keep them from being tampered with as witnesses. Normally, if a child material witness must be held, he should be sent to a shelter care facility.

A number of states have engaged in efforts to develop more specific

criteria for detention and secure custody and to stop the use of adult jails for children. Examples of other states are presented below.

North Carolina's Criteria

The Governor's Advocacy Council on Children and Youth developed the following criteria for eligibility for secure detention, non-secure placement, and supervised release in North Carolina:²⁶

Criteria for Secure Detention

A juvenile subject to the jurisdiction of juvenile court should not be detained in a secure facility unless:

1. The juvenile is a fugitive from another jurisdiction with an active warrant, or
2. The juvenile is an absconder from a state training school or detention facility in this or another state, or
3. There is reasonable cause to believe the juvenile actually committed the alleged act, and he
 - a. is charged with one or more of the following offenses:
 1. Murder
 2. Rape
 3. Felonious Assault
 4. Kidnapping
 5. Arson
 6. Armed Robbery
 - b. is charged with a serious crime against person or property which would be a felony if committed by an adult, and
 1. is on conditional release or suspended commitment in connection with another delinquency proceeding.
 2. has threatened to flee from the court's jurisdiction, or with the intent of not appearing in court on the pending delinquency charge, or
 3. has been convicted of a felony within the past year, or
 - c. has willfully failed to appear at a juvenile court delinquency proceeding within the past 12 months.

Criteria for Non-Secure Placement

All juveniles who do not meet the criteria for secure detention should be returned to their home unless:

1. The juvenile does not consent to go home;
2. The person taking the juvenile into custody is unable to

contact the juvenile's parents, custodian, relative or other reasonable persons; or

3. The parents, custodian, relative or other responsible persons contacted live at an unreasonable distance for immediate transport, i.e., out of state/out of three counties; or
4. The parent or custodian refuses to permit the juvenile to return home, and no other living arrangement is agreeable to the juvenile and the parent or custodian; or
5. If the juvenile is alleged to be abused, neglected or abandoned the juvenile should be referred to social services.

Juveniles who are eligible but not placed in secure detention may be placed in nonsecure detention.

Criteria for Supervised Release

A juvenile awaiting court hearing shall be placed under parental/guardian supervision with no conditions unless the juvenile:

1. is eligible for secure or nonsecure detention but is not considered appropriate;
2. has willfully failed to appear at a juvenile court proceeding;
3. has repeatedly run from placements (three or more times) during the past year; or
4. has been adjudicated delinquent in the past year.²⁷

Effective July 1, 1983, the incarceration of children in adult jails in North Carolina was prohibited under any conditions, except for juveniles being tried as adults.²⁸

Oregon's Criteria

In January 1982, the Juvenile Justice Services Commission of the State of Oregon appointed the Jail Removal Committee chaired by a member of the Juvenile Justice Advisory Committee (JJAC) and comprised of additional JJAC members; a member of the State Commission; Juvenile Court Judges and Directors; and other key agencies and interested persons. "The task assigned to the Committee was to fulfill the requirements of HB 3139, which required the Juvenile Services Commission to report back to the Sixty-second

Legislative Assembly on programs developed as alternatives to the secure detention of juveniles in adult jails and to recommend any legislative changes required to eliminate the use of adult jails for juveniles."²⁹

In developing pre-adjudicative placement criteria, the Jail Removal Committee identified categories of out-of-home care and the types of juveniles appropriate for placement in each. Those juveniles identified as requiring or possibly requiring out-of-home care are as follows:

I. Juveniles who are a danger to themselves or to others:

- A. Juveniles who need sobering up (drug or alcohol abuse);
- B. Assaultive/weapons offenses or arson;
- C. Juveniles who are suicidal or evidencing a serious mental crisis;
- D. Runaway juveniles (not involved in crimes which would result in commitment to a state training school);
- E. Other crimes (which could result in commitment to the state training schools); or
- F. Dependent/abuse/neglect juveniles.

II. Absconders/fugitives:

- A. From another jurisdiction:
 1. Those who are charged with committable offenses; or
 2. Those who are charged with non-committable offenses.
- B. From within jurisdiction:
 1. Those who are charged with committable offenses; or
 2. Those who are charged with non-committable offenses.

III. Juveniles with court-ordered warrants for detention³⁰ (includes all not covered in the "absconder/fugitive" category).

Their proposed criteria for secure detention are as follows:

Criteria for Secure Detention

Juveniles subject to the jurisdiction of the juvenile court shall not be placed in pre-adjudicatory detention, unless:

1. They are charged with an offense that would constitute a felony crime against a person if they were an adult, including felony robbery or felony arson;

2. They are fugitives from another jurisdiction and have been charged or adjudicated of an offense that could result in commitment to a state training school;
3. They are charged with an offense which could result in commitment to a state training school, AND;
 - a. They are already detained or on conditional release in connection with another delinquency proceeding; or
 - b. They have a relevant demonstrable record of willful failures to appear at juvenile court proceedings; or
 - c. They have a relevant demonstrable record of violent conduct resulting in physical injury to others; or
 - d. They have a relevant demonstrable record of adjudications for felony property offenses.³¹

Post-dispositional Criteria

Criteria Proposed by the National Advisory Committee

The National Advisory Committee recommends the following approach for determining the duration of disposition and type of sanction for delinquency:

All conduct subject to the jurisdiction of the family court over delinquency should be classified for the purpose of disposition into categories that reflect substantial differences in the seriousness of the offense. Such categories should be few in number. The maximum term that may be imposed for conduct falling within each category should be specified.

The types of sanctions that may be imposed for conduct subject to the jurisdiction of the family court over delinquency should be grouped into categories that are few in number³² and reflect differences in the degree of restraint on personal liberty.

The Committee recommends that delinquent offenses be grouped into categories reflecting relative degree of seriousness; that maximum dispositional time periods be established for each category; that sanctions be grouped according to the amount of restriction of liberty; and that the judge determine the length of disposition within the statutory maximum, the degree of restraint on personal liberty, and the type of program the juvenile should be placed in.³³

It is also recommended that the court take an increased role by reducing

length of disposition and by transferring juveniles to different programs and agencies. Any change in the degree of restraint would be subject to court approval or hearing, as appropriate.

The Committee does not recommend any particular sets of offense categories or maximum terms because it concluded "that the current state of knowledge does not provide a basis for determining which of the classifications that have been proposed is the most appropriate."³⁴

The NAC recommends the following criteria for dispositional decisions in delinquency:

In determining the type of sanction to be imposed following adjudication of a delinquency petition and the duration of that sanction within the statutorily prescribed maximum, the family court should select the least restrictive category and time period consistent with the seriousness of the offense, the juvenile's role in that offense, and the juvenile's age and prior record.

After determining the degree of restraint and the duration of the disposition to be imposed, the court should select the type of program or services to be offered on the basis of the juvenile's needs and interests.

In no case should a dispositional order or enforcement thereof allow confinement or commitment of a juvenile adjudicated delinquent in a facility in which he/she would have regular contact with adults accused or convicted of a criminal offense.³⁵

The degree of restraint and length of disposition are decided prior to the determination of the services or program "in order to encourage provision of a full range of services and programs at all levels of restraint and to avoid basing custodial decisions on service needs."³⁶ The judge would designate the type of program (e.g. foster care, drug treatment), and the correctional agency would select the specific home, facility, or service and develop a more detailed service plan.

The NAC recommends the following dispositional alternatives and criteria for noncriminal behavior:

In determining the disposition to be imposed following adjudication of

a noncriminal misbehavior petition, the family court judge should select the least restrictive alternative and time period consistent with the nature and circumstances of the conduct upon which the adjudication was based; the age, interests, and needs of the juvenile; the interest and needs of the family; the prior contacts of the family with the intake unit and family court; the results of those contacts, and the efforts of public agencies to provide services to the juvenile and his/her family.

The dispositional period in noncriminal misbehavior matters should not exceed six months. However, the family court should be authorized to extend the dispositional period for up to six months, following a hearing at which the same criteria and procedures apply as in the original dispositional hearing. The burden of proof should rest with the state to show by clear and convincing evidence that continuation of the disposition is necessary. Only one extension should be authorized.

The dispositional alternatives in noncriminal misbehavior matters should include orders requiring the provision of programs and services to the juvenile and/or his/her family; cooperation by the juvenile and family with offered programs and services; the continuation or discontinuation of behavior by the juvenile and family; or placement of the juvenile in foster care, a nonsecure group home, or other nonsecure residential facility.

In no case should the dispositional order or the enforcement thereof result in the confinement of a juvenile in a secure detention or correctional facility or institution.³⁷

The Committee says that in noncriminal misbehavior cases, the main concern should be to "assist the family in resolving its problems and conflicts and to provide needed services, not to punish."³⁸

The National Advisory Committee also recommends certain dispositional alternatives and criteria for neglect and abuse cases. These stress keeping the child and family together and providing needed services.

Pennsylvania's Approach

In 1976, Pennsylvania enacted legislation giving local governments a financial incentive to provide services in community-based programs instead of state institutions or secure detention centers. Prior to this, the state had paid 100% of the costs for housing juveniles in state institutions and 50% of the costs for local programs. Under the new legislation, the state reimbursed

localities for 75% to 90% of community-based programs, but only 50% of secure detention costs.³⁹ The state later put a cap on the reimbursements.

In 1977, the Pennsylvania Legislature passed legislation making it unlawful to detain juveniles in jails after December 31, 1979. This has been interpreted to apply to local lockups as well. The legislation included \$1.5 million in state funds and a commitment of federal funds to help build or renovate regional juvenile detention centers. State officials ruled that federal funds could be used to establish secure juvenile detention facilities only if they were regional, multi-county facilities to house 15 or less juveniles.⁴⁰

The Community Advocate Unit of the State Attorney General's office was given responsibility for monitoring compliance with the 1977 jail removal law, and could initiate litigation if necessary. To date, litigation has not been needed.

In 1975, a total of 3,196 juveniles were held in adult jails in Pennsylvania. In 1977, 1,095 were jailed; 14 were jailed in 1979; four in 1980; and none since then.⁴¹ Closing adult jails to juveniles has not resulted in an increase in the population of secure juvenile detention centers. "The number of juveniles in secure detention in Pennsylvania dropped by 38 percent between 1974 and 1981."⁴² Also, the number of juveniles waived to adult courts has not shown any dramatic or consistent changes as a result of the 1977 legislation.⁴³ Juveniles who are transferred to adult courts may be detained as juveniles pending trial if they are unable to provide bail.

Children who are status offenders, or without proper parental control, or are under age 10 and commit a delinquent act, can be detained in shelter care, but not in juvenile detention centers.

Pennsylvania has managed to prohibit jailing juveniles and to decrease its use of secure juvenile detention through a combination of legislative change,

monitoring and enforcement, funding incentives, and commitment.

A Model for the Development of Specific Detention Criteria

Mulvey and Saunders, in an excellent, informative paper reviewing detention criteria and research pertaining to them, propose the following guides, or principles for constructing or selecting detention criteria:

1. Elimination of criteria that are not in agreement with the short-term, limited scope of detention functioning.
2. Elimination of any criterion that requires prediction of future behavior by detention personnel [detention decision makers].
3. Emphasis on criteria which refer to specific, ascertainable events or behaviors, as opposed to trends, tendencies, psychological states, or personality characteristics.⁴⁴

With regard to the first principle, the authors state that they prefer the IJA-ABA approach to detention as opposed to NCCD's. The latter organization supports the premise that treatment should begin in detention; while the authors contend that "detention is not well suited to remedial or rehabilitative activities"⁴⁵ because they are "impeded by the restrictions imposed on freedom and choice in a secure environment."⁴⁶ The IJA-ABA views detention as inappropriate:

1. to punish, treat, or rehabilitate
2. to allow parents to avoid their legal responsibilities
3. to satisfy demands by a victim, the police, or the community
4. to permit more convenient administrative access to the juvenile
5. to serve in lieu of a more appropriate facility or status alternative⁴⁷

With regard to the second principle, the authors note that there is some agreement that "the best index of future dangerous behavior is past similar behavior,"⁴⁸ so detention criteria should stress an individual's past history of dangerous behavior, rather than asking decision makers to make predictive judgements.

About the third principle, the authors say that the emphasis is upon creating factual criteria that can be applied reliably and consistently by many

personnel.

Criteria That Fit the Model

Based upon their review of existing and proposed standards, Mulvey and Saunders found sixteen detention criteria that were in accord with their guiding principles for developing criteria, and grouped them into five categories that reflect the purpose of detention. The criteria are as follows:

Potential dangerousness to persons or property

1. Present offense is ____ (minimum level of seriousness; e.g., a felony).
2. Present offense is first or second degree murder.
3. Present offense required that victim receive medical attention.
4. Present offense involved overt threat of physical harm to others.
5. Record of at least ____ (number) adjudicated delinquencies in the past ____ (number) years.
6. Record of at least ____ (number) violent adjudicated delinquencies in the past ____ (number) years or months.
7. Record of at least ____ (number) assaults or incidents of destruction of property in court placements in the past ____ (number) years or months.

Risk of flight

8. Escapee from a court placement.
9. Record of at least ____ (number) failures to appear in court in the past ____ (number) years or months.
10. Record of at least ____ (number) incidents of running away from a court placement in the past ____ (number) years or months.
11. No adult willing to assume responsibility for minor's appearance in court.

Previous jurisdiction

12. Presently a fugitive from another jurisdiction.

Protection of subsequent court processing

13. Presently in an interim status under the jurisdiction of the court in a criminal case.
14. Presently on probation or parole under a prior adjudication.

Protection of the child

15. No adult willing to assume responsibility for care of minor.
16. Individuals in potential release setting have past record of at least ____ (number) incidents of violence toward the child in

the past _____ (number) years or months.⁴⁹

The authors caution that since there is no research to show which of the criteria are effective indicators of the need for detention, there is no sound basis for saying which criteria should be adopted or what relative weight each should have.

Within the criteria, however, the authors postulate that there is a dichotomy that may provide a basis for deciding to use secure or non-secure detention. In criteria 15 and 16, the function is protection of the child, so they could be conditions appropriate for using non-secure detention only.⁵⁰ These criteria are based upon the parens patriae functions of the court, whereas the others are based upon the police power functions of the court.

The authors suggest using non-secure detention if either criterion 15 or 16 is present; using secure detention if some combination of criteria 1-14 is present; and release if neither of the above situations is present.

Like others, the authors think it is important to separate the police power and parens patriae functions in making detention decisions. They note that their proposal for using criteria 15 and 16 may tend to expand parens patriae functions of the courts. Finally, the authors state that these criteria could be implemented in a way that meets state and local needs and that the implementation should be monitored so that appropriate revisions can be made if necessary, and so that their effectiveness can be evaluated.

Virginia's Criteria

Virginia's criteria for handling juveniles coming before the juvenile and domestic relations district courts are set forth in Title 16.1, Chapter 11 of the Code of Virginia.

The criteria for taking a child into immediate custody are in Section 16.1-246, which states no child may be taken into immediate custody

except:

A. With a detention order issued by the judge, the intake officer or the clerk, when authorized by the judge, of the juvenile and domestic relations district court in accordance with the provisions of this law or with a warrant issued by a magistrate; or

B. When a child is alleged to be in need of services and (i) there is a clear and substantial danger to the child's life or health (ii) the assumption of custody is necessary to insure the child's appearance before the court; or

C. When, in the presence of the officer who makes the arrest, a child has committed an act designated a crime under the law of this State, or an ordinance of any city, county, town or service district, or under federal law and the officer believes that such is necessary for the protection of the public interest; or

D. When there is probable cause to believe that a child has committed an offense which if committed by an adult would be a felony; or

E. When a law-enforcement officer has probable cause to believe that a person committed to the Department of Corrections as a child has run away or that a child has escaped from a jail or detention home; or

F. When a law-enforcement officer has probable cause to believe a child has run away from a residential, child-caring facility or home in which he had been placed by the court, the local department of public welfare or social services or a licensed child welfare agency; or

G. When a law-enforcement officer has probable cause to believe that a child (i) has run away from home or (ii) is without adult supervision at such hours of the night and under such circumstances that the law-enforcement officer reasonably concludes that there is a clear and substantial danger to the child's welfare; or

H. With a temporary detention order issued in accordance with §37.1-67.1 by a special justice appointed pursuant to §37.1-88, who shall receive no fee, or by a magistrate.

The criteria for detention or shelter care are in Section 16.1-248, which says that a child may be detained pursuant to a detention order or warrant in situations where:

1. The child has no parent, guardian, custodian or other suitable person able and willing to provide supervision and care for such child; or

2. The release of the child would constitute an unreasonable

danger to the person or property of others where the child is alleged to be delinquent; or

3. The release of such child would present a clear and substantial threat of serious harm to such child's life or health.

B. The criteria for continuing the child in detention or shelter care as set forth in subsection A of this section, shall govern the decisions of all persons involved in determining whether the continued detention or shelter care is warranted pending court disposition, and such criteria shall be supported by clear and convincing evidence in support of the decision not to release the child.

Section 16.1-249 sets forth the places where children may be detained pending a court hearing:

1. An approved foster home or a home otherwise authorized by law to provide such care;

2. A facility operated by a licensed child welfare agency;

3. If a child is alleged to be delinquent, in a detention home or group home approved by the Department; provided, further, a child who is alleged to be in need of services may be detained in a detention home, for good cause, for a period not to exceed seventy-two hours prior to a detention hearing being held pursuant to § 16.1-250;

4. Any other suitable place designated by the court and approved by the Department.

B. A delinquent child or a child alleged to be delinquent who is fifteen years of age or older may be detained in a jail or other facility for the detention of adults provided (i) the detention is in a room or ward entirely separate and removed from adults, (ii) adequate supervision is provided and (iii) the facility is approved by the Department for the detention of children and only if:

1. Space in a facility designated in subsection A hereof is unavailable; provided, however, if the child has previously been before the juvenile court and has by waiver or transfer been treated as an adult in the circuit court, this provision shall not apply; or

2. A judge or intake officer determines that the facilities enumerated in subsection A hereof are not suitable for the reasonable protection of the child or community, when the child is charged with an offense which would be a Class 1, 2 or 3 felony if committed by an adult; or

3. The detention home in which the child should be placed is at least twenty-five miles from the place where the child is taken into custody and is located in another city or county; provided, however, a child may be placed in such jail or other facility for the detention of adults pursuant to this for no longer than seventy-two hours.

C. The official in charge of a jail or other facility for the detention of adult offenders or persons charged with crime shall inform the court immediately when a child, who is or appears to be under the age of eighteen years, is received at the facility, and shall deliver him to the court upon request, or transfer him to a detention facility designated by the court.

D. When a case is transferred to the circuit court in accordance with the provisions of § 16.1-269 or § 16.1-270, the child if in confinement shall be transferred to a jail or other facility for the detention of adults subject to the limitations of (i), (ii), and (iii) of subsection B hereof.

E. If, in the judgement of the custodian of the child designated in subsection A hereof, a child fifteen years of age or older has demonstrated that he or she is a threat to the security or safety of the other children detained or the staff of the home or facility, the judge shall determine whether such child should be transferred to another juvenile facility including a jail or other place of detention for adults pursuant to subsection B hereof, after a hearing before the court.

Beginning July 1, 1983, pursuant to House Bill 266, the following amendments to Section 16.1-249 will be in effect:

1. 16.1-249, Number 1 under subsection B : Deleted

2. 16.1-249, Number 2 under subsection B : Adds rape, robbery, or to the offenses.

3. 16.1-249, subsection D : Shall be transferred becomes may be transferred.

Section 16.1-279 sets forth dispositions for the juvenile court. The following dispositions are set forth for children found to be in need of services:

C. If a child is found to be in need of services, the juvenile court or the circuit court, as the case may be, may make any of the following orders of disposition for the supervision, care and rehabilitation of the child:

1. Enter an order pursuant to the provisions of § 16.1-278.

2. Permit the child to remain with his or her parent, guardian, legal custodian or other person standing in loco parentis subject to such condition and limitations as the court may order with respect to such child and his or her parent, guardian, legal custodian or other person standing in loco parentis.

2a. Order the parent, guardian, legal custodian or other person standing in loco parentis of a child living with such person to participate in such programs, cooperate in such treatment or be subject to such conditions and limitations as the court may order and as are designed for the rehabilitation of the child and parent, guardian, legal custodian or other person standing in loco parentis of such child.

3. Place the child on probation under such conditions and limitations as the court may prescribe.

4. In the case of any child, fourteen years of age or older, where the court finds that the school officials have made a diligent effort to meet the child's educational needs, and after study, the court further finds that the child is not able to benefit appreciably from further schooling, the court may;

a. Excuse the child from further compliance with any legal requirement of compulsory school attendance, and

b. Authorize the child, notwithstanding the provisions of any other law, to be employed in any occupation which is not legally declared hazardous for children under the age of eighteen.

5. Transfer legal custody to any of the following:

a. A relative or other individual who, after study, is found by the court to be qualified to receive and care for the child.

b. A child welfare agency, private organization or facility which is licensed or otherwise is authorized by law to receive and provide care for such child; provided, however, no court shall transfer legal custody of a child in need of services to an agency, organization or facility out of the Commonwealth without the approval of the Commissioner of Public Welfare.

c. The local board of public welfare or social services of the county or city in which the court has jurisdiction or, at the discretion of the court, to the local board of the county or city in which the child has residence if other than the county or city in which the court has jurisdiction, which board shall accept such child for care and custody; provided, however, that such local board if one other than in the county or city in which the court has jurisdiction, shall not be required to accept such child until it has been given reasonable notice of the pendency of the case and an opportunity to be heard. Nothing herein shall be construed as prohibiting the commitment of a child to any local board of public welfare or social services in the Commonwealth when such local board consents to the commitment. The board to which the child is committed shall have the final authority to determine the appropriate placement for the child.

6. Require the child to participate in a public service project under such conditions as the court prescribes.

D. Unless a child found to be abused, neglected or in need of services shall also be found to be delinquent and shall be older than ten years of age, he shall not be committed to the State Board of Corrections. No juvenile court or circuit court shall order the commitment of any child jointly to the State Board of Corrections and to a local board of public welfare or social services or transfer the custody of a child jointly to a court service unit of a juvenile court and to a local board of public welfare or social services pursuant to this section.

Section 16.1-279 sets forth the following dispositions for children found to be delinquent:

E. If a child is found to be delinquent, the juvenile court or the circuit court may make any of the following orders of disposition for his supervision, care and rehabilitation:

1. Enter an order pursuant to the provisions of § 16.1-278.

2. Permit the child to remain with his or her parent, guardian, legal custodian or other person standing in loco parentis subject to such conditions and limitations as the court may order with respect to such child and his or her parent, guardian, legal custodian or other person standing in loco parentis.

3. Order the parent, guardian, legal custodian or other person standing in loco parentis of a child living with such person to participate in such programs, cooperate in such treatment or be subject to such conditions and limitations as the court may order and as are designed for the rehabilitation of the child and parent, guardian, legal custodian or other person standing in loco parentis of such child.

3a. Defer disposition for a period of time not to exceed twelve months, after which time the charge may be dismissed by the judge if the child be of good behavior during the period which disposition is deferred.

3b. Without entering a judgement of guilty and with the consent of the child and his attorney, defer disposition of the delinquency charge for a period not to exceed twelve months and place the child on probation under such conditions and limitations as the court may prescribe. Upon fulfillment of the terms and conditions, the court shall discharge the child and dismiss the proceedings against him. Discharge and dismissal under the provisions shall be without adjudication of guilt.

4. Place the child on probation under such conditions and limitations as the court may prescribe.

5. Impose a fine not to exceed \$500 upon such child.

6. Suspend the motor vehicle and operator's license of such child.

7. Require the child to make restitution or reparation to the aggrieved party or parties for actual damages or loss caused by the offense for which the child was found to be delinquent.

7a. Require the child to participate in a public service project under such conditions as the court prescribes.

8. In case of traffic violations or traffic infractions, impose only those penalties which are authorized to be imposed on adults for such violations or infractions.

9. Transfer legal custody to any of the following:

a. A relative or other individual who, after study, is found by the court to be qualified to receive and care for the child.

b. A child welfare agency, private organization or facility which is licensed or otherwise authorized by law to receive and provide care for such child; provided, however, no court shall transfer legal custody of a delinquent child to an agency, organization or facility outside of the Commonwealth without the approval of the Director.

c. The local board of public welfare or social services of the county or city in which the court has jurisdiction or, at the discretion of the court, to the local board of the county or city in which the child has residence if other than the county or city in which the court has jurisdiction, which board shall accept such child for care and custody; provided, however, that such local board if one other than in the county or city in which the court has jurisdiction, shall not be required to accept such child until it has been given reasonable notice of the pendency of the case and an opportunity to be heard. Nothing herein shall be construed as prohibiting the commitment of a child to any local board of public welfare or social services in the Commonwealth when such local board consents to the commitment. The board to which the child is committed shall have the final authority to determine the appropriate placement for the child.

10. Commit the child to the Department of Corrections; provided, however, no child ten years of age and under shall be committed to the Department.

11. Impose the penalty authorized by § 16.1-284.

Another disposition available to the juvenile court for certain children is sentencing as an adult, as set forth in Section 16.1-284:

---If a child fifteen years of age or older is charged with an offense which if committed by an adult would be a misdemeanor or a felony and the court after receipt of a social history compiled pursuant to § 16.1-273 for this case or a prior case which was adjudicated within twelve months from the adjudication in this case finds that (i) such child is not, in the opinion of the court amenable to treatment

or rehabilitation as a juvenile through available facilities, considering such factors as the nature of the present offense or the nature of the child's prior delinquency record, the nature of the past treatment efforts and the nature of the child's response to past treatment efforts and (ii) the interests of the community require that the child be placed under legal restraint or discipline, then the court may, in such cases, impose the penalties which are authorized to be imposed on adults for such violations, not to exceed twelve months in jail for a single offense or multiple offenses and subject to the provisions of §16.1-249 B (i), (ii) and (iii). Provided, however, no child who is found guilty of an offense which would be a misdemeanor if committed by an adult shall be confined pursuant to this section for a longer period of time than is authorized for an adult in § 18.2-11 of the Code.

Beginning July 1, 1983 this section is amended by House Bill 266. The amendment deletes "misdemeanor" and the last sentence of the section.

Section 16.1-279, E.8 and F.1 allow the court to "impose only those penalties which are authorized to be imposed on adults" for traffic violations and infractions. These provisions, in addition to others cited above, also result in jailing juveniles in some instances.

The foregoing excerpts from the Code illustrate that Virginia's criteria for detention allow considerable discretion, interpretation, and latitude in detention decision making. In addition, the Code allows the juvenile court to detain children in jail and to sentence children to jail. As accurately as it can be determined, Virginia is one of only seven states that allow juvenile courts to sentence children to jail.⁵¹ The other six states are Idaho, Wyoming, Kansas, Maine, New Hampshire, and Washington. Kansas allows jailing only for certain traffic offenses committed by juveniles aged 14 and older; Idaho sets a 30-day maximum; and Wyoming sets a maximum of 10 days. New Hampshire allows jailing only for children aged 17 or older in certain instances. Washington allows post-dispositional jailing in very limited instances, and even though it is allowed it is rarely

done. Washington plans to eliminate post-dispositional jailing of juveniles by the juvenile court. Both Colorado and Mississippi have recently stopped allowing jail sentences as dispositional alternatives for the juvenile court.

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⁴⁴Edward P. Mulvey and J. Terry Saunders, "Juvenile Detention Criteria: State of the Art and Guidelines for Change," Criminal Justice Abstracts, June 1982, pp. 284-285.

⁴⁵Ibid, p. 284.

⁴⁶Ibid.

⁴⁷Ibid.

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There is an obscene irony that we are discussing the incarceration of juveniles in adult jails some 84 years after the creation of the juvenile court in Illinois pursuant to a statute that had as one of its principal purposes the removal of children from institutions for adults.

From Statement of Robert E. Shepherd, Jr., Professor of Law and Director, Youth Advocacy Clinic, T. C. Williams School of Law, University of Richmond, Richmond, Virginia, before the Subcommittee on Juvenile Justice and Delinquency Prevention, Senate Judiciary Committee, on February 24, 1983, on the issue of jailing juveniles.

ALTERNATIVES TO SECURE CUSTODY
FOR JUVENILES

Alternative Program Models

What are the alternatives, pre- and post-dispositionally, to secure custody for juveniles? In recent years, a variety of alternatives to the use of secure detention have been tried throughout the country. "They range from simply increasing the proportion of youths released to their parents or guardians, pending hearing, to programmatic substitutes for secure detention -- for example, intensive pre-hearing supervision in the community, specialized foster homes, and group homes."¹ In examining alternatives to secure detention, first the various basic types of programs will be described, and then an example of each type will be presented. Some of these programs are used only pre-dispositionally and others only post-dispositionally, while there are some that are used in both instances. First, we will look at alternatives used primarily for youths prior to disposition.

Home or Outreach Detention

Home Detention is a non-residential alternative to secure detention for youth who are awaiting court disposition. This type of program allows the juvenile to remain in his home while awaiting court disposition. Rules are established for the youth to follow, such as attending school, observing a curfew, and notifying parents of his whereabouts at all times. The requirements are written into a contract that is signed by the juvenile, his parents, and the court worker. The court worker supervises the juvenile and has personal contact with the juvenile on a daily basis. The court worker also has regular contact with the youth's parents, teachers, and employer.² Some jurisdictions emphasize the supervision and surveillance aspects of this

approach, while others stress the service components.³ Varying degrees of counseling and other support services which may be needed are provided by community agencies. Some programs which have been studied authorize the court worker or supervising personnel to send a youth directly to secure detention if he or she does not fulfill the program requirements.⁴ Examples of this type of program include:

Community Detention - Baltimore, Maryland
Outreach Detention Program - Newport News, Virginia
Non-Secure Detention Program - Panama City, Florida
Home Detention - St. Joseph/Benton Harbor, Michigan
Community Release Program - San Jose, California
Home Detention Program - Washington, D.C., Bureau of Youth Services
Home Detention Program - St. Louis, Missouri

These seven Home Detention programs will be discussed as a group since they are all similar in format. These seven programs were included in a national study of detention by Pappenfort and Young. All of them are administered by juvenile court probation departments. Their staffs are made up of paraprofessional personnel variously referred to as outreach workers, community youth leaders or community release counselors. Youth workers are expected to keep the juveniles assigned to them trouble free and available to court. Essential surveillance is achieved through a minimum of one in-person contact with each youth per day and through daily telephone or personal contacts with the youths' school teachers, employers, and parents. Youth workers work out of their automobiles and homes, and paperwork is kept to a minimum of travel vouchers and daily logs. All programs authorize the workers to send a youth directly to secure detention when he or she does not fulfill program requirements, such as daily contact with workers, or job or school attendance. Typically, youths selected for the programs have the rules of program participation explained to them in their parents' presence. These rules generally include attending school; observing a specified curfew;

notifying parents or worker as to whereabouts at all times when not at home, school or job; not using drugs; and avoiding companions or places that might lead to trouble. Most of the programs allow for the setting of additional rules arising out of discussions between the youth, the parents, and the worker. Frequently, all of the rules are written into a contract which all three parties sign.

One key operating assumption of all these programs is that the kind of supervision just described will generally keep juveniles trouble-free and available to the court. Six of the seven programs rest on a second operating assumption as well. This assumption is that youths and their families need counseling or concrete services or both and that the worker can increase the probability that a juvenile will be successful in the program by making available the services of the court. The degree of emphasis on counseling and services varies. In some programs workers provide or refer to services only when requested. In others, the workers always try to achieve a type of "big brother" counseling relationship, sometimes combined with advocacy for the youths at school and counseling or referral of the youths' parents. In three programs, workers organize weekly recreational or cultural activities for all juveniles on their caseload.

Four of the programs in this category were said to have been started to relieve the overcrowding of a secure detention facility. Two began with explicit concern about the possible harmful effects of secure detention. One began as an experiment to test the value of the program as an alternative to secure detention for status offenders; however, intake was not restricted to status offenders. Two of the programs had been designed for alleged delinquents only. The others accepted both alleged delinquents and status offenders.

Five of the programs served between 200 and 300 juveniles per year. The other two programs had accepted just over 1,000 youths each during the previous fiscal year. Status offenders, when they are admitted at all, tend to be in the minority. Only one program had status offenders in the majority. In general, the alleged delinquencies of program participants do not differ markedly from those encountered on the rosters of secure detention, with the exceptions of homicide, aggravated assault, and rape, which are few in number and rarely released. The delinquency charges that predominate in numbers are in the middle range of seriousness. In addition to severity of offense, officials interviewed cited age, length of prior record, stability of home environment, and attitude of youth (and occasionally parents as well) as factors that singularly or in combination might render a juvenile ineligible for the alternative program.

As part of a national study of juvenile detention, Pappenfort and Young assembled data on youths placed in six of the seven programs in an attempt to measure rates of success or failure. All of these programs classify youths as program failures when they either run away and so do not appear for adjudication, or when they are arrested for a new offense while participating in the program. If one combines what each of the programs views as program failures, it may be seen that the range of such failures is from 2.4 % to 12.8% of all terminated juveniles. For these six programs, the percentages of youths for whom program status was revoked and who were sent to secure detention prior to adjudication ranged from 8.1% to 24.8% with the average being approximately 16%.

These programs were supported by project grants from either State or Federal sources, or both. For five of the seven programs visited, the costs per youth per day ranged from \$4.85 (in 1972 dollars) to \$24.22 (in 1974 or

1975 dollars). Excluding the program with the \$24.22 figure, the highest cost per youth per day was \$11.42. The average cost per youth per day for all five programs was \$11.37.⁵

Shelter Care

Shelter care facilities are essentially non-secure residential programs used for the temporary custody of juveniles. Sometimes, the use of shelter care facilities is seen as being exclusively for neglected or abused children. However, juvenile justice practice often deviates from this prototype. A number of shelter care programs maintain an evaluation component for use by the juvenile court. This may include a treatment plan recommended by the counseling staff of a facility for delinquent children. More often shelter care programs operate for status offenders as well as abused or neglected children. In Florida, for example, shelter care is used as an alternative to placing status offenders in adult jails, other secure facilities, or homes for delinquents. In all instances, these programs involve youth in a pre-adjudicatory status. The two main features that appear to be common among shelter care programs are that 1) they provide crisis intervention for youths, and 2) they provide services over a relatively short time period (a few days to 30 days).⁶

Compass House - Buffalo, New York

Compass House is an emergency shelter that provides food, shelter, crisis counseling, family counseling, referral, and linkage services to runaway youths and "pushouts." The program operates 24 hours a day, seven days a week, and has a maximum capacity of eight youths. The average length of stay is six days.

Referrals to the program come from counseling and social service programs, police, courts, and schools. Admission to the shelter is strictly

voluntary and youngsters decide for themselves the services they wish to receive. Graduate and undergraduate students and all volunteer counselors receive training in a six week training program so that they may supplement the work of the full-time staff.

Compass House is sponsored jointly by the Episcopal Diocese of Western New York and Trinity Episcopal Church. It also receives funding from the federal and state governments.⁷

Crisis Intervention Programs

Crisis intervention programs provide residential, short-term, non-secure care for children in need of such services as crisis intervention or shelter care. They are designed to identify problems of the youth and his family, and to help resolve the problems so that the troubled youth can be reunited with his/her family. There are some programs in which a pool of willing parents and community people will accept for a one-night-only stay a young person who is having problems at home while arrangements for a first family crisis counseling session can be made.⁸

Crisis Intervention Service of Bergen County - Hackensack, New Jersey

The Crisis Intervention Service is a community-based crisis intervention program providing emergency foster care and counseling to runaways, as well as to youths and families involved in domestic disputes. Project staff are on call 24 hours a day, seven days a week and respond immediately to police departments, families, schools, or anyone seeking assistance in resolving domestic conflicts. A youth avoids contact with the juvenile justice system because intervention takes place prior to the signing of a complaint.

Volunteer "host families," persons in the youth's community or school district, are on 24-hour standby. They house a youth for a maximum of 10 days in order to provide a "cooling off" separation for the child and members

of his or her family. All services are voluntary and both the youth and his or her parents must agree in advance to the placement. The youth and his or her family participate in three counseling sessions which seek to resolve specific problems. Youths must attend school while staying with host families. The project also offers crisis intervention and short-term counseling (4 to 6 weeks) to those youths for whom host family placement is inappropriate, and also refers youths to other community resources.

The Crisis Intervention Service is available to nearly 40 towns in Bergen County through 2 regional satellite centers and is funded by the federal, state, and local governments.⁹

Runaway Programs

Runaway programs are also group residences but they differ in certain respects from each other. Admission usually is not limited to juveniles referred from court intake, and the programs emphasize intensive counseling to resolve immediate crises followed by referral for long-term follow-up help if needed. There are some programs in states like California, New York, and Florida specifically geared to young people who are primarily from other states. Youths usually only stay a short time in these group residences, since the primary goal is to help them resolve the problem causing them to run away and help them return to their natural parents.¹⁰

Amicus House - Pittsburg, Pennsylvania

Amicus House handles mainly local runaways, and has been in operation since 1970. It is funded by the Allegheny County Department of Children and Youth Services and a federal grant for runaway programs. In 1975, it began to accept referrals from the Allegheny County Juvenile Court. Previously, youths had walked in or had been referred from sources other than court. The program provides a residence for runaway youths, using

individual counseling, group treatment, and family casework in an attempt to reconcile youths with their parents. The target population is runaways from the local area and those who are referred following detention hearings in lieu of remaining in secure detention. Intensive treatment interventions of a problem-solving nature are required for the youth and the parents if the family situation is to be stabilized. Rather than providing long-term treatment, its goal is to make a successful referral if such help is needed.

After a 48 hour period of "thought" by the youth, a counselor may contact the parents and arrange a family session, which is repeated regularly while the youth is in the program. There are also daily group meetings of all youths in the program where guided group interaction techniques are used to encourage and support problem-solving efforts.

A unique feature of this program is that if, as sometimes happens, a youth's parents refuse to cooperate, Amicus House petitions the court for custody of the youth and authorization to provide counseling. These petitions are almost always granted. Most parents then decide to cooperate, but if they do not, Amicus House approaches the court to petition that the youth be declared "deprived" and thus eligible for foster placement.

The program admits 250-300 youths per year, with an average length of stay of 30 days. The program estimates that one youth per month runs away from the program. Most of the youths terminate from the program by returning home. On occasion, disruptive youths are asked to leave, but this is rare. The staff's principle response to disruptive behavior is to encourage ventilation of feelings. The average cost per person per day in this program is \$85.00.¹¹

The Transient Youth Center - Jacksonville, Florida

The Transient Youth Center was designed primarily to handle

out-of-state runaways. This program is operated by the Child Services Division of Jacksonville's Human Resources Department. The program began in 1974 under a grant from the Law Enforcement Assistance Administration. It is currently funded by a combination of federal, state, local, and United Way funds. The center has a capacity of 20 youths (both boys and girls) and admits an average of 1,000 youths per year.

The principle objective of the program is to return the youths to their families. It helps youths decide to contact their parents and return home through the provision of food, shelter, and positive human contact of a crisis intervention kind. Counselors are available 24 hours a day. A youth arriving at the Center is fed, assigned a bed, and given the opportunity to talk with a counselor. Daily staffings assess the youth's willingness to work out the details of contacting his parents and returning home. The Center also has a close working relationship with Traveler's Aid to expedite returns.

Local law enforcement agencies and court intake officials agreed to bring runaways directly to the Center, thus avoiding secure detention. Initially, the majority (76.1%) of runaways were from other states. Non-local Floridians accounted for 15.5% and local youths made up the remaining 8.4%. Over time, the proportion of local youths increased markedly and non-local Floridians, slightly. The percentage of out-of-state youth has dropped to about 60.

The increase in local and non-local Florida runaways has presented different needs and problems. They need concrete services and an opportunity to talk, but often they present serious personal and family problems as well. The staff attempts to engage such youths and their families with local social agencies for longer-term service.

In a sample of 122 juveniles who passed through the Center during the

first 10 months of operation, it was discovered that 83.8% of the non-local clients either returned to the homes of their parents or other relatives or established an independent living arrangement. Only 29.4% of local clients returned to parent's or other relatives' homes; none went to independent living. Instead, they returned to foster homes or other substitute living arrangements or to the care of other social service agencies. Only 4.1% of these youths ran away from the Center. Only a few youths have had to be asked to leave or returned to court intake. The current program cost is \$52.50 per youth per day.¹²

Arbitration Programs

In an arbitration program, a juvenile whose charge is eligible to be heard is referred for participation in the arbitration process. Arbitration programs are authorized to hold hearings in a courtroom-like setting where the youth, his lawyer, his parents, the victim, and the arbitrator are present. The youth is informed of his rights and if he chooses, the procedure continues. The youth admits his guilt or participation in the unlawful act and the arbitrator then sets forth conditions which must be met in order for the case to be closed. These conditions usually take the form of community service or work, and/or payment of restitution to the victim. When the juvenile has completed the required tasks, the case is closed. Programs of this type help relieve the burden on the juvenile courts as well as reduce the chance that a juvenile will unnecessarily be held in secure detention or jail.

The Community Arbitration Project - Anne Arundel County, Maryland

The Community Arbitration Project (CAP) began in 1975 under a grant from the LEAA. It is currently funded by the Maryland Department of Juvenile Services. As a voluntary diversion program, CAP handles eligible cases by means of an informal resolution process aimed at reducing the burden on

the courts. At the same time, CAP adds to community resources by assigning tasks to juveniles that provide meaningful services.

When a youth commits an offense, the police officer will issue a citation stating the offense and scheduling an arbitration hearing 7 working days later. Copies are given to the youth's parents and victim (if applicable). Another copy is attached to the police report and forwarded to the County Department of Juvenile Services. Upon receipt of the report, Juvenile Services checks the offense to determine if it is eligible to be heard by CAP. If it is not eligible, the Intake Officer either drops the case or turns it over to the State's Attorney for formal prosecution or further investigation. If it is eligible, the file is forwarded to CAP and the hearing date is entered on the calendar.

The arbitration hearing is conducted by an attorney with juvenile court experience. It is explained that the informal adjudication is entirely voluntary, the proceedings are legally confidential, and the youth has a right to counsel. If the youth prefers or denies the charges, the case is sent to the State's Attorney for formal processing.

After admission of guilt, the arbitrator explains that the actions not only were harmful to the victim but to the community as well. The process seeks to help the youth understand the social as well as the legal implications of the offense. This is reinforced by assigning something beneficial both for his neighbor and the community. Oftentimes this is done through assignment of volunteer community service work and payment of restitution. If the youth's performance is unsatisfactory, the case is reviewed by CAP staff to determine whether to forward it to the State's Attorney or refer it back to the field supervisor for continued work.

In the first two years of operation, 4,233 youths were referred to

arbitration. Forty-seven percent of the cases were informally adjusted; 8% were referred to the State's Attorney; 21% were denied for insufficient evidence, and 19% were closed with a warning. Seven percent were either continued for further investigation or referred to traditional intake or probation.

Of the 1,137 youths sentenced through CAP, 85% successfully completed their assignments within the prescribed period. Another 9.5% were unable to complete assignments due to external circumstances. Less than 5% were considered to have failed their assignment. More importantly, CAP clients have lower rates of repeat offenses than those processed traditionally. In comparison to eligible youths processed in the traditional manner in the county in 1975, CAP processed youths had a 4.5% lower recidivism rate and 37% fewer rearrests per client within one year after intake/arbitration.

According to information obtained from the current project director, calculations done in the Summer of 1982 revealed that CAP had received an average of 2,200 referrals per year. An average of 87% of referred youths complete the program. Of those ordered to make restitution, 96 to 99% did so in the specified amount of time. The recidivism rate averaged 15%.

The CAP benefits the juvenile justice system in several ways. It can process cases in 7 working days rather than the 4-6 weeks of traditional processing. This permits early screening and dismissal of cases lacking legal sufficiency.¹³

Transportation Programs

Transportation programs, designed to provide transportation to facilities other than jail or secure detention, are being utilized in various parts of the country, especially in rural areas. This type of program usually provides

some kind of incentive (monetary or otherwise) for off-duty officers to volunteer to participate. These officers are then available on call to transport a juvenile to a more suitable or appropriate facility or program in lieu of holding the youth in jail or secure detention. By utilizing off-duty officers, local sheriffs and police departments are relieved of burdens on their time and manpower.

Alternative Transportation Program - Department of Corrections, Richmond, Virginia

The Alternative Transportation Program will provide a transportation service for four rural counties located around the City of Richmond, so that transportation of youth to juvenile programs will be available during off-duty hours. The project will be administered by the Department of Corrections through the local court service unit.

Funds will be utilized to pay off-duty sheriff's department deputies, who would be on-call, to transport youth from the specified counties to the Crater Juvenile Detention Home. This detention home is approximately one-half to one and one-half hours from each county. This system will function to eliminate the need for pre-dispositional jail confinement of youth. Approximately 45-50 youths are confined in jails in these counties each year.

The specific performance objectives are: 1) to provide 70 roundtrips to juvenile detention for juveniles in pre-dispositional status, and 2) to eliminate pre-dispositional jailing of juveniles. The total cost of this program is \$2,450, which provides \$35 for each of the targeted 70 roundtrips.¹⁴

There are several types of programs that are used as alternatives to secure detention for both pre-adjudicated and post-adjudicated juvenile offenders. They range from non-residential services such as probation to residential facilities such as group homes or foster homes.

(A pre-dispositional and a post-dispositional example of each type of program will be discussed).

Group Homes

Group homes are community residences used to house a small number of youths who ordinarily spend a substantial amount of time in the community attending school, pursuing leisure time activities, and so forth. Each home typically houses between 8 and 12 juveniles at one time. They are staffed with one adult at all times and often there are two houseparents who live at the home. Normally, there is one caseworker for every 12 or fewer children. Group homes may serve either pre- or post-dispositional clientele. The youths receive in-house services such as shelter, food, and recreation, and community services, such as medical care, therapy, employment assistance, and schooling.

The different kinds of group homes can be divided into two categories: specialized and conventional. The specialized group homes either serve a specific clientele or have a unique or special approach to handling a mixed clientele. Attention homes and highly structured group homes are examples of specialized group homes.

Attention homes are based on a concept developed in Boulder, Colorado. Although there are considerable differences in operating practices, there is an underlying philosophy common to all attention homes. As the name implies, attention homes serve as an alternative to detention and try to give their youths the attention they would not receive at home or in detention. Attention homes serve both delinquents and status offenders in pre-dispositional status. Thus, attention homes are specialized group homes in that the operating assumptions and practices follow a specialized pattern or

philosophy for handling troubled youths.

Highly structured group care is appropriate for youths who are dangerous to themselves or others and who have difficulty controlling their behavior. The residences usually are not locked, but they have a high staff/client ratio and a sufficiently structured form of treatment to allow for a high degree of supervision if not security. Services such as education and recreation are provided within the home, and community resources are used with supervision. Highly structured group homes are used mainly for youth in post-dispositional status.¹⁵

(For examples of pre-dispositional group homes, refer to the summaries of examples of shelter care facilities, crisis intervention homes, and runaway programs).

Post-Dispositional-Community Attention - Charlottesville, Virginia

The Community Attention Program provides community-based residential and aftercare services to court-referred status offenders and delinquent youths between the ages of 12 and 18. Participation in the program is voluntary.

In the family group home component, houseparents accept up to 4 youths into their homes. These youths attend public schools while receiving services such as individual and family counseling, tutoring, and recreation. Community Attention is responsible for training houseparents and for coordination of community services. Houseparents are paid a monthly stipend and are reimbursed for expenses such as medical bills, educational fees, clothing, and recreation. Houseparents are also active members of the treatment team.

The Attention Home Program consists of a boys' and a girls' group home. The youths attend community schools or hold jobs while participating in individual, group, and family counseling, tutoring, recreation, and cultural

activities. The program also recruits and trains approximately 60 volunteers a year, who provide big brother/sister relationships, tutoring, recreation, and house services such as evening supervision, cooking, and transportation. The Girls' Attention Home has an average daily population of 12 youths, while the Boys' Attention Home has an average daily population of 8 youths. The average length of stay for both homes is 4.5 months.

Additional follow-up services are provided by the aftercare program. The aftercare program which serves both graduates from the family group homes and the attention homes, enables youths to be removed from probation supervision while continuing to receive supportive services. Individualized treatment plans are designed to include coordination of counseling, educational, and recreational services.

Although the State Department of Corrections has been the major funding source for the program, the budget has been supplemented with grants from the federal and local governments, parental fees, and private foundations.¹⁶

Foster Care

There are basically two types of foster care programs for juveniles. The first is known as a private residential foster home. This type of program recruits young adults and pays them to take a youth into their home. They are trained and required to provide 24 hour care and supervision. Staff of the sponsoring agency provide assistance by developing a full treatment plan for the youth. A variation of this type of program is Intensive Foster Care. In this program, a two-parent family houses no more than two young people in need of both supervision and individual attention. At least one foster parent is present at all times, and additional staff and clinical support are provided by the sponsoring agency. The youths attend public or alternative schools. Restrictiveness is gradually lessened over the course of

the program.¹⁷

The second type of foster care program is known as Group Foster Care. Foster family group homes emphasize a home-like stable atmosphere and the opportunity for close supervision and personal attention. The homes are quite similar to a large or expanded private foster home. However, they are licensed to care for a larger number of children and must meet additional licensing requirements related to physical space, fire, and sanitation. The sponsoring agency may provide various types of services and clinical support to both the foster parents and the youth. Group foster care can be provided for youth in both pre- and post-dispositional status who are involved in delinquent or noncriminal behavior. These group homes essentially operate as an alternative to more secure settings, that is, to eliminate the inappropriate placement of truant and runaway youth, nonviolent delinquent youth, and others. Group foster care may help to reunite the youth with his/her natural family. The most distinguishing feature of foster family group homes is that the home parents are not employees or staff of an agency and are not paid a salary for providing child care. Rather, the parents receive a reimbursement for at least the cost of care. In some instances, additional payments are provided for families with special skills who care for difficult youth.¹⁸ "Several advantages of foster care are: the environment is home-like, it is cost effective, and there is a minimum of peer pressure."¹⁹

Pre-Dispositional - Volunteer Homes for Status Offenders - Tallahassee, Florida

A network of short-term, volunteer homes was established by the Florida Youth Services Division in 1975 as an alternative to the situation of holding status offenders in secure detention facilities with delinquents. The program is fully supported by the Florida Division of Youth Services.

The volunteer homes are recruited through a variety of community resources. Every potential volunteer family is intensively screened by the staff, and they represent a cross-section of the community. They receive no compensation for their services, and are responsible for providing food, shelter, and supervision so the child may remain in the community rather than be held in a secure detention facility.

Children placed in these homes must have a detention hearing within 48 hours. A volunteer services staff person has contact with the home at least once a day. The maximum stay in a home is two weeks.

During the first four months of the program, there was an average of over 750 beds available in volunteer homes, and 1,181 youths were placed for an average of 6.4 days. During that period, only 5.6% of the youth placed ran away from the volunteer homes. During a recent year, 3,543 youths were placed at a total cost of approximately \$106,960.00. In 1978, the average length of stay was 6.6 days at a per client cost of \$4.75 per day.²⁰

Post-Dispositional - Proctor Program - New Bedford, Massachusetts

The Proctor Program was operated by the New Bedford Child Family Service (NBCFS), a private social work agency, under contract with the Department of Youth Services Region 7. There was no secure detention facility for girls in Region 7, therefore, girls remanded by courts to Region 7 for detention were placed in either the Proctor Program or in shelters, group homes, or other foster homes. The Proctor Program received about 45% of the total placements.

The NBCFS assigned girls received from DYS to a "proctor" who provided 24-hour care and supervision and worked with NBCFS staff to develop a treatment plan. Twelve proctors were paid \$9,600 each per year for 32 child-care weeks. Each made her own home or apartment available to one girl

at a time. The proctors were single women between the ages of 20 and 30 who lived alone and were willing to devote all their time to their assigned girls.

The Proctor Program began with the operating assumption that many adolescent girls referred to court lacked a positive relationship while growing up and that the one-to-one proctor format would provide such a relationship. This, in turn, would lead to short-term behavioral stability assuring appearance in court and the beginning of the rehabilitative work viewed as necessary for growth and development in the longer run. The immediate objective was to see that each girl appeared in court at the appointed time. The long-term goal was to help begin a course of rehabilitation. Counseling and other resources of NBCFS were also used in this program.

One hundred sixteen girls were placed with proctors during 1975. A random sample of 33 of these girls revealed that the average age was 14.5 years. Eighty-three percent were white, 14% were black, and 3% were of Puerto Rican background. About three-fourths were status offenders, petitioned for incorrigibility or running away. The yearly rate of runaways was about 10%. However, many returned to the program voluntarily. Ninety-five percent of all girls in the program appeared in court. No girls committed new offenses while in the program. The average length of stay for girls in the sample was 24 days. The cost per girl per day was \$63.87.²¹

This program closed four years ago because of budgetary constraints, however, it is included here because it is a good example of this type of program.

Probation or Field Supervision

Programs in the field supervision category are the most familiar and most common and include traditional probation services. In these programs, the

public agency takes no responsibility for providing residential services. The youths are released back to their home or original residence. The probation officers are professionals and attached to the court or public service agency. Their responsibilities are likely to differ for pre-trial and post-trial clients. The primary responsibility of workers handling pre-trial clients is to loosely monitor their activities, steer them toward any treatment programs which are appropriate, and ensure they appear for court hearings. For adjudicated offenders, their responsibilities are likely to be expanded to a more active role, including enforcement of all special conditions which are part of the sentence such as participation in treatment programs, and restrictions on movements. Caseloads are relatively large, ranging as high as 50 or 60 juveniles. Typically, the clientele served include both those charged with status offenses and more serious violations.²²

Pre-Dispositional - Pre-Hearing Intensive Supervision Unit (PHIS) -

Philadelphia, Pennsylvania

The Pre-Hearing Intensive Supervision Unit began operation in May 1970, through a grant from the Governor's Justice Commission, and is currently sponsored and funded by the Philadelphia Family Court. The program was established to accomplish two goals. First, it works toward relieving overcrowding of detention facilities and reducing detention costs. Its second purpose is to involve a youth who would have been held in custody in a meaningful plan or program before he appears in court for his adjudicatory hearing. This is done through intensive probation casework and daily supervision, so that a more productive court decision can be made.

The unit staff consists of seven male probation officers, their supervisor, a research assistant, and a secretary. The maximum caseload is no more than seven boys at any given time for each probation officer. Where

possible, boys are assigned to an officer who lives in or near their community and are seen on a daily basis. The juveniles are assigned to the unit by the presiding judge at their detention hearing and referred directly to the unit from the hearing for an initial interview.²³

Post-Dispositional - Project CREST - Gainesville, Florida

Project CREST (Clinical Regional Support Teams) uses volunteer, graduate-level university students to counsel delinquent youth in North-central Florida. Complementing the more authoritative role of probation officers, CREST counselors give youngsters an opportunity to discuss their problems openly without fear of being judged or adversely affected. CREST tries to help clients develop more positive attitudes about themselves and society, and thus to reduce delinquent behavior.

CREST began in 1972 under an LEAA grant for a counseling program involving graduate students in the University of Florida's Department of Counselor Education. Since 1976, all financing for Project CREST has been provided through contractual agreements with the State Department of Health and Rehabilitative Services.

Outreach is the key to CREST's operations. Counselors do not wait for the clients to come to them. Rather, CREST goes into the communities, into the homes, and into the schools to serve the youngsters referred to the program. There are three counseling teams, consisting of 4 to 6 volunteer counselors and tutors supervised by a doctoral student who functions as team leader. There are three advisory boards made up of interested and prominent citizens who review the work of the project, offer recommendations for improvement, and suggest new CREST activities. They act as a vital link to the communities and help develop resources that can enhance the project's work.

Probation officers decide which youngsters to refer to CREST. They usually send difficult youngsters who want help or who might be responsive to counseling--youngsters who might be diverted from the legal system with some extra help. CREST counseling is designed to build trust and increase the client's sense of self worth and self awareness, so that youngsters not only understand better why they do the things they do, but can better plan and control their actions. The counselors attempt to develop a helping relationship with clients using a variety of counseling techniques and therapy models taught at the University. The basic approach is non-authoritarian and oriented toward the feelings and attitudes of the clients. CREST's dual treatment concept underlies the relationship between CREST and the Youth Services Program. Probation officers provide structure and limits and can invoke sanctions. CREST counselors provide guidance and support in a non-threatening, helping environment.

With few exceptions, CREST has met or exceeded its service delivery goals every year since it began. For example, in 1977-78, CREST provided weekly individual counseling for 90 delinquent youth for an average of 5 months per child and counseled more than 50 families of delinquents. It provided extended group counseling and therapy for 84 youngsters. CREST also counseled 40 delinquency-prone youngsters referred by the high school and another 24 such youth referred jointly by YSP and the high school and gave counseling assistance to schools for 81 CREST clients.

One study, attempting to measure the project's impact, looked at episodes of misconduct among two groups of youngsters, 30 CREST clients and 34 youth who had committed similar offenses but had not received treatment. While the groups differed somewhat in terms of age and sex, the CREST youngsters did show a dramatic reduction in official acts of misconduct during

treatment as compared to the other group. The total number of such acts committed by the CREST clients declined from 39 to 8, while those of the comparison group remained essentially the same; 26 and 25.

A follow-up study almost 2 years later found that CREST clients were charged with offenses less often than the comparison group. Thirty-one individuals in the comparison group were charged with 65 offenses while for the same period 30 former CREST clients were charged with only 23 offenses. Felony charges dropped from 54 to 7 for the CREST group and from 56 to 30 for the comparison group.

Youngsters receiving CREST treatment have also shown significant improvement in school attendance when compared to similar youth who were not involved in CREST. The grades of CREST clients improved and they had fewer suspensions from school than the comparison group.

Because CREST uses highly committed, trained volunteers and keeps its paid staff to a minimum, its costs are remarkably low. The program operates on a total budget of about \$55,000 a year, which enables CREST to provide approximately 102 hours of counseling per week. The Youth Services Program can provide only about 40 hours for the same amount of money. CREST's average cost per client in 1977-78 was \$295.²⁴

Multi-Service Programs

Multi-service programs offer a variety of services under the auspices of the same program name. These services can include counseling, crisis intervention, shelter care, foster care, group homes, treatment programs, as well as others. They can be short-term or long-term alternatives for juvenile offenders. They may also be non-residential as well as residential types of programs. These programs usually handle youths in pre- and post-trial status.

Aunt Martha's Youth Service Center - Park Forest, Illinois

Aunt Martha's is a multi-service community agency which serves youths, aged 11 to 21 and their families in the suburbs south of Chicago. Through its community network of foster homes, Aunt Martha's offers short-term emergency shelter and long-term alternative placement to runaways and youth involved in domestic disputes. Youths aged 17 or younger are eligible to use these "alternative shelters" with a legal guardian's approval. The Group Home, also part of the Alternative Shelter Network, offers a long-term (6-18 months) alternative living situation to 8 young women between the ages of 13 and 17. All shelters available through Aunt Martha's network make extensive use of community resources and aim to return youths to their families.

Aunt Martha's Walk-In Counseling Center offers individual and family counseling, and crisis intervention services 24 hours a day to any youth or family who requests it. Counseling is provided by trained youths or adult volunteers. The Eastern Will County and Rich Township Projects provide counseling and shelter care to police-referred status offenders and delinquent youths from 11 suburban townships in Eastern Will and Southern Cook Counties. The Eastern Will County Project also runs a drop-in center several nights each week.

The Youth Employment Training Program employs 30 youths between the age of 16 and 21 who have dropped out of school. Services offered include job training, career counseling, job placement, high school equivalency testing, and basic adult education preparation. Through Aunt Martha's Legal Services, volunteer attorneys provide advice to youth and their families on legal problems such as contracts, school-related concerns, and criminal law.

An Outdoor Activities Program offers youths an intensive, structured, small group experience in the outdoors. This experience involves three main

phases: close-to-home day wilderness experience, a 5-day wilderness stress expedition, and follow-up services and activities in the youth's community. Many of the youths involved in the Outdoor Activities Program are referred by the police and a substantial number have had previous contacts with law enforcement authorities. Also available through Aunt Martha's are a Team Health Clinic, a Drug Emergency Response Program, a Speaker's Bureau, and a variety of youth recreational programs.

Juvenile and adult volunteers play an important role in all Aunt Martha's programs. Volunteers provide counseling, serve as foster parents, serve on the board of directors, and help administer the various programs.

Aunt Martha's is funded by federal, state, and local governments, United Way, private foundations, corporations, and public contributions.²⁵

Associated Marine Institutes, Inc. - Tampa, Florida

The Associated Marine Institutes (AMI) is a group of seven non-profit programs in Florida dealing with delinquent boys and girls, aged 15 to 18, committed to the state youth services department by the juvenile courts. AMI students, who average 8 to 11 delinquent offenses prior to program enrollment, participate in a marine-related curriculum of scuba diving, seamanship, and ocean sciences, along with regular academic classes and counseling. Youths usually participate in AMI programs for an average of 6 months. The aims of the program are to reduce recidivism, increase academic skills, and provide vocational training.

The AMI central office in Tampa contracts with the Florida Department of Health and Rehabilitative Services to serve over 400 delinquent youths each year. Of these, 40 are enrolled in the highly structured group care program in which security is provided through 24-hour-a-day supervision. The rest are enrolled in non-residential programs. The education programs work

cooperatively with the local school districts, which supply teachers and materials.

Since April 1978, AMI has contracted with the State Division of Employment and Training for a Title VIII Young Adult Conservation Corps grant. This AMI program is designed to serve 16 to 23-year-old youths, who are out of work and out of school. These youths are employed by AMI to work on a wide variety of marine-related projects, including artificial reef construction, revegetation of eroded shorelines, research on the Florida stone crab, and recreational fisheries surveys.

AMI is funded by the federal and state governments, the local school systems, and public contributions. The total annual budget is \$2,297,200. The per diem cost per child is \$32.47 in the residential program, and \$17.45 in the nonresidential program.²⁶

A program of this kind should have real potential in Virginia for many reasons, including the 5,400 miles of shoreline and the need for its vegetation. Several groups in the Commonwealth are looking into programs of this type.

Wilderness and Restitution Programs

Wilderness programs expose youths to group interaction and problem-solving techniques by teaching them how to survive in a wilderness situation. Restitution programs involve an agreement by a juvenile to perform some kind of community work or service or to pay restitution to a victim in lieu of secure custody. If the required tasks are completed within a certain amount of time, the case is usually closed. Several wilderness programs operate in Virginia. Norfolk and Virginia Beach continue to support successful wilderness programs that began with LEAA cooperation and funding.

Wilderness Experience Program - Jefferson, North Carolina

The Wilderness Experience Program in North Carolina serves primarily as a post-dispositional community-based alternative to institutionalizing status offenders. The program also serves emotionally disturbed youths. Referrals are received from schools, social service, and mental health agencies, and juvenile courts. Participation in the program is strictly voluntary.

The objective of the program is to increase a youth's self-confidence and independence through wilderness experiences such as rock-climbing, rappelling, canoeing, and backpacking. These wilderness experiences can take the form of week-long or weekend camping trips, with each trip serving a maximum of 10 youths. The ratio of youths to staff is 2½ to 1. Program staff are volunteers from local social service agencies who have been trained in the various outdoor skills and in parenting, positive communication, crisis intervention, and group intervention skills.

The Wilderness Experience Program is funded by the state and local governments and by a community agency, New River Mental Health. The cost per trip/per child is \$200, which includes salaries, equipment, maintenance, food, and travel.²⁷

EARN-IT - Quincy, Massachusetts

EARN-IT is administered by the East Norfolk District Court in Quincy, Massachusetts. It provides a post-dispositional alternative to incarceration and/or probation by offering juvenile offenders the choice of making restitution to their victims. If a youth chooses restitution, a contract is drawn up in which the court orders the offender to pay the victim for any loss incurred as a direct result of the crime. In a case where there is no direct victim or no monetary loss involved, the offender makes restitution through community service. EARN-IT has received funding from the federal and state

governments, and private foundations.

Project staff help place youths in jobs with local businesses or with community agencies and, whenever possible, match work sites with the interests or needs of each youth. Although the majority of juveniles handled by the program have committed property crimes such as vandalism, car theft, and breaking and entering, EARN-IT serves more serious juvenile offenders as well. These youths, most of whom have a history of violent behavior and/or drug abuse, are given work such as refurbishing one of the Boston Harbor Islands or assisting with general maintenance at the Norfolk General Hospital. This component has been funded by the CETA Title VII Youth Conservation and Community Improvement project. Youth participation in Project EARN-IT lasts from six months to a year. Payment of restitution prevents any further court action and closes the case.²⁸

While the aforementioned programs are not the only available alternatives to secure custody, they are a good base upon which to begin developing or expanding alternatives in a particular area. The specific programs that have been used as examples are not necessarily the best or most efficient and have not been judged as good or bad. However, they are useful in understanding the logistics of how the various types of programs can operate.

Virginia's Pre-dispositional Alternatives

The Commonwealth has a number of available alternatives to pre-dispositional secure detention, including crisis/runaway or crisis intervention centers; less-secure detention facilities; outreach detention programs; and volunteer emergency foster care. These programs have provided additional resources for judges and court service unit staff to use particularly in dealing with status offenders and those charged with minor criminal

offenses.²⁹

Crisis intervention centers provide counseling and temporary housing for runaway youths, those thrown out of their homes or otherwise rejected by their families or foster parents, and youths who simply have no other place to go. They are referred to crisis intervention by the court or other agencies. Staff attempt to determine what the youths' problems are and to reestablish them in their homes or a suitable home environment as soon as possible. Less-secure detention facilities work towards helping to reduce the number of youths in secure detention as well as separating younger or more passive youths from the more aggressive youths or repeat offenders, who are in secure detention. All youths in these programs have active charges filed against them and are referred from the juvenile court service unit. Outreach detention programs allow youths to stay in their own homes or foster care homes and maintain daily contact and supervision with them during this time.³⁰

The Volunteer Emergency Foster Care of Virginia program provides short-term, crisis intervention care in a foster home until youths can be placed in a group home, longer term foster care, or back in their own homes. Referrals come from the courts and state social service agencies. Specific information about each of these alternative programs follows.

Crisis Intervention/Crisis Runaway Centers

There are eight crisis intervention/runaway centers in operation in Virginia. Two are located in Richmond; and the others are in Roanoke, South Boston, Lynchburg, Virginia Beach, Norfolk, and Leesburg in Loudoun County. All of the facilities are co-educational and serve youths 13-17 years of age. The average length of stay is 20-25 days although aftercare services are provided for varying lengths of time following completion of the program.

One of the services rendered is individual counseling by the center staff. In reference to this, one administrator said, "We try to learn as much as possible about the problems that send them here and to assist them in learning to make better decisions about their behavior and/or handling conflicts."³¹ In addition to individual counseling, family counseling, which involves the youth, parents or guardian, and a counselor, is a major part of the weekly activities. One counselor offered the following comments concerning the need for family counseling. "Most of our kids have parents who are undergoing separation or divorce, or are under stress because of money problems, employment, or grief. We also have parents who try to run their children's lives as if they were in the military. The parents simply can't separate discipline and love and can't handle it when their kids don't fall in line."³² Most parents are willing to participate in the counseling efforts but there are a few who refuse. If possible, youths are kept in school or staff try to help them find employment. However, due to the short length of time youth are in these facilities, this is not always possible.

Less-Secure Detention Facilities

There are three less-secure detention homes currently in operation in the Commonwealth. They are located in Fairfax, Hampton/Newport News, and in Tidewater. The one in Tidewater serves Virginia Beach and Norfolk. "The primary purpose of less-secure detention facilities is to help reduce the population in the secure detention unit and to separate the younger or more passive youth from more aggressive youth or repeat offenders. Referrals come from the juvenile court service unit and all youth placed in these programs have active charges filed against them."³³

These facilities are called "less-secure" because even though there is 24

hour supervision, they are not locked facilities. Juveniles found in these facilities range from status offenders to older delinquent offenders. Youths must ask permission to go anywhere, but the opportunities for running away are ever present. They must take the responsibility for their decisions to run or stay. Program directors report that the percentage of those who actually do run usually is low. A number of these youths return to the centers of their own volition. Youths are ineligible for placement in less-secure facilities if they are considered to be threats to the safety of themselves, others in the program, or the community in general.³⁴

Beds generally are available in most of these facilities.

Outreach Detention Programs

There are five outreach detention programs in operation in Virginia. The programs in Prince William County and Fairfax operate under the auspices of the court service unit. In Roanoke, Norfolk, and Newport News, they are administered by the juvenile detention homes. Youths are referred to the programs either by the judge, intake officer, or sometimes the probation officer. The type of youth served varies with the program. For example, in Fairfax the program is seldom used for status offenders, whereas in Prince William County it is almost always used for such youths. Daily supervision in court operated programs is provided by probation officers, while detention centers use paraprofessionals. Outreach workers are on call 24 hours a day and attempt to "befriend" the youth as well as serve as an authority figure. In addition to daily contact, outreach staff attempt to engage youths in group activities such as camping. Program staff throughout the state report that very few children placed in outreach detention had to be placed in secure facilities or returned to court for further hearings.³⁵

Volunteer Emergency Foster Care of Virginia (VEFC)

There are Volunteer Emergency Foster Care of Virginia homes operating or under development in 26 localities throughout the state. VEFC trains and recruits volunteer families to take in children who need short-term, crisis intervention care. Youths are referred to this program by the courts and state social service agencies. The VEFC program was started in 1978 by the Virginia Council of Churches in cooperation with the State Welfare and Corrections Departments. A group of child advocates set out guidelines for an organization to provide troubled children with family attention, as opposed to institutional detention. VEFC then began operating in 1979.

Families who volunteer to provide intervention care must have eight hours of training, which includes orientation to foster care, social service and juvenile court systems; development of listening and communication skills; things to do if something goes wrong; preparation of the home; and the approval process. Also, a medical evaluation is done and the home environment studied. Families are asked to serve a minimum of three times a year for 10 days or less for each placement. In rare instances, a family may keep a child longer than 10 days. The average length of stay is six days. Families work on a voluntary basis and receive no compensation.

Children from infants to teenagers need temporary foster care, but teenagers need the service most. A child may be having problems at home and is a runaway who needs a temporary place to stay while a social worker makes some arrangement with the child and his own family. Youths are then moved from the emergency care situation to a group home, to longer-term foster care, or back to their own homes.³⁶

In 1982, VEFC provided 1,482 days of child care service through 242 volunteer foster parents. In 1981, it served 83 youths, and 258 youths in

1982. The 1982 utilization rate was three times the 1981 utilization rate. Since the inception of the program in 1979, VEFC has helped a total of 364 youths. In 1982, six new programs were launched under VEFC in Botetourt County, Chesapeake, James City/York County, Rockbridge County, South Fairfax/Springfield, and Tazewell County. Between 1981 and 1982, VEFC families grew from 134 to 242 and the number of local programs grew from 20 to 26.³⁷

Virginia's Post-dispositional Alternatives

Virginia juvenile court judges have several options, both secure and non-secure, for dispositional placement other than jail. Judges may commit juveniles to the Department of Corrections. Learning centers offer medium secure to secure confinement for committed youths while they receive appropriate and necessary services. Group homes are community-based residential facilities that provide individualized treatment for juvenile offenders. Family group homes provide community-based residential treatment in a contracted private family dwelling, which offers a setting as close as possible to a family environment.

Learning Centers

When a youth is committed to the State Department of Corrections, he is transferred to the Reception and Diagnostic Center for screening, testing, diagnosis, and placement. It is decided there whether to place a youth in State foster care, a "special placement" (public or private residential facility), or in one of the seven State-operated learning centers. Learning centers provide indeterminate confinement for youth needing highly structured placement and constant supervision while they receive necessary diagnostic

and treatment services. These services include: medical, recreational, treatment, educational (academic, vocational, and tutoring), psychological, psychiatric, religious, transportation, visitation, and volunteer services. The average length of stay at the learning centers is approximately nine months. Both Appalachian and Oak Ridge Learning Centers are designed as secure facilities. Three other learning centers have a cottage which is more secure and can be used for more serious and difficult juveniles.

The learning centers work closely with the committing courts during a youth's stay in order to plan for release and reintegration into the community. The Department of Corrections operates and staffs the learning centers. The Rehabilitative School Authority (RSA), a separate agency, provides academic and vocational instruction for youth in these centers. The Department of Corrections has developed minimum standards for learning center operations which are used in a certification process. Learning center personnel are trained each year through the Department of Corrections Academy for Staff Development.³⁸ The Department of Criminal Justice Services and the Department of Corrections provide planning, program development, technical assistance, and evaluation for learning center programs.

Group Homes

Group homes, or community youth homes are community-based residential treatment programs developed as an alternative to incarceration for juvenile offenders. "The goal of a group home is to provide individualized treatment to meet the needs of juvenile offenders and their families and to enhance their abilities to function in an open society in maximum harmony with themselves and others."³⁹

There are 26 post-dispositional group homes in operation in Virginia. This figure has increased tremendously since 1970 when only two such homes

existed. They are operated by the state or by local governments, either a single jurisdiction or by cooperative agreement among several adjacent jurisdictions. Eight of the group homes are located in the Tidewater area, four are in the Richmond area, one in Williamsburg, three in Fairfax and Arlington, one in Winchester, one in Staunton, two in Charlottesville, two in Lynchburg, two in Martinsville, two in Roanoke, and one in Lee County. Group homes serve a mix of pre- and post-dispositional youth, but for the most part, the majority of their clientele is post-dispositional.

These programs stress personal responsibility in decision making and employ a variety of treatment methods. Activities in the community are incorporated as integral components in the majority of programs. Families are included and involved as much as possible through outreach and/or family counseling. The residents are involved in both the daily decisions of program operation and the process of their individual treatment. One goal of community-based treatment is to approximate as closely as possible a normal healthy living environment, and a semblance of normalcy is accomplished overall within fairly structured programs.

Most programs are structured and demanding of the residents. Individual, group, and family counseling play a major role. Rules are enforced and personal responsibility is stressed. Residents are required to attend school or work and their performance in these roles is as important as their behavior in the group home. Most group homes try to accommodate a wide variety of interests and abilities. Recreation and other community activities are incorporated as an important part of treatment.

Involvement of the family and return to community are important goals of group home programs. Most have extensive family counseling and outreach follow-up programs. This is possible only because of the proximity of the

facilities to the homes of most residents. Treatment plans tend to deal with return to the home community as much as with behavior exhibited in the program.⁴⁰

Family Group Homes

There are ten family group home programs in the state. Their capacities range from 4 to 13 children. There are three programs in Region I; three in Region II; two in Region III; two in Region IV; and none in Region V. Each program consists of one or more homes.

A family group home is a community-based private family dwelling contractually affiliated with a local jurisdiction(s) and the Department of Corrections. Each family group home serves no more than four children between the ages of 10 and 18 years at a given time. Youths may be in pre- or post-dispositional status with juvenile courts. The purpose of family group homes is "to provide a positive community-based treatment oriented residential alternative to the institutionalization of children."⁴¹ They are designed to deal with acting out youths--adolescents traditionally so hard to place in foster homes.

Some family group homes are used as an alternative to placement in a learning center or community youth home. In other localities they are utilized as another step in the continuum of care after a stay in some other type of residential treatment facility. The characteristics of the youths served vary widely as do those of recruited families. Family group homes are not foster homes, nor are they meant to replace foster homes. They are also not long-term or permanent placements.⁴² Family group homes can offer "a structured supportive and time-limited family environment...flexible in structure to allow for individual needs of children, and easily accessible to families of children

in residence."⁴³

The 286 Community Treatment Program

In 1976, the Virginia General Assembly enacted Section 16.1-286 of the Code, which is known as the "Community", "Judicial", or "286" Special Placements Program. It states that:

When the court determines that the behavior of a child within its jurisdiction is such that it cannot be dealt with in the child's own locality or with the resources of his locality, it may take custody and place the child pursuant to subsections C 5 b or E 9 b of Section 16.1-279 in a private or locally operated public facility, or nonresidential program .

This allows a direct route from the juvenile courts to certain kinds of "special" in-state placements for the care, treatment, and supervision of referred youths without commitment to the Department of Corrections. The Department of Corrections is responsible for approving placements and keeping a roster of children in placements.

In 1980, the "286" program experienced severe financial difficulty and was temporarily closed down for a five month period. For Fiscal Year 1979-1980, the program was funded with a total of \$854,700. After it was reopened in November of 1980, the amount of funding for each fiscal year increased as the demand for support of placements grew. Funding for Fiscal Year 1980-81 was \$2.1 million. It increased in Fiscal Year 1981-82 to \$2.9 million and again in Fiscal Year 1982-83 to \$3.2 million. The funding level for Fiscal Year 1983-84 is projected to be \$3.5 million.

Before the five month shutdown period in 1980, the average monthly caseload for this program was 173, a 193% increase since the first fiscal year of the program's operation in 1977-78. At the present time, the average monthly caseload is approximately 230-250. For Fiscal Year 1981-82, a total of 341 new placements were made with a carry over of 105, for a total of 446

funded placements during that fiscal year. In Fiscal Year 1982-83, 229 new placements were made with a carry over of 224, for a total of 453 funded placements in that fiscal year. This is the highest number of funded placements ever made through the "286" program in a fiscal year.⁴⁴

In 1982, the General Assembly enacted into law House Bill 552, which became effective July 1, 1982. This bill amended §16.1-286 of the Code of Virginia to provide funding for "non-residential programs" with the intent that juvenile offenders receive needed treatment for their emotional/social problems in their home communities and not have to be removed from their homes unless absolutely necessary to protect the child and the community. It was at this point that the name of the program changed to reflect this addition. "Community Treatment Programs" became the umbrella for both residential and non-residential programs.

The revitalization and continued funding of the "286" Special Placements Program has been strongly supported and advocated by the Crime Commission.

The "239" Special Placements Program

Section 53.1-239 of the Code of Virginia authorizes the Department of Corrections to place children committed to the Department in facilities other than those operated by the Commonwealth. It states that, "for the maintenance of each child committed to the Department and placed by it in a private home or in a facility other than one operated by the Commonwealth, there shall be paid by the Commonwealth out of funds appropriated to the Department a per diem allowance which shall be established by the Board."

The "239" Special Placements Program exists for those youth who come through the Reception and Diagnostic Center with needs which make it impractical to provide services in the learning centers. Some committed youth

may be in need of a structured setting, but may also need special services because of physical, mental, academic and/or emotional handicaps that Department of Corrections programs are not equipped to handle.

There are youth who are not committable to state hospitals, but need on-going psychiatric treatment that may not be provided as extensively as needed in the learning centers. Youth often need to be closer to home for family contact and to work on family problems as a unit. Also, youth are often committed to the Department of Corrections by courts that lack the resources and services required to determine what a youth may need prior to the commitment. An evaluation may indicate a placement outside of the learning centers. Youth may not have access to one of the special learning center programs because of lack of bed space and the Special Placement program provides a possible alternative. Another group served is youths who have been committed to the Department of Corrections who have no home or place to return to after commitment, and who need a placement instead of continued stay in a learning center.

The funding for the "239" Special Placements Program for Fiscal Year 1980-81 was \$1,253,700. In Fiscal Year 1981-82, this amount was decreased to \$885,530. The funding for Fiscal Year 1982-83 was \$1,184,150. The amount of funding for Fiscal Year 1983-84 is projected to be \$1,288,840.

The average daily caseload or number of placements in the program for Fiscal Year 1980-81 was 81. In Fiscal Year 1981-82, this number decreased to 45 and in Fiscal Year 1982-83, the average daily caseload again decreased to 40.

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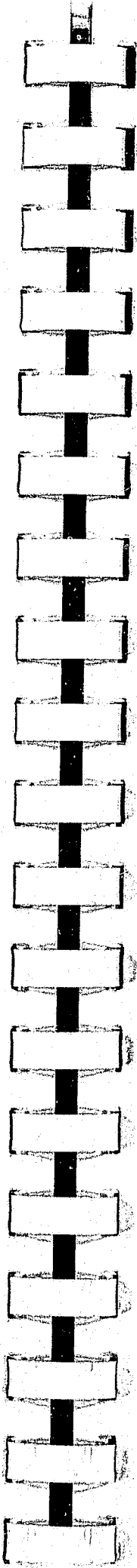
QUESTIONNAIRES FOR JUVENILE COURT JUDGES,
JUVENILE COURT INTAKE, AND SHERIFFS

In late April 1983, questionnaires were developed and distributed to all juvenile court judges, juvenile court intake offices, and sheriffs in Virginia in order to obtain current information and thinking about some of the issues involved in the use of adult jails for children.

Approximately 300 questionnaires were distributed, and a total of 223 were completed and returned. This number includes 47 juvenile court judges, 71 intake offices, and 105 sheriffs.

The Community Research Center provided assistance in developing the questionnaires and has computerized the responses received. The Center is now in the process of analyzing the data and information, and a separate report containing the analysis will be published when this work is completed.

Copies of each type of questionnaire can be found in Appendix C.

A vertical spiral binding runs down the center of the page, consisting of a series of metal or plastic rings connected by a central wire.

The answer to the problem is to be found neither in writing off the sophisticated youth by jailing him, nor in building separate and better designed juvenile quarters in jails and police lockups. The treatment of youthful offenders must be divorced from the jail and other expensive 'money saving' methods of handling adults.

National Council on Crime and Delinquency, 1961.

DISCUSSION OF RECOMMENDATIONS FOR ELIMINATING
THE INAPPROPRIATE USE OF ADULT JAILS FOR JUVENILES

The time has come for the Commonwealth to make significant decisions about what will be done regarding the use of jails for juveniles under the jurisdiction of juvenile and domestic relations district courts. There are a number of strategies and approaches the Commonwealth can consider and employ to address the problems of jailing juveniles.

Of course, one decision would be not to significantly change current laws, policies, and practices with regard to jailing juveniles and the criteria used for detention, and secure custody decisions. However, based upon the findings of this study, this simply would not be justifiable.

Another decision would be to begin now to make deliberate, phased changes in laws, policies, and practices so that by December 1987, the Commonwealth could stop the inappropriate use of jails for juveniles under the jurisdiction of juvenile courts. A deliberate, phased change would allow time to assess the needs for additional programs, facilities, and services and to establish them where they are needed.

Many approaches have been suggested or recommended as ways of dealing with reducing and eliminating the inappropriate use of adult jails for juveniles. They include:

1. Develop regional type jails for juveniles only.
2. Develop regional intermediate secure facilities for juveniles only.
3. Modify juvenile detention homes and train detention staffs to handle more serious and difficult juvenile offenders.
4. Commit more juveniles to the Department of Corrections.
5. Transfer more juveniles to the circuit courts.

6. Develop more community work and restitution programs for juveniles.
7. Develop more secure juvenile detention homes, less-secure and outreach detention, crisis/runaway and group homes, and Volunteer Emergency Foster Care homes where they are needed.
8. Develop transportation services where they are needed.
9. Lower the age of juveniles as defined by law from 18 years to 17 years.
10. Develop more alcohol and drug treatment programs for juveniles.
11. Allow the use of jail pre-dispositionally only for juveniles who present a clear danger to detention home staff and/or detainees.
12. Allow the use of jail post-dispositionally only for juveniles who previously have been convicted in circuit court.
13. Prohibit the use of jails for all juveniles pre-dispositionally if they are under the jurisdiction of juvenile courts.
14. Prohibit the use of jails for all juveniles post-dispositionally if they are under the jurisdiction of juvenile courts.

The suggestions and recommendations are too numerous to mention all of them here. In many instances, sound decisions regarding strategies cannot be made until certain needs assessments are completed. Based upon the findings of this study, however, a number of recommendations can now be made.

Recommendations

Phased Approach to Stop Using Jails for Juveniles

The findings of this study indicate there is a strong case for the Commonwealth to begin now with a phased approach to reduce and eliminate the inappropriate use of adult jails for juveniles under the jurisdiction of juvenile courts, and this is what the Commission recommends.

In the opinion of many, the use of adult jails for juveniles is not consistent with the purpose, philosophy, and intent of the juvenile court system. Clearly, there is evidence that children housed in adult jails are exposed and subjected to conditions that are highly detrimental, potentially destructive, and not corrective or rehabilitative in nature. These facts have been highlighted by litigation arising from the use of adult jails for children.

Virginia has been participating in the Juvenile Justice and Delinquency Prevention Act (JJDP Act) for a number of years, and therefore is affected by the requirements of it. Section 223 (a) (14) of the Juvenile Justice and Delinquency Prevention Act, as amended, requires that by December 1985, no juvenile shall be detained or confined in adult jails and lockups except under certain exceptional circumstances.

Section 223 (c) of the JJDP Act says that states that fail to achieve compliance with Section 223 (a) (14) by December 1985 will not be eligible for further funding unless the Administrator of the Office of Juvenile Justice and Delinquency Prevention (OJJDP) finds that the state is in substantial compliance with the requirement (not less than 75% removal of juveniles from adult jails and lockups), and the state has made, through appropriate executive or legislative action, an unequivocal commitment to achieving full compliance within a reasonable time, not to exceed two additional years.

In essence, the Act calls for eliminating almost all use of adult jails for juveniles under the jurisdiction of juvenile courts by December 1985, with two more years to completely achieve this goal.

With regard to exceptions to the requirement of removing juveniles from adult jails, the Act states that the Administrator of OJJDP shall promulgate regulations which recognize the special needs of areas characterized by low population density with respect to the detention of juveniles, and shall permit

the temporary detention in adult facilities of juveniles accused of serious crimes against persons where no existing acceptable alternative placement is available, provided they are kept separate from adults.

The exceptions to the requirement of removing juveniles from jail, as described in OJJDP regulations are:

1. Juveniles accused of serious crimes against persons (criminal homicide, forcible rape, mayhem, kidnapping, aggravated assault, robbery, and extortion accompanied by threats of violence) in low population density areas may be detained for up to 48 hours in an adult jail or lockup. When this is done, a determination must be made that there is no existing acceptable alternative placement available for the juvenile, and the county is not served by a local or regional juvenile detention facility.
2. Juveniles formally waived or transferred to criminal court by a juvenile court when criminal charges have been filed by the juvenile or criminal court may be detained in adult jails and lockups.
3. Juveniles arrested by police may be held by police for up to six hours in an adult jail or lockup for identification, processing, and transfer to juvenile court officials, or juvenile shelter or detention facilities if they are arrested for committing an act that would be a crime if committed by an adult.

In all of the above instances, juveniles must be kept separate from adults.

Recently introduced legislation in the United States Congress, S. 520 and S. 522, is in accord with the requirements of the Juvenile Justice and Delinquency Prevention Act, and provides for civil action for damages and relief.

A number of states, including Maryland, North Carolina, and Pennsylvania, prohibit the use of adult jails for juveniles under the jurisdiction of juvenile courts. Connecticut also does, but juveniles are defined as being under age 16. Tennessee has enacted legislation stating that by January 1985, juveniles shall no longer be placed in adult jails. Some of these states, either as a part of prohibiting the use of jails, or otherwise have also gone through a process of developing more specific criteria for decisions about taking children into custody, juvenile detention, and the use of pre- and post-dispositional secure custody for juveniles. Both documentation of these efforts and some research of the results exist and are readily available through the Community Research Center. The Community Research Center is under contract with the Office of Juvenile Justice and Delinquency Prevention to provide assistance at no cost to states attempting to meet the requirements of the Juvenile Justice and Delinquency Prevention Act. The Department of Criminal Justice Services coordinates requests for assistance from the Community Research Center.

The Commission recommends that the phased approach for reducing and eliminating the inappropriate use of jails for juveniles begin with enactment by the 1984 General Assembly of legislation that establishes a timeframe for accomplishing this goal. The Commission recommends that the timeframe be to achieve substantial elimination of inappropriate jailing by December 1985, and complete elimination of inappropriate jailing by December 1987.

New Criteria for Detention and Secure Custody

Virginia's criteria for detention and the use of secure custody for juveniles allow a great deal of interpretation and discretion, and this results in a considerable variation in detention and secure custody practices across the state, as well as inappropriate uses of existing secure custody placements.

For these reasons, and because the use of jails for juveniles cannot be separated from the use of all forms of secure custody for children, the Commission recommends the development, testing, and implementation of more specific criteria for detention and the use of all forms of pre- and post-dispositional secure custody for juveniles. The criteria should be designed in a manner that results in reducing and eliminating the inappropriate use of jails for juveniles and provides additional sentencing options for judges in lieu of jail sentences. The criteria also should reduce the use of secure custody for juveniles who can be handled by other means.

Work should begin now to obtain the information needed to support the development of new, more specific criteria for detention and the use of all forms of secure custody. In particular, studies of individual cases going through juvenile courts in several selected areas should be started.

The Commission recommends that two assessments be performed at the local level. One should be a case-by-case survey in selected jurisdictions of children coming before juvenile court intake, following them through at least the adjudicatory hearing, and preferably through the dispositional hearing to obtain data to use in developing more specific criteria for detention and secure custody decisions and for developing needed programs and services. This should be completed by February 1984 by the Department of Corrections with the assistance of the Department of Criminal Justice Services and the Community Research Center. The other should be a needs assessment for each juvenile court, or Department of Corrections region to document program, service, and financial needs as a result of eliminating the inappropriate jailing of juveniles. This should be completed by August 1984.

The development and testing of more specific criteria should be completed by October 1984, and should be a combined effort by the Board

and Department of Corrections, the Department of Criminal Justice Services, the General Assembly, juvenile court judges, and attorneys. The criteria should be based upon the actual case studies referred to above, existing models and standards, and examples of other states such as North Carolina, Maryland, and Pennsylvania. As new criteria are considered and developed, the Code should be amended to incorporate them. This would likely involve amendments to Sections 16.1-248, 16.1-249, 16.1-279, 16.1-284, and possibly others.

While much of the current emphasis is upon revising criteria for detention and the use of pre-dispositional secure custody, criteria for post-dispositional secure custody and other sanctions should also be developed. Models are available from national organizations, other states, and research in the field. In developing new criteria for the use of secure post-dispositional custody, alternatives can be built in that would enhance the role and involvement of juvenile court judges and provide dispositional alternatives in lieu of jail sentences.

Many think that the implementation of new criteria would result in threats to the public safety and to the court process. Since this is a concept that has been implemented in relatively few states, there is little research or experience to support or deny these claims. However, the Community Research Center conducted a study to assess the effectiveness of the National Advisory Committee's recommended criteria. The finding was that two jurisdictions meeting the criteria detained significantly fewer children, experienced no difference in failure to appear rates, and had similar or lower rearrest rates than two jurisdictions which did not meet the criteria.¹ (See Appendix B for more detail about this study.) These findings support the belief that specific and objective criteria can be implemented without

endangering the court process or the safety of the community while holding fewer youth in detention.

If new criteria are implemented, and most juveniles can no longer be placed in adult jails, several immediate problems can be anticipated. One way to help offset the problems is to use the previously described phased approach in implementing new criteria and eliminating the inappropriate use of jails for juveniles. One expected result of new, more specific criteria would be a shifting of children from more secure settings to the next least restrictive placement. In other words, children currently being held in jails may move to secure detention or other facilities other than jail. Children now being held in secure detention who do not meet the new criteria for secure detention may move to less-restrictive placements, such as less-secure detention, outreach detention, crisis/runaway facilities, group homes, or foster homes, in order to make room for youth no longer being placed in jails. Some of the children being placed in learning centers could be placed in group homes and other placements, freeing up space for children previously sentenced to jail. Examination of the utilization rates for existing alternative facilities in recent fiscal years reveals that they are not being utilized to their fullest potential. This means that there are available spaces to help accommodate the movement of juveniles in the "shifting" process.

New Criteria Prohibit Most Jailing of Juveniles

Based upon the findings of this study, the Commission recommends that the new criteria allow only six exceptions to the prohibition of the use of adult jails for juveniles under the jurisdiction of juvenile courts. It is possible that additional data coming from recommended individual case studies will generate modifications to the exceptions recommended by the Commission based upon this study.

At this point, the Commission recommends that adult jails be used for juveniles only in the following instances:*

1. When a juvenile aged 15 or older who is in a secure detention home pre-dispositionally commits a new offense which is an act of violence and/or which constitutes a demonstrable danger to the staff and/or other detainees, a juvenile court judge, after a hearing, may order that the juvenile be detained in jail. In these instances, a juvenile so placed may be held only in a jail approved to house juveniles, and never in punitive isolation.
2. When a juvenile aged 15 or older is alleged to have committed a violent crime against persons and presents a threat to the safety of the community, and no secure juvenile detention facility is available, the juvenile may be detained for no more than 48 hours in an adult jail or lockup approved to house juveniles, but never in punitive isolation.
3. Juveniles arrested by law enforcement officers may be held for up to six hours in an adult jail or lockup for identification, processing, and transfer to juvenile court officials, juvenile shelter, or juvenile detention facilities, if they are arrested for committing an act that could result in pre-trial jailing for an adult. In these instances, juveniles may be held only in facilities approved to house juveniles, and never in punitive isolation.
4. When a juvenile aged 15 or older is arrested and is under the influence of alcohol or drugs, the juvenile may be held for up to six hours in an adult jail or lockup, but only under constant supervision in facilities approved to house juveniles, and never in punitive isolation. When this is done, a determination must be made that

*Delegate Guest filed a dissenting opinion that may be found in the addendum to this report.

there is no available acceptable alternative, such as a detention home, detoxification center, shelter or crisis care, or other suitable holding place for the juvenile.

5. Juveniles aged 15 or older who are found guilty of certain traffic offenses in Titles 18.2 and 46.1 of the Code, where a jail sentence is required by the Code, may be held in adult jails or lockups, but only in facilities approved to house juveniles, and never in punitive isolation.
6. Juveniles transferred or waived to circuit courts may be held in adult jails or lockups prior to conviction, but only in facilities approved to house juveniles, and never in punitive isolation.

Many are concerned that removing juveniles from adult jails will result in more youths being held in secure settings other than jail, i.e., in learning centers, and that there will be an increase in the number of waivers or transfers to adult court. The Jail Removal Cost Study, conducted by the Community Research Center in 1981, found that in Pennsylvania, which requires that no child under the jurisdiction of the juvenile court shall be detained in an adult jail or lock-up, there was no net increase in the total number of juveniles detained in secure settings. In fact, the number decreased 35% (12,697 to 8,289) between 1974 and 1980. There was a slight increase in the number of waivers to adult court, but there were more transfers in 1977 (402) than in 1980 (371), the most current year studied.²

Interim Measures

The development of "intermediate" secure facilities for juveniles only does not appear to be indicated. These would be, in essence, juvenile jails that could be used pre- or post-dispositionally. These are not recommended primarily because the presence of these types of facilities appears to result in

a large increase in the number of juveniles placed in secure custody, and there is already a large number of existing secure beds for juveniles, and these beds are not being fully utilized.

According to data provided by the Department of Corrections, the average percentage of complaints that resulted in a jail sentence from each juvenile court during Fiscal Year 1982, was 1.8%. However, in Clarke County, where there is a regional jail housing juveniles and women, 25% of the complaints coming to the juvenile court in Fiscal Year 1982 received a jail sentence. In the surrounding localities that use the jail, the percentages were: Frederick County, 8.1%; Warren County, 6%; and the City of Winchester, 4.6%. These percentages are substantially above the state average of 1.8%.³ This regional jail concept falls short of the ideal also because juveniles still are housed in a jail with adults. This type of approach could, if necessary, be used as a stop-gap measure until other alternatives are developed. However, for the reasons stated above, it should be an interim measure only.

It is possible that in some localities a plan could be developed to modify the facility, staff, program, and services of an existing jail so that it would be acceptable as a secure, pre-trial detention facility for juveniles only, until other alternatives are developed. It is also possible that in some localities a plan could be developed to modify the facility and staff of a local lockup so that it would be acceptable as a place for juveniles to wait for transportation or to stay overnight.

Until other alternatives are developed, certain existing detention homes, or portions of them could be used, and renovated, if necessary, to hold juveniles who are particularly violent or difficult to handle. Staff would have to be trained as well. This same approach could be used in the learning centers

for the most difficult juveniles committed to the Department of Corrections. There are now approximately 116 beds at the learning centers for juveniles who need close security and control.

Responses obtained in questionnaires sent to Virginia's juvenile court judges, juvenile court intake units, and sheriffs indicate opinions that there would be a number of problems if juveniles could not be placed in adult jails. Responses also indicate that in many instances, juveniles are being placed in jails more because of lack of needed alternatives and services than because of characteristics of the juveniles so placed. In light of all of this, if the Commonwealth is to stop the inappropriate use of jails for children, a number of very important things need to be done to assist localities during the phased effort to develop new criteria and to reduce and eliminate the inappropriate use of jails for juveniles. These include state and local needs assessments, planning, allocation of funds, and program development.

The Commission recommends that two needs assessments be performed at the state level by November 1984. One should be a projection of the impact on State-operated juvenile correctional programs, in terms of numbers and characteristics of children who may be entering these programs as a result of eliminating the inappropriate use of adult jails, and as a result of the new criteria. The other should be an estimate of the cost involved at the state and local levels to meet the needs identified as a result of eliminating the inappropriate use of adult jails for juveniles and implementing new criteria. These assessments should be done by the Department of Corrections with the assistance of other agencies as appropriate. (Much of this work has been done previously and is contained in reports prepared by the Division of Justice and Crime Prevention and the Department of Corrections.)

The Commission recommends that the Department of Corrections, working

through the General Assembly, provide financial incentives or penalties that encourage better utilization of existing programs and the use of the least restrictive appropriate alternative. The Department of Criminal Justice Services could enhance this approach by adopting similar measures in allocating funds available under the Juvenile Justice and Delinquency Prevention Act.

The Commission recommends that the Department of Corrections assist localities to plan and develop transportation networks to meet the needs for transporting children to secure detention homes, to less-secure and non-secure programs, and to the Reception and Diagnostic Center.

Many localities experience problems of being too far away from alternative facilities and programs, and/or not having appropriate alternatives. In these instances, development of transportation services and new programs will be necessary. Where possible, these programs and services should be regional in nature.

A regional transportation system to be operated by the Department of Corrections recently received Juvenile Justice and Delinquency Prevention Act funds. This program, known as the "Alternative Transportation Program," will provide a transportation service for the counties of Nottoway, Dinwiddie, Amelia, and Powhatan to the Crater Juvenile Detention Home near Petersburg, approximately one-half to one and one-half hours from each county. This will eliminate the need for pre-dispositional jail confinement for the approximately 45-50 youths confined in jails in these counties each year. The grant amount approved is \$2,450, which provides \$35.00 to pay off-duty sheriff's department deputies for each of 70 targeted roundtrips.⁴ A program of this type solves transportation problems and provides incentives for manpower with a relatively small amount of funding.

Non-Secure Holding Space

Another option particularly useful for rural areas is the development and use of non-secure holding sites for juveniles waiting for a detention hearing or transfer to another facility. In some areas, the nearest detention home is 100 or more miles away. If a child is brought into intake in the early evening, it is determined that he should be detained, and the detention hearing is to be held the next day, it is often difficult to transport the child to a detention home more than two hours away and then have to return the next day to pick him up for the detention hearing. The State of Michigan uses non-secure holding sites in many instances and describes them as being "located in places such as mental health centers, hospitals, etc., where (volunteer or paid) attendants may (counsel and) supervise juveniles for up to 16 hours"⁵ until a hearing is held, or while awaiting transportation to another facility or program. Michigan's non-secure holdover sites have to be in a "non-secure area that is accessible to the public, has bathroom facilities, sleeping cots, and can provide meals,"⁶ in order to be approved.

The Commission recommends that localities, assisted by the Department of Corrections, plan and develop more suitable places for juveniles to await transportation home or elsewhere, such as court- or community-based secure and non-secure holding rooms/areas, using existing facilities such as the courts, magistrates' offices, hospitals, private homes, and so forth. Where appropriate, people could be paid, or volunteers could be used to supervise youths while they are waiting.

Alternative Programs

The Commission recommends that the Department of Corrections and localities explore and develop alternative programs and services such as Outreach Detention, Crisis/Runaway, Less-secure Detention, Volunteer

Emergency Foster Care, Shelter Care, Post-Dispositional Group Homes, and the Associated Marine Institutes' programs to meet needs identified as a result of eliminating the inappropriate use of adult jails for juveniles and implementing new criteria for detention and pre- and post-dispositional secure custody. The Department of Corrections and localities should also consider establishing arbitration programs and using college students on a volunteer or paid basis to help staff programs for juveniles. The Department of Criminal Justice Services should provide technical assistance, and when possible, funding to assist their efforts.

It is interesting to note that in 1981, Volunteer Emergency Foster Care of Virginia (VEFC) surveyed local welfare departments and juvenile court service units to assess the needs for additional VEFC services and programs. The response rate for local welfare departments was 79%, but the rate for juvenile court service units was only 49%.⁷ It is not known why the court service unit response rate was so low. Indications are that the type of service offered by VEFC is needed, and VEFC has projected that it will provide 2,200 days of service to 360 youths in 1983, which would be a cost savings of \$95,678 compared to the cost of holding these children in secure juvenile detention.⁸

The Commission recommends that localities and juvenile court service units develop or expand programs under Volunteer Emergency Foster Care of Virginia. At the present time, VEFC of Virginia is operating or developing foster homes in 26 localities throughout the state. Its purpose is to provide short-term crisis intervention care in a foster home until a youth can be placed in a group home, longer term foster care, back in his own home, or in another alternative placement. This program is a very cost-effective way of holding juveniles on a pre-trial basis. Since it is a volunteer service, the

cost of operation is minimal.

Outreach and less-secure detention are options that are particularly useful in urban areas. These programs have proved to be very successful in Virginia and other states.

Secure Juvenile Detention Homes

Although Virginia already has 17 secure juvenile detention homes, some believe it may be necessary to augment this system by placing smaller secure juvenile detention facilities in some areas to serve given regions. If appropriate alternative programs and services are developed and existing secure detention is utilized more fully, this may not be necessary.

The Commission recommends that the Department of Corrections and localities construct no additional secure juvenile detention homes until the needs assessments recommended above are completed. Then, if additional secure juvenile detention facilities are needed, the beds should be placed in strategic areas of genuine need, accessible to localities that lack these facilities now. Caution should be exercised not to overbuild. Consideration should be given to using smaller units of up to 16 beds where appropriate, and using a regional concept whenever possible.

Information Systems and Central Reporting and Records

The Commission recommends that information systems in the Department of Corrections be improved so that they have the capability to track decisions on a case-by-case basis at all points in the juvenile justice system and to provide readily accessible information. Steps should be taken to identify and solve the problems in the Department of Corrections which prevent the Department from providing timely, accurate, and reliable data. The Commission also recommends that the Department of Corrections develop and maintain centralized, systematic reporting and records of incidents of suicides

and physical and sexual assaults in local jails, and of the number and types of juveniles held in local lockups.

Monitoring and Enforcement

The Commission recommends that the Board of the Department of Corrections be directed to monitor what is being done with children in the juvenile justice system.

Experience of other states has shown that it is important to establish a monitoring and enforcement capability to accompany changes made in eliminating the inappropriate use of adult jails and implementing new criteria. Arthur D. Little, Incorporated, conducted case studies of seven state efforts to remove juveniles from adult jails, and based upon these findings, noted: "It is important to recognize that even when state law appears to require removal of juveniles from adult jails and lock-ups, exceptions and lack of enforcement provisions can negate legislative intentions."⁹ In light of this fact, as well as the fact that children apparently still are being held in adult jails in violation of existing Code provisions, the Board of Corrections should monitor closely what is being done with children in the juvenile justice system.

Training

The Commission recommends that the Office of the Executive Secretary of the Supreme Court and the District Courts Committee provide information and training as appropriate for juvenile court judges in the use of more specific criteria for detention and all forms of pre- and post-dispositional secure custody, and the use of the least restrictive appropriate alternative. The Commission also recommends that the Department of Corrections provide information and training as appropriate for juvenile court intake staff in the use of more specific criteria for detention and secure custody decision making, and the use of the least restrictive appropriate alternative.

Funding

Virginia, like other states, is certainly experiencing its share of funding cutbacks and budget reductions. In this atmosphere, the desire to accomplish worthy goals is often tempered by the cost to achieve them. With a goal of keeping the use of secure confinement to a minimum, and making better use of existing secure juvenile confinement spaces, costs should be reduced. One funding strategy that can be explored is the reallocation of funds presently being expended by the State and localities to hold juveniles in jails so that the funds may be used to develop alternative programs and services.

The Commission recommends that the General Assembly consider developing a method to reallocate the funds the state has been spending to house juveniles in adult jails to develop needed services and programs such as transportation, secure juvenile detention, non-secure and less-secure detention, crisis/runaway, group homes, and programs like those of the Associated Marine Institutes, Inc. In Fiscal Year 1982, the state spent \$1,339,837 to house juveniles in adult jails. Localities spent \$334,959. (Other funds probably will be needed for the first two or three years, in addition to the funds discussed above).

During the transition period, the Department of Corrections could estimate each fiscal year the number of juveniles held in local jails during the preceding year, excluding those transferred to the circuit courts, and provide this information to the General Assembly, so that all or a portion of the funds used to pay for those confinements could be reallocated to begin building financial resources to pay for program and service needs generated as a result of eliminating the inappropriate use of adult jails for children.

Funds could be reallocated based upon a number of factors or methods,

including: the results of the State and local assessments; the number of children jailed in a given region or locality; by judicial district; by Department of Corrections region; and so on.

According to the Department of Planning and Budget estimates of actual per diem costs, the average per diem cost for inmates in adult jail facilities for Fiscal Year 1982 was \$21.97. The State expenditures for these per diem costs was 80% or roughly \$17.58.¹⁰ At a cost to the state of \$17.58 per day with an average length of stay of 27.65 days,¹¹ it appears that the Commonwealth spent approximately \$1,339,837 to hold juveniles in adult jails during that time period.

Using the Department of Planning and Budget's projected per diem cost of inmate placement for Fiscal Year 1983, \$24.76, the state expenditure will equal roughly \$19.81. Hypothetically, if the same number of juveniles placed in jail in Fiscal Year 1982 are placed in jail in Fiscal Year 1983, the state can expect to spend approximately \$1,509,985 to confine juveniles in jails during the next year. In addition to the expenditures for placing juveniles in adult jails, the state has also spent a great deal of money for the confinement of youth in secure detention facilities each year. At an average per diem cost of \$43.49, the state spent \$5,994,520 to confine juveniles in secure juvenile detention homes in Fiscal Year 1982.¹² Secure confinement is generally more expensive than less-secure and non-secure placements.

The strategy suggested above for reallocating funds to help develop needed programs and services is but one possible approach. However, it is worth exploring. Another approach would be to use appropriate federal funds, particularly those available under the JJDP Act, to assist in developing needed programs.

The Commission recommends that the Department of Criminal Justice

Services allocate funds available under the Juvenile Justice and Delinquency Prevention Act, as well as funds that may become available from other federal acts in a manner that will help meet the needs identified as a result of eliminating the inappropriate use of adult jails for children under the jurisdiction of juvenile courts.

Funds coming to the Commonwealth through the Juvenile Justice and Delinquency Prevention Act; approximately \$1,000,000 per year, as well as funds which may become available through other federal acts should be used to help the Commonwealth achieve the goal of reducing and eliminating the inappropriate use of adult jails for juveniles under the jurisdiction of juvenile and domestic relations district courts.

Legislation

Finally, the Commission recommends that based upon the findings of this study, as well as the results of State and local needs assessments, individual case studies at juvenile courts, and proposed new criteria for detention and secure custody, the General Assembly develop and enact legislative amendments to establish new criteria and to reduce and eliminate the inappropriate use of adult jails for juveniles.

The Commonwealth must decide specifically which juveniles can be confined in jails and under what circumstances. Specific and objective guidelines must be implemented to manage detention and secure custody decision making in order to eliminate substantial discrepancies in Virginia's detention and secure custody practices, and to make better use of existing and planned programs and facilities.

REFERENCES

¹Robert Kihm, Prohibiting Secure Juvenile Detention - Assessing the Effectiveness of National Standards Detention Criteria, (Champaign, Ill.: Community Research Center, March 1980), p. 16.

²Community Research Center, Jail Removal Cost Study - Volume 1, (Champaign, Ill.: Community Research Center, May 1982), p. 22.

³Commonwealth of Virginia, Department of Corrections, Virginia Juvenile Justice Information System, Court Report #2, FY 1982.

⁴Alternative Transportation Program - Application No. 83-A6197J, before the Juvenile Justice and Delinquency Prevention Advisory Council, Department of Criminal Justice Services, Richmond, Virginia, March 17, 1983.

⁵Marion B. Durham, No Place For A Child - Children in Adult Jails in North Carolina, (Raleigh: Governor's Council on Children and Youth, November 1982), p. 8.

⁶Ibid.

⁷Volunteer Emergency Foster Care of Virginia, Summary - 1981 Needs Assessment Survey, 1982, p. 1.

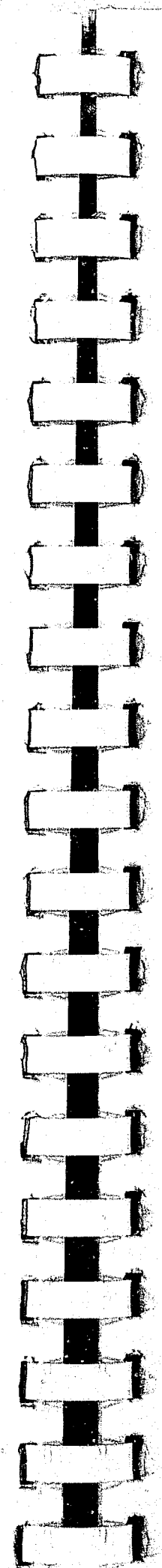
⁸Ibid, p. 2.

⁹Arthur D. Little, Inc., "Case Studies," Removal of Juveniles From Adult Jails and Lock-ups, March 1981, p. 41.

¹⁰Figure derived from the result of the Department of Corrections paying 30% of per diem placement expenditure and the Compensation Board paying 50% of per diem placement expenditure.

¹¹Commonwealth of Virginia, Department of Corrections, Juveniles in Jail: Population Summary, FY 1982.

¹²Commonwealth of Virginia, Department of Planning and Budget, Analysis of Prior Years Reimbursement Data, not dated.



ADDENDUM



COMMONWEALTH of VIRGINIA

Laurence Leonard
Executive Director

VIRGINIA STATE CRIME COMMISSION
801 EAST BROAD STREET, SUITE 701
RICHMOND, VIRGINIA 23219
Telephone (804) 786-4591

MEMBERS

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William N. Paxton, Jr.
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George F. Ricketts

August 17, 1983

Mr. L. Ray Ashworth
Chairman, Juvenile Jailing Subcommittee
Virginia State Crime Commission
801 East Broad Street
Richmond, Virginia 23219

Dear Ray:

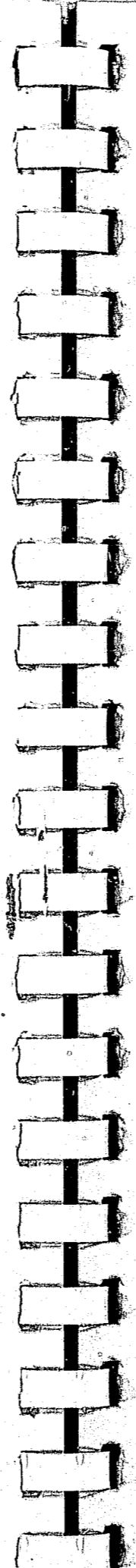
I feel that the juvenile court judge should have the option of placing juveniles in approved jails when the juveniles have failed to perform satisfactorily community service sentences previously handed down by the juvenile court judge.

I feel that the Commonwealth should institute discussions with the appropriate federal authorities to obtain approval for this exception. Failure to provide for this would, in my opinion, overly restrict the exercise of sound judgement by the juvenile and domestic relations district court judges.

Respectfully yours,

Raymond R. "Andy" Guest, Jr.

RRG:jwc



APPENDIX A

Utilization of Virginia's Juvenile Alternative Programs

UTILIZATION RATE CALCULATIONS

The information used for the following charts was compiled by the Program Development Unit in collaboration with the Evaluation and Monitoring Unit of the Department of Corrections, and provided by Mr. R. H. Sutton, Assistant Director, Youth Community Services of the Department of Corrections. Information entitled "Analysis of Community Residential Care Program Population By Region and Type of Program-Percentage Utilization - July 1, 1980 - June 30, 1981", provided by Mr. Scott Harlow, Department of Corrections, was also used in these calculations.

The number of spaces actually used on the average on any given day was calculated by multiplying the yearly utilization rate times the capacity. This figure was then subtracted from the capacity to determine the number of spaces available on the average on any given day during that fiscal year based on 100% of capacity.

The number of available spaces based on 90% utilization was calculated by subtracting the actual number of spaces used from 90% of the program's capacity.

This procedure was followed for each separate program to determine the figures listed in each chart. The number of available spaces in each program was then added by region and then as a state total to determine the number of spaces available based upon 100% and 90% of capacity on a regional and statewide basis on any given day during that fiscal year.

The utilization rates for each region and for the state total were calculated as an average rate of the respective programs in each region and all programs in the state.

UTILIZATION RATES
 FY 1981 and FY 1982
 STATE TOTALS
 BY TYPES OF PROGRAMS

| TYPE OF PROGRAM | FY 1981 CAPACITY | FY 1981 RATE | AVAILABLE ¹ SPACES AT 100% RATE | AVAILABLE ¹ SPACES AT 90% RATE | FY 1982 CAPACITY | FY 1982 RATE | AVAILABLE ¹ SPACES AT 100% RATE | AVAILABLE ¹ SPACES AT 90% RATE |
|---------------------------------|------------------|--------------|--|---|------------------|--------------|--|---|
| CRISIS INTERVENTION/ RUNAWAY | 100 | 72% | 21.5 | 11.9 | 100 | 76% | 24.4 | 14.5 |
| COMMUNITY YOUTH HOMES | 312 | 74% | 80.0 | 48.9 | 319 | 76% | 80.0 | 50.1 |
| FAMILY GROUP HOMES | 80 | 58% | 31.8 | 24.1 | 80 | 59% | 33.4 | 25.2 |
| SECURE DETENTION | 460 | 79% | 88.7 | 49.9 | 460 | 80% | 82.0 | 47.3 |
| LESS SECURE DETENTION | 38 | 63% | 14.0 | 10.3 | 38 | 70% | 10.8 | 8.3 |
| DETENTION OUTREACH | 102 | 78% | 26.0 | 19.8 | 108 | 93% | 12.7 | 6.9 |
| STATE TOTAL | 1092 | N/A | 262.0 | 164.9 | 1105 | N/A | 243.3 | 152.2 |

¹On any given day during that fiscal year.

UTILIZATION RATES
 FY 1981 and FY 1982
 CRISIS INTERVENTION/RUNAWAY

| PROGRAM | FY 1981 CAPACITY | FY 1981 RATE | AVAILABLE ¹ SPACES AT 100% RATE | AVAILABLE ¹ SPACES AT 90% RATE | FY 1982 CAPACITY | FY 1982 RATE | AVAILABLE ¹ SPACES AT 100% RATE | AVAILABLE ¹ SPACES AT 90% RATE |
|------------------|---------------------|-----------------|--|---|---------------------|-----------------|--|---|
| SANCTUARY | 12 | 87% | 1.5 | 0.36 | 12 | 91% | 1.0 | 0 |
| REGION I TOTAL | 12 | 87% | 1.5 | 0.36 | 12 | 91% | 1.0 | 0 |
| CROSSROADS | 12 | 78% | 2.6 | 1.44 | 12 | 81% | 2.3 | 1.08 |
| SOUTHSIDE | 16 | 83% | 2.7 | 1.12 | 12 | 70% | 3.6 | 2.40 |
| REGION II TOTAL | 28 | 81% | 5.3 | 2.56 | 24 | 75% | 5.9 | 3.48 |
| LOUDOUN | 6 | 67% | 2.0 | 1.38 | 10 | 66% | 3.4 | 2.4 |
| REGION III TOTAL | 6 | 67% | 2.0 | 1.38 | 10 | 66% | 3.4 | 2.4 |
| OASIS | 12 | 64% | 4.3 | 3.12 | 12 | 69% | 3.7 | 2.52 |
| HENRICO | 12 | 93% | 1.0 | 0 | 12 | 75% | 3.0 | 1.80 |
| REGION IV TOTAL | 24 | 69% | 5.3 | 3.12 | 24 | 72% | 6.7 | 4.32 |
| VA. BEACH | 15 | 69% | 4.6 | 3.15 | 15 | 74% | 3.9 | 2.40 |
| NORFOLK | 15 | 81% | 2.8 | 1.35 | 15 | 77% | 3.5 | 1.95 |
| REGION V TOTAL | 30 | 75% | 7.4 | 4.50 | 30 | 75% | 7.4 | 4.35 |
| STATE TOTAL | 100 | 72% | 21.5 | 11.92 | 100 | 76% | 24.4 | 14.55 |

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¹On any given day during that fiscal year.

UTILIZATION RATES
 FY 1981 and FY 1982
 COMMUNITY YOUTH HOMES

| PROGRAM | FY 1981 CAPACITY | FY 1981 RATE | AVAILABLE ¹ SPACES AT 100% RATE | AVAILABLE ¹ SPACES AT 90% RATE | FY 1982 CAPACITY | FY 1982 RATE | AVAILABLE ¹ SPACES AT 100% RATE | AVAILABLE ¹ SPACES AT 90% RATE |
|---------------------------|---------------------|-----------------|--|---|---------------------|-----------------|--|---|
| YOUTH HAVEN | 10 | 75% | 2.5 | 1.5 | 10 | 96% | 0.4 | 0 |
| GATEWAY | 12 | 73% | 3.2 | 2.0 | 10 | 67% | 3.3 | 2.3 |
| DISCOVERY | 10 | 89% | 1.1 | 0 | 10 | 93% | 0.7 | 0 |
| ABRAXAS | 12 | 87% | 1.5 | 0 | 12 | 76% | 2.8 | 1.6 |
| REGION I TOTAL | 44 | 81% | 8.3 | 3.5 | 42 | 82% | 7.2 | 3.9 |
| ANCHOR I | 12 | 74% | 3.1 | 1.92 | 12 | 95% | 0.6 | 0 |
| ANCHOR II | 10 | 75% | 2.5 | 1.50 | 10 | 74% | 2.5 | 1.6 |
| OPPORTUNITY | 12 | 69% | 3.7 | 2.52 | 12 | 91% | 1.0 | 0 |
| BOYS COM. ATT. | 12 | 73% | 3.2 | 2.04 | 12 | 78% | 2.6 | 1.44 |
| GIRLS COM. ATT. | 12 | 54% | 5.5 | 4.32 | 12 | 42% | 7.0 | 5.76 |
| SPARC ² | 12 | 32% | 8.1 | 6.96 | 12 | 62% | 4.5 | 1.92 |
| REGION II TOTAL | 70 | 62% | 26.0 | 19.26 | 70 | 74% | 17.6 | 12.60 |
| BRADDOCK | 8 | 90% | 0.8 | 0 | 8 | 77% | 1.8 | 1.04 |
| FAIRFAX GIRLS | 12 | 74% | 3.1 | 1.92 | 12 | 77% | 2.7 | 1.56 |
| FAIRFAX BOYS ³ | | | | | 12 | 43% | 6.8 | 5.64 |
| ARGUS | 12 | 81% | 2.2 | 1.08 | 12 | 74% | 3.1 | 1.92 |
| REGION III TOTAL | 32 | 81% | 6.1 | 3.0 | 44 | 74% | 14.5 | 10.60 |
| CROSSROADS | 9 | 71% | 2.6 | 1.71 | 9 | 49% | 4.6 | 3.69 |
| HENRICO | 12 | 77% | 2.7 | 1.56 | 12 | 63% | 4.4 | 3.24 |
| EXODUS | 12 | 57% | 5.1 | 3.96 | 12 | 58% | 5.0 | 3.84 |
| STEP. STONE | 12 | 69% | 3.7 | 2.52 | 12 | 82% | 2.1 | 0.96 |
| CHESTERFIELD | 12 | 61% | 4.6 | 3.48 | 12 | 80% | 2.4 | 1.20 |
| REGION IV TOTAL | 57 | 67% | 18.7 | 13.23 | 57 | 67% | 18.5 | 12.93 |

UTILIZATION RATES
 FY 1981 and FY 1982
 COMMUNITY YOUTH HOMES

| PROGRAM | FY 1981 CAPACITY | FY 1981 RATE | AVAILABLE ¹ SPACES AT 100% RATE | AVAILABLE ¹ SPACES AT 90% RATE | FY 1982 CAPACITY | FY 1982 RATE | AVAILABLE ¹ SPACES AT 100% RATE | AVAILABLE ¹ SPACES AT 90% RATE |
|----------------|---------------------|-----------------|--|---|---------------------|-----------------|--|---|
| REG. GIRLS | 15 | 86% | 2.1 | 0.6 | 15 | 71% | 4.3 | 2.85 |
| STANHOPE | 15 | 82% | 2.7 | 1.2 | 15 | 75% | 3.7 | 2.25 |
| LAKEHOUSE | 15 | 89% | 1.6 | 0 | 12 | 88% | 1.4 | 0 |
| CHES. BOYS | 15 | 90% | 1.5 | 0 | 15 | 88% | 1.8 | 0 |
| PORT. BOYS | 12 | 80% | 2.4 | 1.2 | 12 | 88% | 1.4 | 0 |
| CENTERVILLE | 15 | 72% | 4.2 | 2.7 | 15 | 74% | 3.9 | 2.4 |
| TRUXTON | 12 | 62% | 4.5 | 3.36 | 12 | 68% | 3.8 | 2.64 |
| HAMPTON PLACE | 10 | 82% | 1.8 | 0.8 | 10 | 82% | 1.8 | 0.8 |
| REGION V TOTAL | 109 | 81% | 20.8 | 9.86 | 106 | 79% | 22.0 | 10.94 |
| STATE TOTAL | 312 | 74% | 80.0 | 28.89 | 319 | 76% | 80.0 | 50.09 |

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¹On any given day during that fiscal year.
²SPARC opened in May 1981.
³Fairfax Boys Community Youth Home opened in April 1982.

UTILIZATION RATES
 FY 1981 and FY 1982
 FAMILY GROUP HOMES

| PROGRAM | FY 1981 CAPACITY | FY 1981 RATE | AVAILABLE ¹ SPACES AT 100% RATE | AVAILABLE ¹ SPACES AT 90% RATE | FY 1982 CAPACITY | FY 1982 RATE | AVAILABLE ¹ SPACES AT 100% RATE | AVAILABLE ¹ SPACES AT 90% RATE |
|----------------------------|---------------------|-----------------|--|---|---------------------|-----------------|--|---|
| 30th DISTRICT | 8 | 68% | 2.5 | 1.76 | 8 | 109% | 0 | 0 |
| REGION I | 4 | 33% | 2.6 | 2.28 | 4 | 42% | 2.3 | 1.92 |
| 28th DISTRICT ² | 10 | 51% | 5.0 | 3.90 | | | | |
| REGION I TOTAL | 22 | 54% | 10.1 | 7.94 | 12 | 87% | 2.3 | 1.92 |
| ANCHOR ³ | | | | | | | | |
| CHARLOTTESVILLE | 11 | 92% | 1.0 | 0 | 12 | 34% | 7.9 | 6.72 |
| WAYNESBORO ⁴ | 4 | 40% | 2.4 | 2.0 | 13 | 56% | 5.7 | 4.42 |
| REGION II TOTAL | 15 | 78% | 3.4 | 2.0 | 29 | 56% | 16.0 | 12.34 |
| WINCHESTER | 8 | 83% | 1.3 | 0.56 | 8 | 37% | 5.0 | 4.24 |
| FAIRFAX | 12 | 58% | 5.0 | 3.84 | 12 | 61% | 4.6 | 3.48 |
| REGION III TOTAL | 20 | 69% | 6.3 | 4.40 | 20 | 49% | 9.6 | 7.72 |
| 13th DISTRICT | 16 | 45% | 8.8 | 7.20 | 12 | 82% | 2.1 | 0.96 |
| 9th DISTRICT | 7 | 53% | 3.2 | 2.59 | 7 | 57% | 3.0 | 2.31 |
| REGION IV TOTAL | 23 | 48% | 12.0 | 9.79 | 19 | 73% | 5.1 | 3.27 |
| STATE TOTAL | 80 | 58% | 31.8 | 24.13 | 80 | 59% | 33.4 | 25.25 |
| (HANOVER) ⁵ | 12 | 33% | 8.0 | 7.23 | 12 | 32% | 8.0 | 6.96 |

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- ¹On any given day during that fiscal year.
²The 28th District FOG Home was closed on June 30, 1981.
³The Anchor FOG Home was opened in December 1981.
⁴The Waynesboro FOG Home was opened in June 1981.
⁵The Hanover FOG Home is no longer in operation.

UTILIZATION RATES
 FY 1981 and FY 1982
 SECURE DETENTION HOMES

| PROGRAM | FY 1981 CAPACITY | FY 1981 RATE | AVAILABLE ¹ SPACES AT 100% RATE | AVAILABLE ¹ SPACES AT 90% RATE | FY 1982 CAPACITY | FY 1982 RATE | AVAILABLE ¹ SPACES AT 100% RATE | AVAILABLE ¹ SPACES AT 90% RATE |
|----------------------|---------------------|-----------------|--|---|---------------------|-----------------|--|---|
| HIGHLANDS | 20 | 69% | 6.2 | 4.2 | 20 | 78% | 4.4 | 2.4 |
| SHENANDOAH | 32 | 64% | 11.5 | 8.3 | 32 | 65% | 11.2 | 8.0 |
| NEW RIVER | 20 | 61% | 7.8 | 5.8 | 20 | 60% | 8.0 | 6.0 |
| ROANOKE | 21 | 63% | 7.7 | 5.6 | 21 | 70% | 6.3 | 4.2 |
| REGION I TOTAL | 93 | 64% | 33.2 | 23.9 | 93 | 68% | 29.9 | 20.6 |
| DANVILLE | 30 | 81% | 5.7 | 2.7 | 30 | 63% | 11.1 | 8.1 |
| LYNCHBURG | 20 | 50% | 10.0 | 8.0 | 20 | 68% | 6.4 | 4.4 |
| REGION II TOTAL | 50 | 65% | 15.7 | 10.7 | 50 | 65% | 17.5 | 12.5 |
| N. VIRGINIA | 43 | 97% | 1.3 | 0 | 43 | 96% | 1.7 | 0 |
| FAIRFAX ² | | | | | 33 | N/A | | |
| RAPPAHANNOCK | 21 | 82% | 3.7 | 1.6 | 21 | 85% | 3.1 | 1.0 |
| PRINCE WILLIAM | 21 | 80% | 4.2 | 2.1 | 21 | 89% | 2.3 | 0 |
| REGION III TOTAL | 85 | 89% | 9.2 | 3.7 | 85 | 90% | 7.1 | 1.0 |
| HENRICO ³ | 20 | 64% | 7.2 | 5.2 | 20 | 69% | 6.2 | 4.2 |
| CHESTERFIELD | 22 | 89% | 2.4 | 0.4 | 22 | 93% | 1.5 | 0 |
| RICHMOND | 52 | 83% | 8.8 | 3.6 | 52 | 78% | 11.4 | 6.2 |
| REGION IV TOTAL | 94 | 81% | 18.4 | 9.0 | 94 | 80% | 19.1 | 10.4 |
| TIDEWATER | 52 | 93% | 3.6 | 0 | 52 | 102% | 0 | 0 |
| NORFOLK | 43 | 95% | 2.1 | 0 | 43 | 89% | 4.7 | 0.4 |
| CRATER | 22 | 78% | 4.8 | 2.6 | 22 | 79% | 4.6 | 2.4 |
| NEWPORT NEWS | 21 | 92% | 1.7 | 0 | 21 | 99% | 0 | 0 |
| REGION V TOTAL | 138 | 91% | 12.2 | 2.6 | 138 | 92% | 9.3 | 2.8 |
| STATE TOTAL | 460 | 79% | 88.7 | 49.9 | 460 | 80% | 82.0 | 47.3 |

¹On any given day during that fiscal year.

²The Fairfax Secure Detention Home opened in October 1982, therefore it is not included in the region and state totals.

³The Henrico Secure Detention Home began operation in December 1980.

UTILIZATION RATES
 FY 1981 and FY 1982
 LESS SECURE DETENTION

| PROGRAM | FY 1981 CAPACITY | FY 1981 RATE | AVAILABLE ¹ SPACES AT 100% RATE | AVAILABLE ¹ SPACES AT 90% RATE | FY 1982 CAPACITY | FY 1982 RATE | AVAILABLE ¹ SPACES AT 100% RATE | AVAILABLE ¹ SPACES AT 90% RATE |
|--------------------------|---------------------|-----------------|--|---|---------------------|-----------------|--|---|
| FAIRFAX | 9 | 91% | 0.8 | 0 | 9 | 99% | 0 | 0 |
| REGION III TOTAL | 9 | 91% | 0.8 | 0 | 9 | 99% | 0 | 0 |
| HAMPTON/ NEWPORT NEWS | 14 | 51% | 6.8 | 5.4 | 14 | 55% | 6.3 | 4.9 |
| TIDEWATER | 15 | 57% | 6.4 | 4.9 | 15 | 67% | 4.5 | 3.4 |
| REGION V TOTAL | 29 | 54% | 13.2 | 10.3 | 29 | 61% | 10.8 | 8.3 |
| STATE TOTAL | 38 | 63% | 14.0 | 10.3 | 38 | 70% | 10.8 | 8.3 |

¹On any given day during that fiscal year.

UTILIZATION RATES
 FY 1981 and FY 1982
 DETENTION OUTREACH

| PROGRAM | FY 1981 CAPACITY | FY 1981 RATE | AVAILABLE ¹ SPACES AT 100% RATE | AVAILABLE ¹ SPACES AT 90% RATE | FY 1982 CAPACITY | FY 1982 RATE | AVAILABLE ¹ SPACES AT 100% RATE | AVAILABLE ¹ SPACES AT 90% RATE |
|-----------------|---------------------|-----------------|--|---|---------------------|-----------------|--|---|
| ROANOKE | 24 | 60% | 9.6 | 7.2 | 24 | 78% | 5.2 | 2.9 |
| REGION I TOTAL | 24 | 60% | 9.6 | 7.2 | 24 | 78% | 5.2 | 2.9 |
| PRINCE WILLIAM | 24 | 63% | 8.9 | 6.5 | 24 | 73% | 6.5 | 4.0 |
| FAIRFAX | 30 | 119% | 0 | 0 | 30 | 108% | 0 | 0 |
| REGION II TOTAL | 54 | 94% | 8.9 | 6.5 | 54 | 92% | 6.5 | 4.0 |
| NORFOLK | 6 | 54% | 2.7 | 2.1 | 6 | 84% | 1.0 | 0 |
| NEWPORT NEWS | 18 | 68% | 5.7 | 4.0 | 24 | 103% | 0 | 0 |
| REGION V TOTAL | 24 | 65% | 8.4 | 6.1 | 30 | 98% | 1.0 | 0 |
| STATE TOTAL | 102 | 78% | 26.9 | 19.8 | 108 | 93% | 12.7 | 6.9 |

¹On any given day during that fiscal year.

APPENDIX B
NAC Criteria Assessment Study

NAC CRITERIA ASSESSMENT STUDY

In March 1980, the Community Research Forum of the University of Illinois at Urbana-Champaign published a study titled Prohibiting Secure Juvenile Detention - Assessing the Effectiveness of National Standards Detention Criteria, which examines the possible effects of the standards developed by the National Advisory Committee for Juvenile Justice and Delinquency Prevention. "By establishing objective criteria that rely minimally on an intake officer's or judge's subjective judgement, the standards attempt to strike a balance between protecting children's pretrial rights and freedoms, and protecting the public safety and court process."¹

Until this study, there had been no field research to demonstrate their effectiveness. "Consequently, there had been little incentive for states or localities to adopt these criteria on a widespread basis without assurance that the public safety and the court process can be protected if the criteria are applied. The purpose then was to determine the effectiveness of national standards criteria in protecting the public safety and the court process when the criteria are actually implemented by court jurisdictions."²

The study focused on two primarily urban jurisdictions, Gloucester County, New Jersey and Salt Lake County, Utah, with populations over 175,000; and two rural jurisdictions, Taos County, New Mexico, and Lenewee County, Michigan, with populations under 85,000. Gloucester and Taos Counties' detention practices were generally in accord with the Advisory Committee's proposed criteria. The other two jurisdictions were selected for comparison data because their detention practices did not conform with the national standards criteria.

To determine the effectiveness of the national standards criteria, a

survey of juvenile court referrals was conducted in each jurisdiction. A sequentially random sample of all youth referred to the juvenile court was selected based on the daily logbooks of the court intake or probation office. Samples were drawn to include cases referred to the courts from July 1978 to May 1979. Each of these sample cases involved the court making either an official or unofficial disposition at a date following the initial referral. Therefore, in each case a decision was required by the court either to release or detain the child pending final disposition.³

The Advisory Committee's criteria were applied to each of these sample cases to assess eligibility for detention. The actual pre-trial placement was also recorded. The general methodology of the study is described below:

For this study, a child was considered 'detained' if he/she spent over 12 hours in secure custody at some point between time of arrest and the final disposition. Each record was studied to determine whether the child was rearrested prior to final disposition of the original charge. The specific rearrest offense and determination of guilt for that offense were recorded. In addition, court records were used to determine if a child failed to appear for court hearings and if the child was subsequently found. In general, the jurisdictions recorded a failure to appear only if the action was deliberate on the child's part. Information collection was terminated when the court made a final determination of the case.⁴

The results of this study in terms of detention rates, failure to appear, and rearrest are discussed below.

The data for eligibility for detention and actual detention placement are found in Table 1. The percent of cases eligible for detention according to the criteria is significantly higher for Gloucester County than it is for Salt Lake County. Therefore, it is indicated that Gloucester County has a more serious court referral population than Salt Lake County. However, it is seen that Salt Lake County detains a significantly higher percentage of youth than Gloucester County. This means that "the nature of the two court referral populations does not seem to warrant the fact that Salt Lake County has a

significantly higher detention rate than Gloucester County."⁵

For the two rural counties, there is no significant difference in the percentage of cases eligible for detention according to national standards criteria. The data show that Lenewee County detained 30% of the referred youth, whereas Taos County detained no child for over 12 hours. Although the court referral populations were similar, Lenewee County detained a much higher number of children than Taos County.

The study next looks at the characteristics of the children detained in the two jurisdictions not meeting the criteria. Of the children detained over 12 hours in Salt Lake County, 72% did not meet eligibility for detention according to the criteria. Over half the children detained were only charged with misdemeanor offenses. In Lenewee County, 81% of the children detained did meet the criteria for detention. The single most serious offense charged against 57% of the children detained in Lenewee County was either a misdemeanor or a status offense.⁶ "Gloucester and Taos Counties released considerably more children than the other comparison counties, even though the court referral populations were composed of similar or more serious offenders than in the other two counties."⁷

The study next examines the failure to appear data, which are found in Table 2. The results indicate that there was no significant difference in failure to appear rates. "This indicates that the Advisory Committee's detention criteria have not posed a significant risk to an orderly court process in the urban and rural jurisdictions which conform to the criteria."⁸

Since it is possible that a jurisdiction could take a longer time to dispose of a case and that this could cause a higher rate of failure to appear, the time between the initial court referral and final disposition was controlled to further test the results. Therefore, an 80-day limit, as recommended by the

National Advisory Committee, was set on the time between initial court referral and final disposition, and new failure to appear rates were calculated. The new calculations show that application of the 80-day limit reduces failure to appear rates in three of the four counties. There is also no significant difference between the failure to appear rates for either the urban or rural jurisdictions. "Once again, this indicates that the jurisdictions which meet the detention criteria have not experienced a significantly higher rate of failure to appear for court hearings."⁹

Table 3 contains the data for rearrest rates for the two urban counties. According to the results, Gloucester County's rate of 12.5 total percent of all rearrests prior to final disposition was significantly lower than the 21.5% rate for Salt Lake County. The felony rearrest rates were not significantly different between the two counties. "These results suggest that Salt Lake County experienced a higher rate of rearrests for misdemeanors and status offenses. However, there was no difference between the counties in terms of a major threat to the public safety resulting from rearrests for serious felony-type offenses."¹⁰

After the 80-day limit was applied to the rearrest data, the table reveals that the rearrest rates were lower for both counties. Further application of the 80-day limit to the data indicates that neither the total rearrest rate nor the percentage of felony rearrests varied significantly between the two counties. "These results confirm that Gloucester County has been able to release children not meeting national standards criteria for detention without significantly increasing the threat to the public safety."¹¹

Rearrest data for the rural counties is presented in Table 4. When the statistical test of significance is applied, there is no significant difference in either the rate of all rearrests or felony rearrests between the two counties.

There is also no change in rearrest rates when the 80-day limit is applied to the data. "Therefore, it can be concluded that Taos County has been able to release significantly more children than Lenewee County without posing an increase in the threat to public safety."¹²

In summary, the survey results reveal that:

- 1) Both the urban and rural jurisdictions meeting the criteria detained significantly fewer children than the comparison counties, even though the court referral populations were similar or even more serious in the counties meeting the criteria.
- 2) There was no significant difference in the failure to appear rates for either the rural or urban jurisdictions.
- 3) Total rearrest rates and the felony rearrest rates were similar or even lower in both the rural and urban jurisdictions meeting the criteria.¹³

The following can also be concluded from the study:

- 1) proportionately fewer children are detained in the jurisdictions that meet the criteria;
- 2) the Advisory Committee's criteria can be implemented in both a rural and an urban setting, without experiencing a significantly higher rate of rearrests between the time of initial arrest and final disposition; and
- 3) the Advisory Committee's criteria can be implemented in both a rural and an urban setting, without experiencing a significantly higher rate of failure to appear for court hearings.¹⁴

"This study of the Advisory Committee's detention criteria provides empirical data which bolsters the argument that many children are unnecessarily detained."¹⁵ Although the nature of this study's research design prevents predicting the exact impact of implementing the National Advisory Committee criteria in every jurisdiction, its results bear important implications for officials and lay citizens working in the juvenile justice system.

table 1

ELIGIBILITY FOR DETENTION AND ACTUAL DETENTION PLACEMENT DATA

| <u>Urban Counties over 175,000 Population</u> | | | |
|---|--|---|--------------------|
| | <u>Gloucester Co., NJ</u> (substantially meets national standards) | <u>Salt Lake Co., Ut</u> (does not meet national standards) | <u>Z-scores</u> |
| Randomly selected sample size ¹ | 199 | 205 | |
| Percent of cases eligible for detention according to national standards criteria | 17.0% | 8.3% | 3.16 ² |
| Percent of cases actually detained over 12 hours between arrest and final disposition | 8.0% | 14.1% | 66.97 ³ |
| <u>Rural Counties under 85,000 Population</u> | | | |
| | <u>Taos County, NM</u> (substantially meets national standards) | <u>Lenewee Co., MI</u> (does not meet national standards) | <u>Z-score</u> |
| Randomly selected sample size ¹ | 151 | 155 | |
| Percent of cases eligible for detention according to national standards criteria | 6.0% | 9.7% | 1.20 ⁴ |
| Percent of cases actually detained over 12 hours between arrest and final disposition | 0.0% | 30.3% | 7.16 ³ |

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¹Note: Sample sizes are the same for all titles in this report.

²Represents a significant difference at the .05 level of significance using difference between proportions test.

³Computed by a difference between means test. Represents a significant difference at the .05 level of significance.

⁴Does not represent a significant difference at the .05 level of significance using a difference between proportions test.

table 2

FAILURE TO APPEAR DATA

| <u>Urban Counties over 175,000 Population</u> | | | |
|---|--|---|-------------------|
| | <u>Gloucester Co., NJ (substantially meets national standards)</u> | <u>Salt Lake Co., UT (does not meet national standards)</u> | <u>Z-scores</u> |
| Percent of cases failing to appear for court hearings | 3.5% | 7.8% | 1.87 ¹ |
| Percent of cases failing to appear for court hearings held within 80 days of initial court referral | 2.5% | 4.9% | 1.27 ¹ |
| <u>Rural Counties under 85,000 Population</u> | | | |
| | <u>Taos County, NM (substantially meets national standards)</u> | <u>Lenewee Co., MI (does not meet national standards)</u> | <u>Z-scores</u> |
| Percent of cases failing to appear for court hearings | 1.3% | 1.9% | .42 ¹ |
| Percent of cases failing to appear for court hearings held within 80 days of initial court referral | 0.0% | 1.9% | 1.70 ¹ |

¹ Does not represent a significant difference at the .05 level of significance using a difference between proportions test.

table 3

REARREST DATA FOR URBAN JURISDICTIONS¹

| | Urban Counties over 175,000 Population | | |
|---|---|--|-------------------|
| | Gloucester Co., NJ (substantially meets national standards) | Salt Lake Co., UT (does not meet national standards) | Z-scores |
| Total percent of all rearrests occurring prior to final disposition of original court referral | 12.5% | 21.5% | 2.40 ² |
| Total percent of all felony rearrests occurring prior to final disposition of original court referral | 7.0% | 10.2% | 1.15 ³ |
| Total percent of all rearrests occurring within 80 days of original court referral | 9.5% | 15.6% | 1.85 ³ |
| Total percent of all felony rearrests occurring within 80 days of original court referral | 5.0% | 8.3% | 1.33 ³ |

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¹ Only cases where the child was found guilty of the rearrest charges have been included.

² Represents a significant difference at the .05 level of significance using a difference between proportions test.

³ Does not represent a significant difference at the .05 level of significance using a difference between proportions test.

table 4

REARREST DATA FOR RURAL JURISDICTIONS¹

| | Rural Counties under 85,000 Population | | Z-scores |
|---|--|--|-------------------|
| | Taos County, NM (substantially meets national standards) | Lenewee Co., MI (does not meet national standards) | |
| Total percent of all rearrests occurring prior to final disposition of original court referral | 8.6% | 3.9% | 1.70 ² |
| Total percent of all felony rearrests occurring prior to final disposition of original court referral | 4.7% | 1.3% | 1.75 ² |

¹Only cases where the child was found guilty of the rearrest charges have been included.

²Does not represent a significant difference at the .05 level of significance.

REFERENCES

¹Robert Kilm, Prohibiting Secure Juvenile Detention - Assessing the Effectiveness of National Standards Detention Criteria, (Champaign, Ill.: Community Research Forum, University of Illinois, March 1980), p. 3.

²Ibid, p. 3-4.

³Ibid, p. 5-6.

⁴Ibid, p. 6.

⁵Ibid, p. 9.

⁶Ibid, p. 11.

⁷Ibid.

⁸Ibid.

⁹Ibid, p. 13.

¹⁰Ibid.

¹¹Ibid.

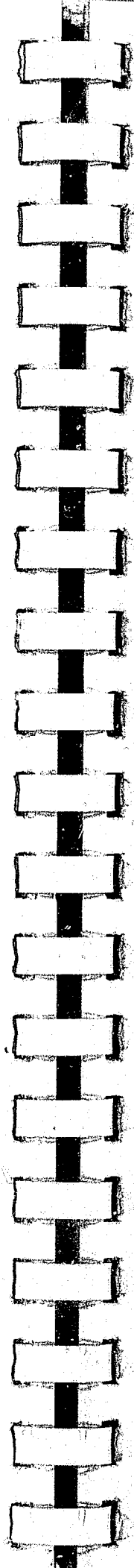
¹²Ibid.

¹³Ibid, p. 16.

¹⁴Ibid.

¹⁵Ibid, p. 17.

¹⁶Ibid, p. 21-22.



APPENDIX C
Questionnaires for Juvenile Court Judges,
Juvenile Court Intake, and Sheriffs

QUESTIONNAIRE FOR JUVENILE AND DOMESTIC
RELATIONS DISTRICT COURT SERVICE INTAKE UNITS

Court (optional) _____ Date _____

1. Please indicate the population of the jurisdiction served by your court:

| | |
|---|--|
| <input type="checkbox"/> 25,000 or less | <input type="checkbox"/> 100,000 - 150,000 |
| <input type="checkbox"/> 25,000 - 50,000 | <input type="checkbox"/> 150,000 - 200,000 |
| <input type="checkbox"/> 50,000 - 100,000 | <input type="checkbox"/> More than 200,000 |

2. Please indicate the distance from your intake office to the nearest juvenile detention home (one-way):

| | |
|--|---|
| <input type="checkbox"/> Less than 25 miles | <input type="checkbox"/> 50 - 100 miles and in another city or county |
| <input type="checkbox"/> 25 - 50 miles | <input type="checkbox"/> 100 - 150 miles |
| <input type="checkbox"/> 25 - 50 miles and in another city or county | <input type="checkbox"/> 150 - 200 miles |
| <input type="checkbox"/> 50 - 100 miles | <input type="checkbox"/> More than 200 miles |

3. Please indicate the travel time from your intake office to the nearest juvenile detention home (one-way):

| | |
|---|--|
| <input type="checkbox"/> Less than 1 hour | <input type="checkbox"/> 3 - 4 hours |
| <input type="checkbox"/> 1 - 2 hours | <input type="checkbox"/> 4 - 5 hours |
| <input type="checkbox"/> 2 - 3 hours | <input type="checkbox"/> More than 5 hours |

4. Please indicate the distance from your court to the nearest jail certified to hold juveniles (one-way):

| | |
|---|--|
| <input type="checkbox"/> Less than 25 miles | <input type="checkbox"/> 100 - 150 miles |
| <input type="checkbox"/> 25 miles | <input type="checkbox"/> 150 - 200 miles |
| <input type="checkbox"/> 25 - 50 miles | <input type="checkbox"/> More than 200 miles |
| <input type="checkbox"/> 50 - 100 miles | |

5. Have policies been implemented at Intake pertaining to the use of jails in certain instances, i.e., is jail usually used for certain types of offenders, offenses, or situations? If yes, please specify what these are:

6. Have policies been implemented at Intake pertaining to the use of juvenile detention homes in certain instances, i.e., is a juvenile detention home usually used for certain types of offenses, offenders, or situations? If yes, please specify what these are:

7. Within the past year, have you used secure detention in a juvenile detention home as a pre-dispositional placement for juveniles?

_____ Yes _____ No

8. Within the past year, have you used jail as a pre-dispositional placement for juveniles?

_____ Yes _____ No

IF NO, PLEASE OMIT QUESTIONS 9 AND 10, AND ANSWER QUESTIONS 11-15.

If you have questions, or need assistance to complete this questionnaire, please call 804/786-4591.

9. If you used jail as a placement for juveniles, did you usually think that to be the best choice, or did you wish there were other options?

_____ Best choice _____ Other options

10. If you wished there were other options, please list and/or describe what those would be:

11. Do you think it is imperative that intake officers have the option of using jail as a pre-dispositional placement for juveniles?

_____ Yes _____ No

If yes, under what circumstances? (please specify all):

12. Do you think it is imperative that judges have the option of using jail as a post-dispositional placement for juveniles?

_____ Yes _____ No

If you have questions, or need assistance to complete this questionnaire, please call 804/786-4591.

If yes, under what circumstances? (please specify all):

13. Please state the difficulties, if any, you would experience in your jurisdiction if juveniles under the jurisdiction of juvenile courts could not be placed in jails pre-dispositionally:

14. Please state the difficulties, if any, you would anticipate in your jurisdiction if juveniles under the jurisdiction of juvenile courts could not be placed in jail post-dispositionally:

If you have questions, or need assistance to complete this questionnaire, please call 804/786-4500.

15. During the past year, as you recall, what were the most frequently occurring reasons, or combinations of reasons, for your placing juveniles in juvenile detention homes?

Instructions:

On the next page, you will find reasons, grouped in categories, which singly or in combination might result in juveniles being placed in secure juvenile detention homes. Each reason has a corresponding number.

Using the space provided on the next page, please respond with the most frequently occurring reasons/combination of reasons which resulted in your placing juveniles in a secure juvenile detention home.

Examples of responses follow:

In Jurisdiction X, most juveniles placed in secure juvenile detention had committed a misdemeanor, had a past record of status offenses, may have committed other offenses if not detained, and bedspace in less-secure alternatives was not available. This would be recorded:

| Offense | Past Record | Probable Consequence | Other |
|---------|-------------|----------------------|-------|
| 3 | 10 | 15 | 27 |

In Jurisdiction Y, most juveniles placed in secure juvenile detention were status offenders whose previous record was not considered. They were not likely to commit further offenses, and their parents refused to supervise them. This would be recorded:

| Offense | Past Record | Probable Consequence | Other |
|---------|-------------|----------------------|-------|
| 4 | 13 | 14 | 28 |

In Jurisdiction Z, most juveniles placed in secure detention had committed a misdemeanor, had a record of status offenses, were likely to fail to appear in court, the placements were temporary to protect them because of substance abuse and/or inebriation, and the transportation time/distance to less-secure alternatives was too great. This would be recorded:

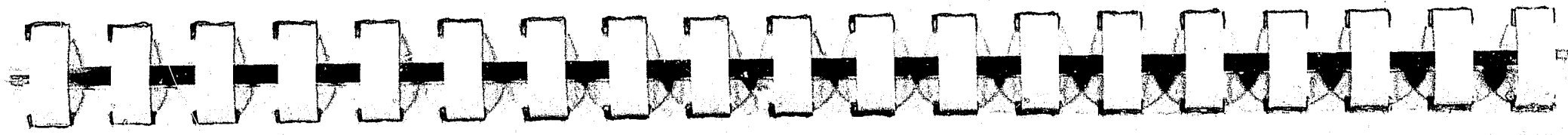
| Offense | Past Record | Probable Consequence | Other |
|---------|-------------|----------------------|-------|
| 3 | 10 | 16 | 24,25 |

NOTE: Please put only one number in each box, except "Other," where you may record more than 1 number.

Please turn the page and provide your responses, beginning with the most frequent reasons, next most frequent, and so on. Please record 3 to 6 sets of reasons, with each horizontal row counting as one set of reasons.

If you have questions, or need assistance to complete this questionnaire, please call 804/786-4591.

| Offense | Past Record | Probable Consequence If Juvenile Not Detained | Other Reasons for Detention Home Placement | |
|---|---|--|---|-------|
| 1. Serious felony (against person) 2. Other felony 3. Misdemeanor 4. Status 5. Violation of valid court order | 6. No previous record 7. Record of serious felonies (against person) 8. Record of other felonies 9. Record of misdemeanors 10. Record of status offenses 11. Record of violations of valid court orders 12. Previously failed to appear in court 13. Record not considered | 14. No problems expected 15. May commit other offenses 16. May fail to appear in court 17. Not a factor 18. Other (please specify): _____ _____ _____ | 19. No other reason 20. Less-secure alternatives had not previously succeeded in altering behavior 21. Less-secure alternatives would not provide adequate control 22. Juvenile's behavior was so violent or aggressive it might disrupt an alternative program 23. Placement was temporary to protect juvenile (e.g., runaway, child under supervision/custody of social services) 24. Placement was temporary to protect juvenile because of substance abuse and/or inebriation 25. Transportation time/distance to less-secure alternatives was too great 26. Adequate transportation to less-secure alternatives was not available 27. Bedspace was not available in less-secure alternatives 28. Parents refused custody/supervision 29. Parents could not be/were not contacted 30. Another jurisdiction requested juvenile detention home placement Other (please specify): 31. _____ 32. _____ 33. _____ | |
| YOUR RESPONSES: | | | | |
| | Offense | Past Record | Probable Consequence | Other |
| Most Frequent | | | | |
| Next Most Frequent | | | | |
| Next Most Frequent | | | | |
| Next Most Frequent | | | | |
| Next Most Frequent | | | | |
| Next Most Frequent | | | | |
| Next Most Frequent | | | | |
| Comments, if any: _____ | | | | |



16. During the past year, as you recall, what were the most frequently occurring reasons, or combinations of reasons for your placing juveniles in jail pre-dispositionally?

Instructions:

On the next page, you will find reasons, grouped in categories, which singly or in combination might result in juveniles being placed in jails pre-dispositionally. Each reason has a corresponding number.

Using the space provided on the next page, please respond with the most frequently occurring reasons/combination of reasons which resulted in your placing juveniles in jails pre-dispositionally.

Examples of responses follow:

In Jurisdiction X, most juveniles placed in jail pre-dispositionally had committed a misdemeanor, had a past record of misdemeanors, may have committed other offenses if not detained, and bedspace was not available in a secure detention home. This would be recorded:

| Offense | Past Record | Probable Consequence | Other |
|---------|-------------|----------------------|-------|
| 3 | 9 | 15 | 28 |

In Jurisdiction Y, most juveniles placed in jails pre-dispositionally had committed serious felonies and their previous record was not considered. They were not likely to commit further offenses, and their behavior was so violent it would disrupt juvenile detention. This would be recorded:

| Offense | Past Record | Probable Consequence | Other |
|---------|-------------|----------------------|-------|
| 1 | 13 | 14 | 23 |

In Jurisdiction Z, most juveniles placed in jails pre-dispositionally had committed a misdemeanor, had no previous record, were not expected to commit other offenses, and the placements were temporary to protect them because of substance abuse and/or inebriation, and the transportation time/distance to a juvenile detention home was too great. This would be recorded:

| Offense | Past Record | Probable Consequence | Other |
|---------|-------------|----------------------|-------|
| 3 | 6 | 14 | 25,26 |

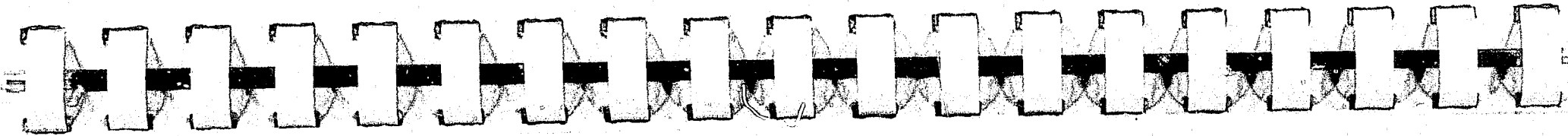
NOTE: Please put only one number in each box, except "Other," where you may record more than 1 number.

Please turn the page and provide your responses, beginning with the most frequent reasons, next most frequent, and so on. Please record 3 to 6 sets of reasons, with each horizontal row counting as 1 set of reasons.

If you have questions, or need assistance to complete this questionnaire, please call 804/786-4591.

REASONS FOR JAILING JUVENILES PRE-DISPOSITIONALLY

| Offense | Past Record | Probable Consequence If Juvenile Not Detained | Other Reasons for Jail Placement | |
|---|--|--|--|--------------|
| 1. Serious felony (against person) 2. Other felony 3. Misdemeanor 4. Status 5. Violation of valid court order | 6. No previous record: 7. Record of serious felonies (against person) 8. Record of other felonies 9. Record of misdemeanors 10. Record of status offenses 11. Record of violations of valid court orders 12. Previously failed to appear in court 13. Record not considered | 14. No problems expected 15. May commit other offenses 16. May fail to appear in court 17. Not a factor 18. Other (please specify): _____ _____ _____ | 19. No other reason 20. Juvenile detention home had not previously succeeded in altering behavior 21. Juvenile detention home would not provide adequate control 22. Exposure to jail environment might serve as a future deterrent 23. Juvenile's behavior was so violent or aggressive it might disrupt juvenile detention home 24. Placement was temporary to protect juvenile (e.g., runaway) 25. Placement was temporary to protect juvenile because of substance abuse and/or inebriation 26. Transportation time/distance to juvenile detention home was too great 27. Adequate transportation to juvenile detention home was not available 28. Bedspace was not available in juvenile detention home 29. Parents refused custody/supervision 30. Parents could not be/were not contacted 31. Per diem expense to house juvenile in juvenile detention home was too great 32. Another jurisdiction requested jailing Other (please specify): 33. _____ 34. _____ 35. _____ | |
| YOUR RESPONSES: | | | | |
| | Offense | Past Record | Probable Consequence | Other |
| Most Frequent | | | | |
| Next Most Frequent | | | | |
| Next Most Frequent | | | | |
| Next Most Frequent | | | | |
| Next Most Frequent | | | | |
| Next Most Frequent | | | | |
| Next Most Frequent | | | | |
| Comments, if any: _____ | | | | |



5. Do you hold juveniles for other jurisdictions? (Check all that apply):

Yes No
 Juvenile males Juvenile females

If yes, please list jurisdictions: _____

6. As you recall during the past year, for juveniles confined in your jail, what have been the most frequently occurring offenses pre- and post-dispositionally?

PLEASE INDICATE THE FOUR MOST FREQUENT OFFENSES FOR PRE-DISPOSITIONAL AND POST-DISPOSITIONAL, AND RANK THEM 1-4 IN EACH COLUMN, WITH #1 BEING THE MOST FREQUENT.

| Pre-disp. | Post-disp. | | Pre-disp. | Post-disp. | |
|-----------|------------|-------------------|------------|------------|----------------------|
| _____ | _____ | Murder | _____ | _____ | Traffic |
| _____ | _____ | Rape | _____ | _____ | Runaway |
| _____ | _____ | Armed robbery | _____ | _____ | Other status offense |
| _____ | _____ | Kidnapping | _____ | _____ | Other |
| _____ | _____ | Felonious assault | _____ | _____ | (please specify): |
| _____ | _____ | Other felony | Pre-disp. | _____ | _____ |
| _____ | _____ | Misdemeanor | Pre-disp. | _____ | _____ |
| _____ | _____ | Alcohol related | Post-disp. | _____ | _____ |
| _____ | _____ | Drug related | Post-disp. | _____ | _____ |

7. Do you use isolation cells to hold juveniles?

Yes No

If yes, how often?

Rarely Frequently
 Occasionally

Under what circumstances? _____

If you have questions, or need assistance to complete this questionnaire, please call 804/786-4591.

8. Do you usually place juveniles in cells with one or more other juveniles?

Yes No

If yes, how often?

Rarely Frequently
 Occasionally

9. Are juveniles allowed to have their meals outside of their cells?

Yes No

10. How often are juveniles allowed to shower?

Daily
 Weekly
 Other (please specify):

11. How often (other than for meals and showers) are juveniles allowed to be outside their cells?

Once per day
 Twice per day
 None
 Other (please specify):

12. How often are juveniles allowed to have visitors, other than attorneys?

Daily
 Once per week
 Once every two weeks
 Other (please specify):

If you have questions, or need assistance to complete this questionnaire, please call 804/786-4591.

13. Please indicate below the services/activities that juveniles in your jail can receive or participate in, and on what basis:

| <u>Services/Activities</u> | <u>Frequency/Basis</u> | | | |
|----------------------------|------------------------|--------------|---------------|-------------------------------|
| | <u>As Needed</u> | <u>Daily</u> | <u>Weekly</u> | <u>Other (please specify)</u> |
| Recreation | _____ | _____ | _____ | _____ |
| Work Release | _____ | _____ | _____ | _____ |
| Education | _____ | _____ | _____ | _____ |
| G.E.D. Preparation | _____ | _____ | _____ | _____ |
| Tutoring | _____ | _____ | _____ | _____ |
| Medical | _____ | _____ | _____ | _____ |
| Counseling | _____ | _____ | _____ | _____ |
| Library | _____ | _____ | _____ | _____ |
| Visitation | _____ | _____ | _____ | _____ |
| Exercise | _____ | _____ | _____ | _____ |
| Other (please specify): | _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ | _____ |

14. Please state the difficulties, if any, you have as a result of having juveniles in your jail:

15. Nationally, rapes, assaults, and suicides are reported to be serious problems with juveniles in jails. To your knowledge, have incidents of this nature occurred with juveniles in your jail?

_____ Yes _____ No

If you have questions, or need assistance to complete this questionnaire, please call 804/786-4591.

If yes, please indicate the type and frequency below:

| | <u>Rarely</u> | <u>Infrequently</u> | <u>Frequently</u> |
|-------------------------|---------------|---------------------|-------------------|
| Rape | _____ | _____ | _____ |
| Physical assault | _____ | _____ | _____ |
| Verbal intimidation | _____ | _____ | _____ |
| Attempted suicide | _____ | _____ | _____ |
| Suicide | _____ | _____ | _____ |
| Other deaths | _____ | _____ | _____ |
| Other (please specify): | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |

16. Are you responsible for transporting juveniles to juvenile detention?

_____ Yes _____ No

If yes, how far do you have to travel to the nearest detention home (one-way)?

_____ Less than 25 miles _____ 100 - 150 miles
 _____ 25 - 50 miles _____ 150 - 200 miles
 _____ 50 - 100 miles _____ More than 200 miles

If yes, what is the average number of these trips made by your department each week, or each month? (Choose weekly or monthly and write in the number):

_____ # Per week _____ # Per month

If no, who, or what agency is responsible? _____

17. Are you responsible for transporting juveniles to less-secure detention and crisis facilities?

_____ Yes _____ No

If you have questions, or need assistance to complete this questionnaire, please call 804/786-4591.

QUESTIONNAIRE FOR JUDGES OF
JUVENILE AND DOMESTIC RELATIONS DISTRICT COURTS

If yes, how far do you have to travel to the nearest less-secure or crisis facility?

- | | |
|---|--|
| <input type="checkbox"/> Less than 25 miles | <input type="checkbox"/> 100 - 150 miles |
| <input type="checkbox"/> 25 - 50 miles | <input type="checkbox"/> 150 - 200 miles |
| <input type="checkbox"/> 50 - 100 miles, | <input type="checkbox"/> More than 200 miles |

If yes, what is the average number of these trips made by your department each week, or each month? (Choose weekly or monthly and write in the number):

Per week # Per month

18. Do you think it is appropriate to hold juveniles in jails?

Yes No

If yes, under what circumstances? (Please specify all):

19. Please indicate the difficulties, if any, you would experience in your jurisdiction if juveniles under the jurisdiction of juvenile courts could not be placed in jails (check all that apply):

- None
- Increased demand for transportation
- Lack of secure juvenile detention facilities
- Lack of less-secure and/or crisis facilities
- Lack of manpower to transport elsewhere
- Lack of vehicles to transport elsewhere
- Travel/time distance would be great
- Other (please specify):

If you have questions, or need assistance to complete this questionnaire, please call 804/786-4591.

Court (optional) _____ Date _____

1. Please indicate the population of the jurisdiction served by your court:

- | | |
|---|--|
| <input type="checkbox"/> 25,000 or less | <input type="checkbox"/> 100,000 - 150,000 |
| <input type="checkbox"/> 25,000 - 50,000 | <input type="checkbox"/> 150,000 - 200,000 |
| <input type="checkbox"/> 50,000 - 100,000 | <input type="checkbox"/> More than 200,000 |

2. Please indicate the distance from your court to the nearest juvenile detention home (one-way):

- | | |
|--|---|
| <input type="checkbox"/> Less than 25 miles | <input type="checkbox"/> 50 - 100 miles and in another city or county |
| <input type="checkbox"/> 25 - 50 miles | <input type="checkbox"/> 100 - 150 miles |
| <input type="checkbox"/> 25 - 50 miles and in another city or county | <input type="checkbox"/> 150 - 200 miles |
| <input type="checkbox"/> 50 - 100 miles | <input type="checkbox"/> More than 200 miles |

3. Please indicate the travel time from your court to the nearest juvenile detention home (one-way):

- | | |
|---|--|
| <input type="checkbox"/> Less than 1 hour | <input type="checkbox"/> 3 - 4 hours |
| <input type="checkbox"/> 1 - 2 hours | <input type="checkbox"/> 4 - 5 hours |
| <input type="checkbox"/> 2 - 3 hours | <input type="checkbox"/> More than 5 hours |

4. Please indicate the distance from your court to the nearest jail certified to hold juveniles (one-way):

- | | |
|---|--|
| <input type="checkbox"/> Less than 25 miles | <input type="checkbox"/> 100 - 150 miles |
| <input type="checkbox"/> 25 miles | <input type="checkbox"/> 150 - 200 miles |
| <input type="checkbox"/> 25 - 50 miles | <input type="checkbox"/> More than 200 miles |
| <input type="checkbox"/> 50 - 100 miles | |

If you have questions, or need assistance to complete this questionnaire, please call 804/786-4591.

5. Have you implemented policies in your court pertaining to the use of jails in certain instances, i.e., is jail usually used for certain types of offenders, offenses, or situations? If yes, please specify what these are:

6. Have you implemented policies in your court pertaining to the use of juvenile detention homes in certain instances, i.e., is a juvenile detention home usually used for certain types of offenses, offenders, or situations? If yes, please specify what these are:

7. Within the past year, have you used secure detention in a juvenile detention home as a pre-dispositional placement for juveniles?

Yes No

8. Within the past year, have you used jail as (check all that apply)

a pre-dispositional placement for juveniles?
 a post-dispositional placement for juveniles?

IF NEITHER APPLIES, PLEASE OMIT QUESTIONS 9 AND 10, AND ANSWER QUESTIONS 11-15.

If you have questions, or need assistance to complete this questionnaire, please call 804/786-4591.

9. If you used jail as a placement for juveniles, did you usually think that to be the best choice, or did you wish there were other options?

Best choice Other options

10. If you wished there were other options, please list and/or describe what those would be:

11. Do you think it is imperative that you have the option of using jail as a pre-dispositional placement for juveniles?

Yes No

If yes, under what circumstances? (please specify all):

12. Do you think it is imperative that you have the option of using jail as a post-dispositional placement for juveniles?

Yes No

If you have questions, or need assistance to complete this questionnaire, please call 804/786-4591.

If yes, under what circumstances? (please specify all):

13. Please state the difficulties, if any, you would experience in your jurisdiction if juveniles under the jurisdiction of juvenile courts could not be placed in jails pre-dispositionally:

14. Please state the difficulties, if any, you would experience in your jurisdiction if juveniles under the jurisdiction of juvenile courts could not be placed in jail post-dispositionally:

If you have questions, or need assistance to complete this questionnaire, please call 804/786-4591.

15. During the past year, as you recall, what were the most frequently occurring reasons, or combinations of reasons, for placing juveniles in juvenile detention homes?

Instructions:

On the next page, you will find reasons, grouped in categories, which singly or in combination might result in juveniles being placed in secure juvenile detention homes. Each reason has a corresponding number.

Using the space provided on the next page, please respond with the most frequently occurring reasons/combination of reasons which resulted in your placing juveniles in a secure juvenile detention home.

Examples of responses follow:

In Jurisdiction X, most juveniles placed in secure juvenile detention had committed a misdemeanor, had a past record of status offenses, may have committed other offenses if not detained, and bedspace in less-secure alternatives was not available. This would be recorded:

| Offense | Past Record | Probable Consequence | Other |
|---------|-------------|----------------------|-------|
| 3 | 10 | 15 | 27 |

In Jurisdiction Y, most juveniles placed in secure juvenile detention were status offenders whose previous record was not considered. They were not likely to commit further offenses, and their parents refused to supervise them. This would be recorded:

| Offense | Past Record | Probable Consequence | Other |
|---------|-------------|----------------------|-------|
| 4 | 13 | 14 | 28 |

In Jurisdiction Z, most juveniles placed in secure detention had committed a misdemeanor, had a record of status offenses, were likely to fail to appear in court, the placements were temporary to protect them because of substance abuse and/or inebriation, and the transportation time/distance to less-secure alternatives was too great. This would be recorded:

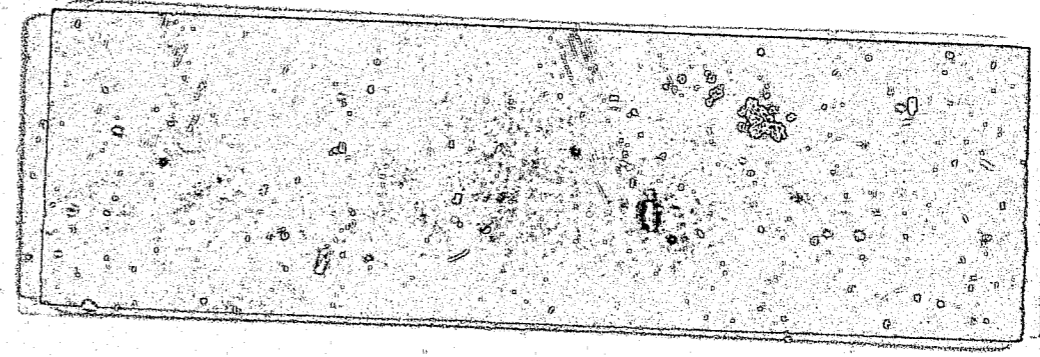
| Offense | Past Record | Probable Consequence | Other |
|---------|-------------|----------------------|-------|
| 3 | 10 | 16 | 24,25 |

Note: Please put only one number in each box, except "Other," where you may record more than 1 number.

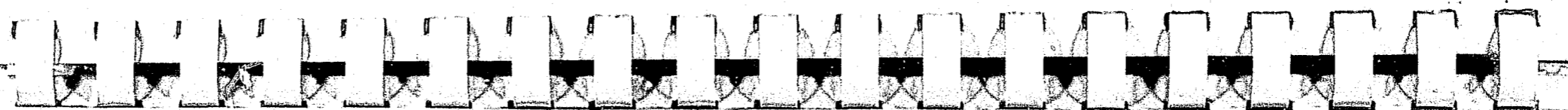
Please turn the page and provide your responses, beginning with the most frequent reasons, next most frequent, and so on.

If you have questions, or need assistance to complete this questionnaire, please call 804/786-4591.

CONTINUED



| Offense | Past Record | Probable Consequence If Juvenile Not Detained | Other Reasons for Detention Home Placement | |
|---|---|--|---|--------------|
| 1. Serious felony (against person) 2. Other felony 3. Misdemeanor 4. Status 5. Violation of valid court order | 6. No previous record 7. Record of serious felonies (against person) 8. Record of other felonies 9. Record of misdemeanors 10. Record of status offenses 11. Record of violations of valid court orders 12. Previously failed to appear in court 13. Record not considered | 14. No problems expected 15. May commit other offenses 16. May fail to appear in court 17. Not a factor 18. Other (please specify): _____ _____ _____ | 19. No other reason 20. Less-secure alternatives had not previously succeeded in altering behavior 21. Less-secure alternatives would not provide adequate control 22. Juvenile's behavior was so violent or aggressive it might disrupt an alternative program 23. Placement was temporary to protect juvenile (e.g., runaway, child under supervision/custody of social services) 24. Placement was temporary to protect juvenile because of substance abuse and/or inebriation 25. Transportation time/distance to less-secure alternatives was too great 26. Adequate transportation to less-secure alternatives was not available 27. Bedspace was not available in less-secure alternatives 28. Parents refused custody/supervision 29. Parents could not be/were not contacted 30. Another jurisdiction requested juvenile detention home placement Other (please specify): 31. _____ 32. _____ 33. _____ | |
| YOUR RESPONSES: | | | | |
| | Offense | Past Record | Probable Consequence | Other |
| Most Frequent | | | | |
| Next Most Frequent | | | | |
| Next Most Frequent | | | | |
| Next Most Frequent | | | | |
| Next Most Frequent | | | | |
| Next Most Frequent | | | | |
| Next Most Frequent | | | | |
| Comments, if any: _____ _____ | | | | |



16. During the past year, as you recall, what were the most frequently occurring reasons, or combinations of reasons for placing juveniles in jail pre-dispositionally?

Instructions:

On the next page, you will find reasons, grouped in categories, which singly or in combination might result in juveniles being placed in jails pre-dispositionally. Each reason has a corresponding number.

Using the space provided on the next page, please respond with the most frequently occurring reasons, combination of reasons which resulted in your placing juveniles in jails pre-dispositionally.

Examples of responses follow:

In Jurisdiction X, most juveniles placed in jail pre-dispositionally had committed a misdemeanor, had a past record of misdemeanors, may have committed other offenses if not detained, and bedspace was not available in a secure detention home. This would be recorded:

| Offense | Past Record | Probable Consequence | Other |
|---------|-------------|----------------------|-------|
| 3 | 9 | 15 | 28 |

In Jurisdiction Y, most juveniles placed in jails pre-dispositionally had committed serious felonies and their previous record was not considered. They were not likely to commit further offenses, and their behavior was so violent it would disrupt juvenile detention. This would be recorded:

| Offense | Past Record | Probable Consequence | Other |
|---------|-------------|----------------------|-------|
| 1 | 13 | 14 | 23 |

In Jurisdiction Z, most juveniles placed in jails pre-dispositionally had committed a misdemeanor, had no previous record, were not expected to commit other offenses, and the placements were temporary to protect them because of substance abuse and/or inebriation, and the transportation time/distance to a juvenile detention home was too great. This would be recorded:

| Offense | Past Record | Probable Consequence | Other |
|---------|-------------|----------------------|--------|
| 3 | 6 | 14 | 25, 26 |

Note: Please put only one number in each box, except "Other," where you may record more than 1 number.

Please turn the page and provide your responses, beginning with the most frequent reasons, next most frequent, and so on.

If you have questions, or need assistance to complete this questionnaire, please call 804/786-4591.

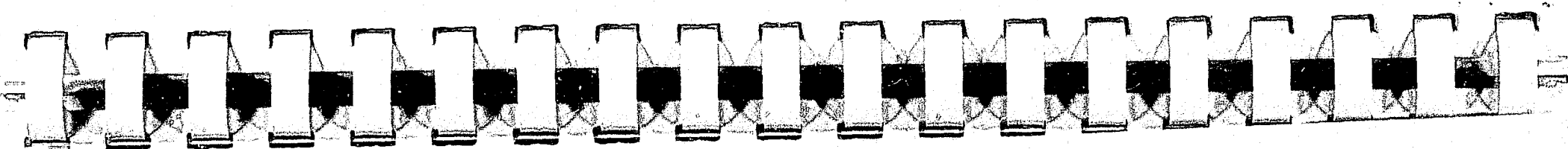
REASONS FOR JAILING JUVENILES PRE-DISPOSITIONALLY

| Offense | Past Record | Probable Consequence If Juvenile Not Detained | Other Reasons for Jail Placement |
|---|---|--|--|
| 1. Serious felony (against person) 2. Other felony 3. Misdemeanor 4. Status 5. Violation of valid court order | 6. No previous record 7. Record of serious felonies (against person) 8. Record of other felonies 9. Record of misdemeanors 10. Record of status offenses 11. Record of violations of valid court orders 12. Previously failed to appear in court 13. Record not considered | 14. No problems expected 15. May commit other offenses 16. May fail to appear in court 17. Not a factor 18. Other (please specify): _____ _____ _____ | 19. No other reason 20. Juvenile detention home had not previously succeeded in altering behavior 21. Juvenile detention home would not provide adequate control 22. Exposure to jail environment might serve as a future deterrent 23. Juvenile's behavior was so violent or aggressive it might disrupt juvenile detention home 24. Placement was temporary to protect juvenile (e.g., runaway) 25. Placement was temporary to protect juvenile because of substance abuse and/or inebriation 26. Transportation time/distance to juvenile detention home was too great 27. Adequate transportation to juvenile detention home was not available 28. Bedspace was not available in juvenile detention home 29. Parents refused custody/supervision 30. Parents could not be/were not contacted 31. Per diem expense to house juvenile in juvenile detention home was too great 32. Another jurisdiction requested jailing Other (please specify): 33. _____ 34. _____ 35. _____ |

YOUR RESPONSES:

| | Offense | Past Record | Probable Consequence | Other |
|--------------------|---------|-------------|----------------------|-------|
| Most Frequent | | | | |
| Next Most Frequent | | | | |
| Next Most Frequent | | | | |
| Next Most Frequent | | | | |
| Next Most Frequent | | | | |
| Next Most Frequent | | | | |
| Next Most Frequent | | | | |

Comments, if any: _____



17. During the past year, as you recall, what were the most frequently occurring reasons, or combinations of reasons for placing juveniles in jail post-dispositionally?

Instructions:

On the next page, you will find reasons, grouped in categories, which singly or in combination might result in juveniles being placed in jails post-dispositionally. Each reason has a corresponding number.

Using the space provided on the next page, please respond with the most frequently occurring reasons/combination of reasons which resulted in your placing juveniles in jails post-dispositionally.

Examples of responses follow:

In Jurisdiction X, most juveniles placed in jail post-dispositionally had committed a serious felony, had a past record of misdemeanor offenses, and exposure to jail environment might serve as a future deterrent. This would be recorded:

| Offense | Past Record | Other |
|---------|-------------|-------|
| 1 | 8 | 16 |

In Jurisdiction Y, most juveniles placed in jails post-dispositionally had committed misdemeanors and their previous record was not considered. They had been to a learning center two or more times, and exposure to jail environment might serve as a future deterrent. This would be recorded:

| Offense | Past Record | Other |
|---------|-------------|-------|
| 3 | 11 | 14,16 |

In Jurisdiction Z, most juveniles placed in jails post-dispositionally had committed a misdemeanor, had a record of felonies and a learning center would not provide adequate control. This would be recorded:

| Offense | Past Record | Other |
|---------|-------------|-------|
| 3 | 7 | 17 |

Note: Please put only one number in each box, except "Other," where you may record more than 1 number.

Please turn the page and provide your responses, beginning with the most frequent reasons, next most frequent, and so on.

If you have questions, or need assistance to complete this questionnaire, please call 804/786-4591.

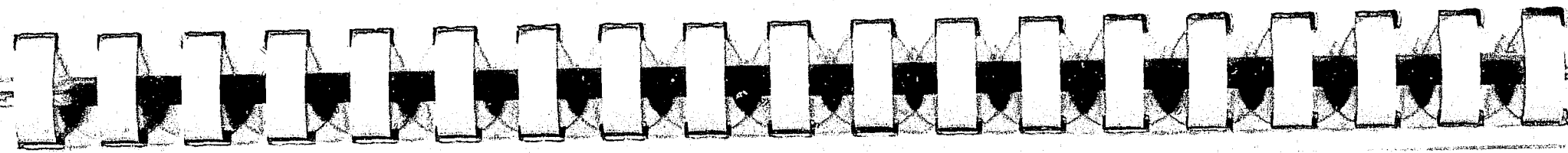
REASONS FOR JAILING JUVENILES POST-DISPOSITIONALLY

| Offense | Past Record | Other Reasons For Jail Placement |
|--|--|--|
| 1. Serious felony (against person) 2. Other felony 3. Misdemeanor 4. Violation of valid court order | 5. No previous record 6. Record of serious felonies (against person) 7. Record of other felonies 8. Record of misdemeanors 9. Record of status offenses 10. Record of violations of valid court orders 11. Record not considered | 12. No other reason 13. Juvenile had been to learning center once 14. Juvenile had been to learning center two or more times 15. Inadequate transportation to Reception and Diagnostic Center 16. Exposure to jail environment might serve as a future deterrent 17. Learning center would not provide adequate control 18. Juvenile's behavior was so violent or aggressive it might disrupt a learning center Other (please specify): 19. _____ 20. _____ 21. _____ 22. _____ |

YOUR RESPONSES:

| | Offense | Past Record | Other |
|--------------------|---------|-------------|-------|
| Most Frequent | | | |
| Next Most Frequent | | | |
| Next Most Frequent | | | |
| Next Most Frequent | | | |
| Next Most Frequent | | | |
| Next Most Frequent | | | |
| Next Most Frequent | | | |

Comments, if any: _____



One of the most flagrant injuries done the child under the old system was the practice of confining him in a jail or station-house while awaiting trial, or even at times to serve the sentence which had been pronounced upon him. Here he was thrown with adult prisoners, among whom there were generally hardened criminals, and instead of being removed from evil influences he was actually placed in the worst sort of environment - in a veritable school of crime.

To remedy this ancient abuse the Virginia law expressly provides that-

'No court or justice, unless the offense is aggravated, or the ends of justice demand otherwise, shall sentence or commit a child under eighteen years of age charged with or proven to have been guilty of any crime to a jail, workhouse or police station, or send such a child on to the grand jury, nor sentence such a child to the penitentiary' -- Section 2, chapter 350, Acts of the Assembly, 1914.

From "Summary and Analysis of the Juvenile Laws in Virginia," J. Hoge Ricks, reprinted from Annual Report of the State Board of Charities and Corrections 1914, Richmond, 1915.

END