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Annual Report to the President, the Congress,
Administrator of the Office of Juvenile Justice
and Delinquency Prevention

141636

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**NATIONAL COALITION OF STATE
JUVENILE JUSTICE ADVISORY GROUPS
NCJRS**

JUN 8 1993

ACQUISITIONS

**Myths and Realities:
Meeting the Challenge of
Serious, Violent, and Chronic
Juvenile Offenders**

1992 ANNUAL REPORT

The Eighth Report to the President, the Congress,
and the Administrator of the Office of Juvenile
Justice and Delinquency Prevention

as mandated by

Section 241(f)(2)(C), (D) and (E)
of the Juvenile Justice and Delinquency Prevention
Act of 1974, as amended
Fall, 1992

Previous Reports

The First Report to the President, the Congress and the Administrator of the Office of Juvenile Justice and Delinquency Prevention. April, 1986: Printed report regarding needed reorganization of the Office of Juvenile Justice and Delinquency Prevention.

Report on the 1986 National State Advisory Group Conference. November, 1986: Typed report on conference findings and recommendations. Limited distribution to the President, the Congress, and the Administrator of OJJDP. Program document rather than policy recommendations.

An Act of Empowerment. December, 1987: Printed report on the recommendations of the spring conference, 1987, dealing with legislative changes in the Act that would enhance the rights of juveniles.

A Delicate Balance. January, 1989: Printed report on the issue of racially differential incarceration in the juvenile justice system, the focus of the 1988 spring conference.

Promises To Keep. May, 1990: Printed report on problems associated with conditions of confinement for juveniles, including a re-examination of the basic arguments leading to the Juvenile Justice and Delinquency Prevention Act of 1974.

Looking Back to the Future. December, 1990: Printed report focusing on the sweep of juvenile justice history, including the traditional rehabilitative ideal and the "just deserts" thrust of the 1980s, and a recommitment of the National Coalition to the basic premises of the 1974 Act.

A Unique Partnership for Children. December, 1991: Printed report focusing on the scheduled 1992 reauthorization of the Juvenile Justice and Delinquency Prevention Act of 1974, with a survey of its history, recommendations for its amendment, and support for its re-enactment.

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Acknowledgments

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We gratefully acknowledge the generous contributions of the many volunteers who donated their time and talents to make this *Report* possible. In particular, we thank the members of the National Steering Committee for their tireless work in compiling, reviewing, and editing this *Report*: Susan Morris, Chair; Vicki Neiberg, Past Chair; Farrell Lines, Chair-Elect; Michael E. Saucier, Vice Chair-Secretary; Bernardine Hall, Vice Chair-Treasurer; Kellee M. Smart, Youth Member, Doreitha Madden, Northeast Coalition Chair; Judy Bredeesen, Midwest Coalition Chair; Donna W. Roberts, Southern Coalition Chair; and Robert Price, Western Coalition Chair. We would also like to thank the staff of the National Coalition Washington Office for their invaluable assistance: Robert J. Baughman, Executive Director, Diane Hauer, Phyllis Copeland, Pam Allen, and Sabrina Davis.

Special recognition is due to Robert E. Shepherd, Jr., our consultant and partner in the drafting of this *Report*, for whom it was once again a labor of love, and to those leading experts on juvenile delinquency and the justice system who contributed their helpful comments on drafts of the *Report*. Dr. Delbert S. Elliott of the University of Colorado, Dr. Jeffrey Fagan from Rutgers University, Dr. Paul Gendreau of the University of New Brunswick, Peter W. Greenwood with the RAND Corporation, Dr. Robert Hunter from the University of Colorado, Hunter Hurst, Director of the National Center for Juvenile Justice, Dr. Barry Krisberg, President of the National Council on Crime and Delinquency, Dr. Gary Melton of the Center on Children, Families, and the Law at the University of Nebraska, and Ira Schwartz, Director of the Center for the Study of Youth Policy at the University of Michigan. The conclusions reached and recommendations made in this *Report* are our own and are not necessarily those of our commentators, although we are indebted to them for their major contributions to the improvement of juvenile justice over the years. Irene Abernethy, past Chair of the Nebraska Juvenile Justice Advisory Group, once again graciously reviewed the *Report* for editorial suggestions. (Cover Letter from Chair)

“Juvenile Burglary Ring Busted”

“Youth Charged in Drive-by Shooting”

“Teen Kills Abusive Father”

. . . and so the headlines scream. Thus, we learn to loathe and fear our own children, our very future. But who are these serious, violent, and chronic juvenile offenders? (You realize they really aren't all the same child.) Where are they from, those juvenile delinquents? Are they our neighbor's kids? Our kids? Or, do they belong to those people from, you know, “over there”?

**Dear Mr. President, Members of Congress, and
the Office of Juvenile Justice and Delinquency
Prevention Administrator:**

The Juvenile Justice and Delinquency Prevention Act charges the National Coalition of State Juvenile Justice Advisory Groups with reporting on the state of the art in juvenile justice and delinquency prevention in America. With "the increase in juvenile crime" an ever present topic today, the Coalition resolved to examine this complex issue in depth. In so doing, many thanks go to professor Robert Sheppard, report writer, for his relentless dedication to uncovering the truth about these kids and his unfailing dedication to America's least liked and most misunderstood children. Without Professor Sheppard's perseverance, this report would remain merely an issue debated in meetings.

The National Coalition is a diverse group of youth advocates. Our members represent differing careers, cultures, communities, and childhood experiences. Because we believe in the JJDP Act . . .

- We believe that no child belongs in an adult jail.
- We believe that status offenders are best helped in their own community surrounded by supportive persons, whether kin or care giver.
- We believe that prevention and early intervention combined with services for the serious juvenile offender are the keys to surmounting delinquency.
- And, we know that working together is the only way to achieve those beliefs.
- Further, we maintain that those beliefs are only worth realizing if done so for all our children—rich or poor, city-born or country-bred, red, yellow, black, or white.

In this our Eighth Report to you, the Coalition seeks to detail the realities and dispel the myths of the serious, violent, and chronic offender.

We ask you also to consider carefully the recommendations contained in this report. They cover many areas of concern to all of America's children. Each recommendation is critical to the future development of our Country and its children and families.

Sincerely,

Susan C. Morris, Chair
National Coalition of State
Juvenile Justice Advisory Groups

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Myths and Realities:
Meeting the Challenge of
Serious, Violent, and Chronic
Juvenile Offenders

1992 ANNUAL REPORT

EXECUTIVE SUMMARY

America is in the midst of a serious and violent crime crisis of epidemic proportions, and juveniles are not immune from the disease. In fact, today's juvenile population is buffeted by massive waves of adversity that would make such an immunity incredible. American youth in increasing numbers are living below the poverty line, and their exposure to violence in their homes, their neighborhoods, and in the whole of society is at record levels. Whereas juveniles 20 years ago, or even ten years ago, exhibited the same tendencies to confrontation and poor impulse control, their access to deadly weapons such as handguns and semi-automatic weapons was much more limited. The bruises and cuts of a decade ago are more likely to be replaced by gunshot wounds today. The American Medical Association is quite right in calling violence by and against youth a national health emergency. Data show that arrests of juveniles for serious and violent crimes are increasing, but that youths are responsible for a smaller increase in such crime than adults, and that arrest figures overstate the number of crimes committed by juveniles because they offend in groups more frequently than adults. However, those arrests are increasingly resulting in more formal handling in the juvenile justice system than in diversion and in a greater use of secure institutions than before. These trends are particularly evident for minority youth. Thus, we see the phenomenon that adult crime is increasing at a higher rate than juvenile crime, but much of the political rhetoric is focused on the juvenile crime increase. The data also show that a smaller group of juveniles is responsible for a greater share of the crime committed by juveniles. Consequently, the National Coalition of State Juvenile Justice Advisory Groups has focused the attention of its *1992 Report* on those youths who are serious, violent, and chronic juvenile offenders.

There is a greater recognition today that the causes of delinquent behavior are varied and multi-systemic and they cannot be easily isolated and addressed in a vacuum. The influences of the family, peers, and schools cannot be overestimated, but these factors must be viewed against the backdrop of the neighborhood and the economic and social environments that color those other influences. Many more families are isolated and impoverished, and the children do not have the support structures to enable them to resist the external pressures engulfing them. American youth are in crisis, and our policymakers and leaders must begin to address that crisis as an emergency comparable to a foreign threat or the destruction wrought by the forces of nature. We must begin to address in a more creative fashion the needs for health care for pregnant women and young children, for an effective and accessible system of child care, for adequate housing

and a safe community, and for schools that enable each child to reach his or her potential. Building more detention homes and training schools or transferring more youths to adult courts for trial will only attack symptoms and will not have an impact on prevention of such crime.

High risk juveniles and families must receive early intervention services, centered on the family and the community. Head Start must be made available to all children who are eligible, and programs like Hawaii's Healthy Start Program must be replicated across the country. In addition, family-based support programs like Homebuilders must be made more widely available to help prevent abuse and neglect and to equip families to rear their children in a nurturing environment.

Once a juvenile offends and enters the juvenile justice system, we must ensure that the system operates in an equitable, nondiscriminatory fashion. Existing risk assessment tools must be utilized to determine who should be detained in a more objective, rational manner. The use of objective criteria, such as those developed in Broward County, Florida, can also serve to reduce the number of juveniles detained without increasing the risk that youths will re-offend prior to trial or will fail to appear for court. Effective and knowledgeable counsel for juveniles should also be made available from the beginning of the juvenile justice process to advocate for the child at every stage. All the participants in the juvenile system should be trained and adequately compensated—police, intake officers, probation officers, judges, attorneys, aftercare workers, correctional and other program personnel, and child welfare workers.

With the rise in juvenile crime, the principal weapon for adjustment of the system has often been to relax the criteria for transfer of juveniles for trial in adult courts or even to provide for initial adult criminal jurisdiction over certain offenses and offenders. This approach is an attempt at a "quick fix," and it involves addressing a problem in the juvenile justice system by ignoring the problem and dealing with youth in a setting that is almost completely bankrupt. Juveniles tried in adult courts do not always end up being held more accountable than they would have been in the juvenile court, and they often are exposed to physical and sexual assaults that would not have occurred in juvenile institutions. There are also far fewer programs for correcting their behaviors, so that juveniles leaving adult institutions commit more other crimes earlier than youths leaving juvenile institutions.

The overwhelming evidence compiled by numerous studies over the past decade establishes that the most effective programs, for both offending youths and society, are those that are small, often based in the community, with highly structured programs and lengthy periods of intensive supervision in the home and community following release. Even within the juvenile justice system, large centralized correctional programs do little to reduce recidivism, but innovative, community-based programs that are up and running in several states

cut both recidivism rates and costs. Such programs as the Florida-based Associated Marine Institutes (AMI) program, the KEY Outreach and Tracking program in Massachusetts, the VisionQuest program, and the family-based Multi-Systemic Therapy (MST) program have proven their worth in reducing recidivism, and per capita costs. The Violent Juvenile Offender (VJO) Program evaluated for the Office of Juvenile Justice and Delinquency Prevention by Dr. Jeffrey Fagan proved to be quite effective in those sites where it was fully implemented. This program was designed for serious and violent offenders, and it included initial placement in a secure institution. However, the most important components of the program were early reintegration efforts begun during confinement to ease transition into the community, intensive supervision in the community for support following release, and training in life and social skills. Recent public opinion surveys show that the public shares these goals for the handling of juvenile crime.

America can begin to win the struggle against serious, violent, and chronic juvenile crime, but it must do so in a rational, coherent, integrated fashion. We must start by trying to rehabilitate our communities and our families to provide a true safety net. Second, we must intervene carefully and appropriately with those children most at risk in a supportive and not oppressive way through programs based in the family, the schools, and the neighborhood. Third, when children offend we must hold them accountable for their behaviors without needlessly drawing them too deeply into the juvenile justice system. Fourth, those youths who become involved in serious, violent, and chronic juvenile crime must be offered innovative programs that correct their behavior and prevent them from recidivating. Fifth, for the small number of violent juveniles who should be tried as adults we must provide a system for making such a decision that objectively and appropriately distinguishes between juvenile criminals and juveniles who commit serious crimes. Sixth, for those juveniles who are tried as adults, we must still try to fashion programs that rehabilitate them and do not brutalize them, for most of them will return to live among us some day. It is past time for America to set about this task, but it is still not too late.

Recommendations

To the President:

I We recommend, in light of the conclusions of this report, that the President strongly affirm the continued and profound relevance of the goals and strategies embodied in the Juvenile Justice and Delinquency Prevention Act and that he provide the visible leadership so desperately needed to carry the Act's initiatives successfully forward. The Office of Juvenile Justice and Delinquency Prevention should be

allocated the adequate resources and the full complement of staff to efficiently and effectively implement the requirements of the Act.

2 We recommend that the President use his leadership to define and implement a dynamic strategy to improve the status of America's families and children in the 1990s comparable to the recommendations of the 1991 report of the bipartisan National Commission on Children for ensuring income security, improving health care, increasing educational achievement, preparing adolescents for adulthood, strengthening and supporting families, protecting vulnerable children and their families, and making policies and programs work.

3 We recommend that the President propose to Congress a significant increase in formula grant funds to enable the states and territories to work more effectively in carrying out the mandates of the Act.

4 We recommend that the President transmit the United Nations Convention on the Rights of the Child to the Senate for ratification.

5 We recommend that the President direct the Attorney General to withdraw his policy on juvenile record-keeping so as to preserve the confidentiality of juvenile records unless they result from an adult conviction of a juvenile for a serious offense.

To the Congress:

6 We recommend that Congress increase the appropriation level for the Juvenile Justice and Delinquency Prevention Act to permit the states and territories to achieve the goals of the Act and to continually reaffirm its basic goals and strategies through the development of innovative programs.

7 We recommend that Congress act to define and implement a dynamic strategy to improve the status of America's families and children in the 1990s comparable to the recommendations of the 1991 report of the bipartisan National Commission on Children for ensuring income security, improving health care, increasing educational achievement, preparing adolescents for adulthood, strengthening and supporting families, protecting vulnerable children and their families, and making policies and programs work.

8 We recommend that Congress take action to address the differential treatment and confinement of juveniles due to gender, socioeconomic status, ethnicity, sexual orientation, race, learning disability or other handicap, and medical condition.

9 We recommend that Congress require that all Federal agencies with jurisdiction over juveniles, whether direct or indirect, be fully subject to the mandates of the Act.

10 We urge that Congress appropriate funds to develop standards and guidelines to deal with issues presented by juveniles who are transferred, waived, or certified to adult court or otherwise placed within the jurisdiction of the adult court, especially the issues of detention, the standards for transfer, waiver, or certification to adult court or placement within adult jurisdiction, and of the safety and security of such juveniles when placed in adult facilities and institutions.

11 We urge that Congress enact effective legislation to reduce the easy availability of handguns and assault weapons in America, especially for young people.

12 We recommend that the Senate move to ratify the United Nations Convention on the Rights of the Child expeditiously upon transmittal by the President, thus joining most of the rest of the world in ratifying the Convention.

13 We recommend that Congress act to reverse the Attorney General's policy on juvenile record-keeping so as to preserve the confidentiality of juvenile records unless they result from an adult conviction of a juvenile for a serious offense, if the President does not act to rescind the policy.

14 We recommend that the Congress study the present pass-through funding formula for Native Americans with an eye toward developing an approach that provides sufficient resources for them to address their unique juvenile justice concerns.

15 We recommend that Congress move aggressively to address the problem of inappropriate confinement of juveniles in psychiatric hospitals, secure residential treatment programs, and other forms of secure out-of-home care to ensure such a placement is used only when absolutely necessary, for the shortest duration, and only when it constitutes the least restrictive alternative.

16 We recommend to Congress that states be required to collect data about juvenile placements from psychiatric hospitals and other residential treatment programs and report such to the Office of Juvenile Justice and Delinquency Prevention as part of their regular yearly reports.

17 We recommend that Congress authorize research to track those status offenders who can no longer be held in jails or lockups and assist in generating funds for community resources for such youth.

18 We recommend that Congress mandate greater cooperation and collaboration among those federal agencies involved in research and programming regarding juvenile delinquency and juvenile justice issues to insure better dissemination of the research findings and effective programming.

To the Administrator of the Office of Juvenile Justice and Delinquency Prevention:

19 We recommend that the Administrator of the Office of Juvenile Justice and Delinquency Prevention augment state formula grant funds with discretionary funds to assist states in developing the data collection, juvenile tracking systems, training, and action strategies needed to assess and eliminate minority overrepresentation in the juvenile justice system.

20 We recommend that the Administrator make greater use of discretionary funds in achieving full compliance with the mandates of the Act. These funds particularly should be used to address special and unusual problems in the several jurisdictions, such as those presented by geography, including distance and topography.

21 We recommend that the Administrator of the Office of Juvenile Justice and Delinquency Prevention significantly increase interest in and funding for advocacy on behalf of juveniles in court, especially in the areas of training legal counsel and guardians ad litem for juveniles, examination of the incidence of the waiver of counsel by juveniles, and the development of pilot and model programs for delivering effective defense services to juveniles.

22 We recommend that the Administrator of the Office of Juvenile Justice and Delinquency Prevention, in cooperation with the Federal Coordinating Council, propose and initiate a major delinquency prevention demonstration effort—one that addresses, at least in part, the problems of those youth who are disproportionately represented in the juvenile justice system and are near or below the Federal poverty level.

23 We recommend that the Administrator of the Office of Juvenile Justice and Delinquency Prevention, in cooperation with the Federal Coordinating Council, seek greater cooperation and coordination among agencies conducting research and developing programs concerning juvenile delinquency and violence.

24 We recommend that the Administrator of the Office of Juvenile Justice and Delinquency Prevention re-examine the Native American youth situation and formulate a more effective and practicable means of providing assistance.

25 We urge that the Administrator of the Office of Juvenile Justice and Delinquency Prevention study the issues presented by the transfer, waiver, and certification of juveniles to adult courts or otherwise placed within the jurisdiction of the adult courts and formulate standards and guidelines for use by legislatures, courts, and other participants in the juvenile justice system in addressing transfer issues.

26 We recommend that these subjects of previous suggestions for the Administrator of the Office of Juvenile Justice and Delinquency Prevention continue to receive major attention and support

by the Office:

a. Jail removal

b. Identification and dissemination of information on alternatives to confinement, improving conditions of incarceration for those juveniles requiring such confinement, and new approaches for handling overcrowding, classification, and promising new programs utilized in the states and territories.

The recommendations are not ordered in any priority fashion. A discussion of these recommendations and the rationales behind them may be found on pages 53 through 71 of this Report, *Myths and Realities: Meeting the Challenge of Serious, Violent, and Chronic Juvenile Offenders*

Myths and Realities:
Meeting the Challenge of
Serious, Violent, and Chronic
Juvenile Offenders

Put down that gun, boy—you're in the line of fire.
Get off that corner—you're in the line of fire

War—the order of city life
Where street signs are markers of battle lines
Here children disappear without a trace
The thrills of the treasure are poison-laced
Screams, oh screams—mama, you better run
Dreams, oh dreams—brother, give up that gun

Put down that gun, boy—you're in the line of fire
Get off that corner—you're in the line of fire

Lines are drawn down every street
Where neighbors are strangers who never meet
Guns are friends to anyone
You don't know where the next shot is coming from

Tears, oh tears—better not make her cry boy
Fear, oh fears—you're never too young to die boy

Put down that gun, boy—you're in the line of fire
Get off that corner—you're in the line of fire
Put down that gun, boy—you're in the line of fire
Get off that corner—you're in the line of fire

Screams, oh screams—better not make her cry boy
Dreams, oh dreams—never too young to die boy

Put down that gun, boy—you're in the line of fire
Get off that corner—you're in the line of fire

"Line of Fire" by Art Neville, Eric Kolb, Chuck Sheefel, Dwayne
St. Romaine, Ron Cuccia (The Neville Brothers—Family Groove, 1992).

Introduction

One need not venture far from the front pages of the nation's daily newspapers to confront stark evidence of the increasing violence in the streets of our cities. Indeed, the printed report of a hearing held on youth violence in 1988 by the U.S. House of Representatives Select Committee on Children, Youth, and Families was poignantly entitled "Down These Mean Streets." Such diverse periodicals as *Fortune*, *Newsweek*, and the *Journal of the American Medical Association* have devoted cover stories and feature articles to the linked problems of the desperate state of children and youth in America, and the growing spectre of youth violence (*Fortune*, August 10, 1992; *Newsweek*, March 9, 1992; *Journal of the American Medical Association*, June 10, 1992). Many state and local governments are currently examining different strategies for addressing the victimization of children and the participation of youth in violent and serious crime, particularly with guns.

On April 1, 1992, United States Attorney General William P. Barr delivered a major policy address on juvenile justice in Milwaukee, Wisconsin. He pointed to the need for juvenile justice reform as "an essential part of the war on crime" and noted that statistics showed that persons under eighteen accounted for 33% of all burglary, 30% of all larceny, 24% of all robbery, 15% of all rape, and 14% of all murder and non-negligent manslaughter arrests. Attorney General Barr also stated that the "rate of juvenile crime continues to increase, and this increase among juveniles is driving much of the general increase in crime we are seeing today." To support that conclusion he observed that between 1965 and 1989 data indicated that the arrest rate of juveniles for murder almost tripled, the rate of aggravated assaults tripled, and the rate of weapons violations increased by two-and-one-half times. He proceeded to make several controversial proposals for addressing the problem he defined, including a greater use of boot camps, broadening system access to juvenile records, expanding the use of direct waiver to adult courts, and significantly increasing federal juvenile delinquency jurisdiction over firearms offenses and certain gang-related crimes (Barr, 1992). As this *Report* will demonstrate, the conclusions drawn from the data used by General Barr are somewhat misleading because they are largely driven by the choice of a base year for comparison purposes and because arrest figures generally overstate and distort juvenile participation in crime. However, the fact that **juvenile delinquency has become a high visibility concern during an election year is important to note, and it may have profound implications for the future of juvenile justice.**

Unquestionably, one of the major issues of the early 1990s is the increased incidence of serious crime in America and the marked

increase in violence associated with that crime, especially in our major urban centers. Many people, like Attorney General Barr, point to juveniles as a major source of these increases, and there is a growing call for harsh measures to deal with the problem. Much of the rhetoric in the aftermath of the urban riots in the spring of 1992 escalated that call. At the same time, a broad range of groups within the medical community has urged the declaration of a public health emergency in America focused on the issue of violence, especially violence by and against young people (Koop & Lundberg, 1992). The National Coalition of State Juvenile Justice Advisory Groups agrees with the characterization of violence as a national health emergency, and it has determined to devote its *1992 Annual Report* to a dispassionate and careful analysis of the issues presented by serious, violent, and chronic juvenile crime. This *Report* does not attempt to be a comprehensive or exhaustive examination of this important and timely topic, but it is designed to survey the impressive body of research literature that has been generated in recent decades, and the Bibliography is thus an important element of this document. We hope this *Report* will stimulate discussion and action in an effort to address the problems presented more rationally and creatively. It is thus intended to shed some light on these issues to balance the heat generated by the popular media and the political process.

The State Advisory Groups and their National Coalition have been involved in studying and addressing many of the issues addressed in this *Report* and presented by juvenile involvement in serious and violent crimes for a number of years, and **we are familiar with the strategies that work as opposed to the rhetoric that offers simplistic solutions to these complex problems.** We recognize the importance of prevention programs that are community-centered and family-oriented to attack some of the root causes of juvenile delinquency and violent behavior. We believe in a juvenile justice system that can adjudicate cases in a fair and even-handed manner and also provide and advocate for intervention strategies and programs to deal with delinquent youth according to their individual needs. We reject the arguments of those who urge that the net of a failed criminal justice system be widened to encompass even more juveniles. **The most effective programs identified by numerous studies are those that are family-focused, multi-systemic, and community-based or are housed in small, staff-intensive facilities, as opposed to those based in large, centralized institutions.** We also are convinced that most of those few youths who are truly threats to society because of the chronicity of their misbehaviors or the violence of their acts can be rehabilitated, to a great extent, in programs that combine periods of removal from society in structured settings with family-targeted treatment and effective strategies for post-release supervision and monitoring.

We realize that the creation of a truly effective system for addressing the problems of juvenile offenders involved in a wide range of antisocial behavior will involve a greater commitment of resources and attention, but we believe that such

a system will be more cost effective than what we are doing now and than what is being urged by those who would abandon the juvenile or family court and build more and larger institutions. We acknowledge that there are youths who may have to be tried as adults because they cannot be rehabilitated successfully in the juvenile justice system, but such a process for accomplishing transfer to the adult court should be carefully and conservatively crafted and rationally based. The crucial questions presented by the increase in serious, violent, and chronic juvenile offenses are not whether the offenders are to be tried in state or federal courts, if juvenile or adult courts should consider their cases, or whether greater accessibility will be allowed to their records. The issues we must address as a society are these: (1) How can we best reduce the incidence of serious, violent, and chronic juvenile delinquency? (2) In what fashion can we effectively protect society and prevent repetition of such behaviors? (3) How can we turn these youths into assets and resources for our nation instead of threats or problems?

Serious, Violent, and Chronic Juvenile Offenders Defined

A major problem in addressing the issues of serious, violent, and chronic juvenile offenders is that of defining those terms. There are a variety of definitions of each of these categories, and the data available at both the national and state levels is often contorted in an effort to fit the various definitions. It is essential to define the categories and use them in a consistent fashion in attempting to shape and implement policies and programs for dealing with these youths. The characteristics of the juveniles included in the several categories may be quite different, and the methods of dealing with their behavior may be similarly disparate. On the other hand, some youths may share the characteristics of more than one group. They may be both serious and chronic, or they may be chronically violent offenders.

An extensive discussion of the three distinct categories may be found in **Appendix A** of this *Report* at pages 72–75. For the purpose of this *Report*, the definition of a “serious juvenile offender” is that of a juvenile who has been convicted of a Part I offense as defined by the FBI Uniform Crime Reports, excluding auto theft or distribution of a controlled dangerous substance, and who was 14, 15, 16, or 17-years-old at the time of the commission of the offense. Likewise, a “violent juvenile offender” is a youth who has been convicted of a violent Part I offense, one against a person rather than property and who has a prior adjudication of such an offense, or a youth who has been convicted of murder. Finally, a “chronic juvenile offender” is a youth

who has a record of five or more separate charges of delinquency, regardless of the gravity of the offenses.

Incidence of Serious, Violent, and Chronic Juvenile Crime

It is difficult to develop accurate statistics based on the categories of juvenile offenders described. In addition, the statistical data may be quite misleading. For example, the use of arrest data, as by Attorney General Barr, will inevitably result in overstatement of the juvenile contribution to crime since youths are much more likely to commit offenses in groups, rather than singly, especially serious and violent offenses (Wolfgang, 1987; Strasburg, 1984; Zimring, 1981). Paul Strasburg has noted the following:

The impact of group offending by juveniles on official statistics is not trivial. . . . [J]uveniles appear in violence arrest statistics at nearly twice the rate they appear in statistics on violent crimes cleared. Since robbery is the most common juvenile crime of violence, and also the crime in which group offending occurs most frequently, robbery arrests contribute most to an exaggerated perception of the amount of crime being committed by juveniles. It is also worth recalling that juvenile robbery is predominantly an offense of black youths. Consequently, the number of crimes committed by black youth in particular is likely to be overstated if measured only by arrests.

Strasburg also observed that "the younger the offender, the higher the proportion of offenses that are committed in concert with others." Consequently, researchers have repeatedly cautioned against undue reliance on arrest statistics where juveniles are concerned, and there is an increasing use of crime clearance arrest data from the Uniform Crime Report Program, nationwide crime victimization data from the National Crime Survey, and the National Youth Survey conducted by Delbert Elliott and his associates at the Institute of Behavioral Science, University of Colorado. Statistics on arrests of youth in 1990 demonstrate the disparity between arrest data and data on the number of crimes cleared by an arrest. In that year juveniles under the age of 18 comprised 28% of all those arrested while accounting for only 19% of all crimes cleared by an arrest. Similarly, juveniles represented 24% of all arrests for robbery, an offense particularly marked by group activity, yet only 14% of all robberies were cleared by the arrest of juveniles (Snyder, 1992).

Youth crime statistics are also affected by the size of the juvenile population at any particular time. High and increasing levels of serious and violent juvenile crime in the 1960s and 1970s were partly attributable to the "baby boom" which occurred between 1946 and 1956, while there was a decline in such delinquency during the 1980s, which reflected the lower birthrate in the 1960s and 1970s. We are

now beginning to experience an "echo boom" of children reaching adolescence who were born to the earlier "baby boomers," which is reflected in a higher incidence of juvenile crime partly attributable to the larger group of youths in the high-risk age categories.

With these caveats, it appears that serious, violent, and chronic juvenile crime is increasing, although not so dramatically across the board as the political rhetoric would indicate. From 1981 to 1990 arrests of those under 18 for a violent crime increased by 29%, as compared with a 49% increase for adults, while the number of youths arrested for property offenses declined by 5%, contrasted with a 25% increase in adult arrests. However, during the same ten-year period, juvenile arrests for murder and non-negligent homicide were up 60%, aggravated assault arrests were 57% higher, weapons law violations rose 41%, and forcible rape arrests increased 28%. Surprisingly, arrests of youths for drug offenses dropped 27%, while adult arrests for the same offenses rose 90% during the same period (Snyder, 1992). The 1991 data are virtually unchanged.

Who Are the Serious, Violent, and Chronic Juvenile Offenders?

In attempting to identify those juveniles who are serious, violent, or chronic offenders, it is sometimes necessary to travel the winding and many-forked road that constitutes the effort to isolate the causes of delinquency. Historically, researchers sought to identify either a single cause for delinquent behavior or perhaps a narrow cluster of causes that led initially to status offenses and then invariably progressed up a continuum of increasingly serious acts of misbehavior. Juveniles, it was urged, engage in anti-social behavior because of biological, psychological, sociological, or behavioral factors that distinguish them from their peers. Current experts acknowledge the contributions that earlier theorists made to determining the origins of delinquency, but they point to the need to integrate these various theories because "juvenile delinquency and violent juvenile crime are complex phenomena involving interactional, individual, situational, and environmental influences" (Fagan & Jones, 1984, p.59; *Journal of Criminal Law & Criminology*, 1991).

The criteria that are most often mentioned as characteristic of serious or chronic offenders include the following:

(1) a delinquency adjudication prior to the age of thirteen, (2) low family income, (3) between the ages of eight and ten being rated troublesome by teachers and peers, (4) poor school performance by age ten, (5) psychomotor clumsiness, (6) poor nonverbal IQ, and (7) having a sibling convicted of a crime (Mahoney, 1991; Greenwood, 1986; Blumstein et al., 1985). Violent offenders also show an exceptionally high incidence of head injuries and a history of serious

physical or sexual abuse (Lewis et al., 1979; Lewis et al., 1985; Lewis et al., 1988).

What Are the Causes of Serious, Violent, and Chronic Juvenile Crime?

Abuse and Neglect

The evidence is fairly compelling of a link between childhood victimization and delinquent behavior, especially violent offending, despite the methodological problems with some of the studies that describe the linkage (Widom, 1989b). Despite the research difficulties, there does appear to be a greater risk for violent offending when a child is abused or neglected early in life, and such a child is more likely to begin violent offending earlier and to be more involved in such offending (Widom, 1990). Indeed, Adele Harrell of The Urban Institute has pointed out in Senate testimony that the presence of any family violence in a child's home has a significant impact on subsequent violent offending by that child, even if the violence is directed at a parent or sibling rather than at the child (Harrell, 1992). The research done by Dr. Dorothy Lewis and her colleagues has also revealed a very high incidence of histories of physical or sexual abuse among incarcerated violent juvenile offenders, including a group of juveniles sentenced to death for murder (Lewis et al., 1977, 1979, 1985, 1988). The *Journal of the American Medical Association* noted in June of 1992 that exposure to violence in the home, and the expressed or tacit approval of such violence, may be major contributors to juvenile or adult violence (Randall, 1992). Some commentators have even observed that as many as 63% of all persons between 11 and 20 years of age incarcerated for homicide were convicted of killing their mother's abuser (Edwards, 1992b). This is an area where there is a need for more research under controlled conditions.

Economic, Social, and Educational Conditions

Jeffrey Fagan and Sandra Wexler have pointed to the environmental factors that lead to serious and violent juvenile delinquency in an important 1987 article in *Criminology*:

The social bonds which inhibit or promote delinquent and violent behavior in the adolescent years are shaped and influenced by social environments. Serious and violent delinquency are disproportionately urban phenomena. . . . High-crime neighborhoods are typically poor and socially disorganized. That is, the social institutions in those neighborhoods tend to be weak and, accordingly, fail to provide social controls against criminal

behaviors. Under these conditions, crime and violence flourish. Families in these settings may as much be products of the environments as the youths. The family may be both a direct source of violent delinquency and also an indirect source: families may be powerless to mitigate well-entrenched neighborhood social processes. Accordingly, families must have the resources to create a positive environment in the home which can neutralize the criminogenic influences of poverty in the neighborhood.

The implications for intervention suggest that one look beyond the family, whose influence over socialization wanes before adolescence, to the social domains of school, peer, and community to alter delinquent behaviors. Policy makers should look to those social institutions to strengthen social controls on delinquency while providing positive learning experiences. Intervention practice should simultaneously provide supports to the family to serve as part of a learning environment together with the more influential social institutions. Strengthening families in high-crime neighborhoods with other social resources may reverse the attenuation of social bonds among black adolescents. Also, the results again highlight the importance of family violence intervention to prevent later adolescent violence. The convergence of learning and control theories suggests that policy focus on opportunities for learning and prosocial development for adolescents in schools, work experiences, and within social networks which may include family as one element of the youth's social context (Fagan & Wexler, 1987).

Dr. Elliott Currie of the Center for the Study of Law and Society at the University of California-Berkeley pointed to many of these same factors in his testimony before the House Select Committee on Children, Youth, and Families in March, 1988. He noted that many families and neighborhoods have become so economically devastated that there is little left but "a terribly, terribly destructive social impoverishment and isolation." Dr. Currie also testified that the isolation is heightened by "the weakening, the erosion, of the public agencies of support and care" and by the fact that many of the schools in the neighborhoods, "especially if they have a high proportion of low-income kids, are institutions that aren't so much devoted to teaching kids or training them, in the way they did when I was a kid, as they are just sort of validating or ratifying the kid on the basis of the characteristics that he or she already brings to the school" (Currie, 1988). The recent Children's Defense Fund report revealing significant increases in the proportion of children living in poverty during the decade of the 1980s, especially in major urban centers, highlights this fact.

Schools increasingly are sites of violence and victimization, although the school is not the point of origin for this violence. A study of gun-related violence in and around inner-city schools shows that violence is brought into the school and is not generated there (Sheley, 1992). However, the school may be a good vehicle for teaching alter-

natives to violent behavior in resolving disputes, as Dr. Deborah Prothrow-Stith and others have demonstrated through the development of mediation programs and curricula for communicating strategies to avoid fighting and violence (Prothrow-Stith, 1991). Schools also may be ideal settings for providing or linking comprehensive services to youths and their families, especially in low-income neighborhoods where lack of transportation is a barrier to public services (The Future of Children, *School-Linked Services*, 1992).

Researchers have pointed to the pervasive atmosphere of violence that permeates the entire environment and especially the media. Television and movie violence are increasingly being linked to the violence in society. A report in a recent issue of the *Journal of the American Medical Association* describes the research on television and violence and reiterates the positions taken by the AMA, the American Psychological Association, and the American Academy of Pediatrics that children's exposure to television should be limited severely by parents, that time-channel locks be built into new television sets to enable parents to restrict access to violent programs, and that a violence rating system be established for television programs (Centerwall, 1992). None of these recommendations would have a major impact in those homes most vulnerable to violent television, but the AMA's 1976 resolution urging the networks and sponsors to reduce the amount of violence has elicited little response from the networks. Without strong public action, "Rambo" will still be more likely to visit many American youth via the television than "Big Bird" (Prothrow-Stith, 1991; TV Guide, 1992).

Drugs and Other Substances

Substance abuse has had a profound impact on law enforcement and on both juvenile and criminal justice in the last decade. Between 1965 and 1974 there was a large increase in drug abuse arrest rates for juveniles, followed by a substantial decline over the following decade, and then an increase of about one-third between 1986 and 1989. Between 1980 and 1989 the drug abuse arrest rate for juveniles generally increased 17%, but overall arrest rates for whites and other race youth dropped by 33% and 27% respectively, while the rate of drug abuse arrests for African-American youth increased by 200% (Snyder, 1992). A study conducted of the handling of drug and alcohol cases in juvenile courts in 17 states between 1985 and 1988 showed an increase of only 3% in the rate of drug possession cases but an increase of 8% in the drug trafficking rate. The same study showed that the proportion of youths detained in drug cases increased to about one-third, with nonwhites having a detention rate of 48% compared to 25% for whites. In drug trafficking cases the nonwhite detention rate climbed to 61% in 1988 compared with 35% for whites (Sickmund, 1991). Thus, drug cases have had a profound impact on the processing of cases in juvenile courts. Paradoxically, the increase in arrests, detention, and adjudication of black youth, in

particular, is not reflective of drug usage, as a major study by the University of Michigan's Institute for Social Research demonstrates that **black males and females engage in significantly less abuse of drugs than their white counterparts** (Johnston et als, 1991; Bachman et als., 1991).

Gangs

There has been a great deal of study of the phenomenon of juvenile involvement in gangs over the years, but there seem to have been some shifts in gang activities and composition in recent decades (Robin, 1964; Huff, 1989). Although it is conventional wisdom that gang involvement in drug trafficking has been a major contributor to the increase in urban violence and homicides, recent studies do not bear out these anecdotal conclusions. Most traditional gangs still appear to be largely neighborhood based, with their violence still confined to "turf" and other similar conflicts characteristic of gang activity, and the drug trafficking violence is largely unrelated to gang status (Meehan et al., 1992; Fagan, 1989). The highly structured groups involved in drug trafficking usually do not fit the traditional definition of a gang, and their inclusion in the gang category reflects a tendency to classify any organized group activity as gang-based. There are still serious problems with gang-related violence—Meehan and O'Carroll found that 16% of the homicides in Los Angeles among persons ten years of age or older during a study period were gang-related—but it would be wrong to group these homicides with the 13% during the same period that were determined to be narcotics-motivated (Meehan et al., 1992). **Gangs seem to fill a desperate need on the part of many urban youths for stability, structure and a sense of belonging, and there is a major correlation between neighborhood poverty and social disorganization and gang activity** (Curry et al., 1988; Huff, 1992). However, efforts to address violent delinquency must distinguish between juvenile-dominated traditional gangs and adult-dominated drug organizations that may or may not have some gang connections. This is an area requiring greater study, as is the involvement of females in gangs. Girls seem to become involved earlier than boys, mature out of the gangs earlier, and have much less involvement in violent activity than boys (Spergel, 1990). However, we know less about gang females than gang males and more research is needed (Tracy & Shelden, 1992).

Accessibility of Weapons

The phenomenon of the past decade that has had a major effect on youth violence and homicide has been the ready availability of firearms. From 1979 through 1989, the homicide rate through gunshots of youths 15 through 19 years of age increased

by 61%, from 6.9 to 11.1 deaths per 100,000 population (Fingerhut et al., 1992). During the same period the nonfirearm homicide rate decreased by 29%. The increase in firearm homicides is most pronounced among black teenage males in the core, fringe, and medium metropolitan areas of the country. However, the firearm homicide rate for white teenage males in nonmetropolitan counties in America during that period was still ten times the average firearm homicide rate for young adult males in twelve other industrialized countries. **So the problem seems to be an American problem and not an African-American problem.** In 1989, 81% of the homicides of persons aged 15 through 19 years resulted from firearms (Sheley, 1992). A survey of high school youths in Seattle, Washington, disclosed that 34% of the students reported easy access to handguns (47% of the males), 6.4% reported owning such a weapon (11.4% of the males), and 33% of the handgun owners had fired at someone (Callahan et al., 1992). In 1990, firearm-related injuries surpassed motor-vehicle crashes as the leading cause of death from injuries in Louisiana and Texas (Centers for Disease Control, 1992). One contributor to this epidemic in firearm-related homicides has been the greater availability of more lethal weapons, such as assault-type weapons and 9-mm repeating or semi-automatic pistols that are very accurate, even for persons with little or no experience in weapon use (Marwick, 1992). Reducing or eliminating the ready availability of firearms, especially the more lethal handguns, and impacting on the quickness of resort to violence as a means of resolving disputes must be a high priority in any effort to reduce youth violence and homicide.

The widespread use of weapons, especially in the core cities, also increases significantly the exposure of young children to violence and violent death. A survey of fifth graders from an elementary school located near a public housing project in New Orleans revealed the following:

Almost the entire group had heard about some form of a violent episode, 91% had witnessed violence, and over half had been victims of some form of violence. Twenty-six percent of the sample had witnessed a shooting and 19% had witnessed a stabbing. Three percent of the children had experienced personally the most severe forms of victimization, stabbing, or rape. In addition to exposure to the various forms of violence, 40% of the parents reported that their children had seen a dead body, 72% had seen weapons used, and 49% had seen someone who was wounded. (Osofsky et al., 1992)

Such persistent exposure to real, and not just fictional, violence is bound to have a profound secondary effect on children.

Prevention of Serious, Violent, and Chronic Juvenile Crime

With all the attention focused on intervention and treatment strategies, it is sometimes easy to forget that the Federal legislation giving shape to our activities focuses on both juvenile justice and *delinquency prevention*. The Juvenile Justice and Delinquency Prevention Act has a duality of focus that must be kept in balance in both the allocation of resources and the assessment of programs. Prevention is still the most cost-effective and humane method of addressing the problems of anti-social behavior, including serious, violent, and chronic crime. **The first line of defense against all forms of juvenile crime is still prevention**, whether *primary*, directed at the population as a whole, or *secondary*, aimed at a specific at-risk population, or *tertiary*, targeted at an offending population in order to prevent repetition of the behaviors. We must examine those prevention programs that work and commit resources to replicate those programs in other states and localities. The National Coalition believes that delinquency prevention should be at the top of the agenda in the Act and in the attention of the Office of Juvenile Justice and Delinquency Prevention.

A recent issue of the *Journal of Criminal Law and Criminology* features a "Symposium on the Causes and Correlates of Juvenile Delinquency," with reports on longitudinal studies of juvenile delinquents modeled, in part, on Dr. Marvin Wolfgang's pioneering birth cohort studies (J. Crim. Law, 1991). The issue points with regularity to the need for a holistic approach to delinquency prevention, an approach that has been used successfully in many states. The role of OJJDP in funding the reported research projects affords a good example of how JJDP funds may be used in creative ways to advance our knowledge about children at risk and to assist in the design of programs to reduce those risks. The logical next step is to utilize the results of the research by the Office in developing programs and driving funding.

All the states, with the encouragement and technical assistance of both OJJDP and the National Coalition, should examine their commitment to delinquency prevention and reaffirm the idea of prevention as a primary goal of the Act. In doing so, we need to look at the recent report and recommendations of the National Commission on Children for the broader view of the needs of children and families in our society. Prevention programs and strategies can serve to inhibit delinquency in the first instance and to assist youths already in the juvenile justice system to avoid future antisocial behavior or reduce the level or seriousness of that behavior.

There is also a definite need to focus more on intervention for those populations that are at the highest risk of delinquency or for children who first show signs of problems. Full implementation of the Act's mandates would result in a shift of resources from "back end" insti-

tutional services to far more effective and cost-efficient "front end" services. Representatives of the General Accounting Office presented testimony to the Senate Committee on Governmental Affairs in the spring of 1992 which advocated greater support for home visiting programs to deliver early intervention services to high risk families, programs such as Hawaii's Healthy Start program, the High/Scope Perry Preschool in Ypsilanti, Michigan, and the Syracuse University Family Development Research Program. In the Syracuse program, longitudinal research showed that only 6% of the program children became involved in adolescent juvenile probation compared with 22% of the control group, at a cost per child of \$186 versus \$1,985. The GAO testimony also urged support for programs providing comprehensive services in schools, such as at Bensley High School in Birmingham, Alabama (GAO, 1992). The recent Milton S. Eisenhower Foundation report on "Youth Investment and Community Reconstruction" pointed to the success of Head Start and Job Corps in reducing youth crime. That report also described successful community-based delinquency prevention programs such as Centro Sister Isolina Ferre in Ponce, Puerto Rico, the Fairview Homes Crime Prevention Program in Charlotte, North Carolina, the Argus Community in the South Bronx, and the House of Umoja in Philadelphia and two of the Neighborhood Program initiatives that intensively utilized youth investment strategies, Washington's Around the Corner to the World and Boston's Dorchester Youth Collaborative (Milton S. Eisenhower Report, 1992). There also is increasing emphasis on the need to develop family-based programs, such as the Homebuilders programs started in the state of Washington, Michigan's Families First program, and FAMILIES, Inc., in Iowa. These family-based initiatives began for the purpose of dealing with families torn by abuse and neglect, but they have demonstrated great efficacy in delinquency prevention as well (Mahoney, 1992; For Children's Sake, 1992). These programs work, they are cost effective, and they should receive greater support.

Secondary prevention efforts may also impact significantly on future delinquent behavior. Well conceptualized early intervention programs, such as the Rochester, New York, Primary Mental Health Project and the Boston, Massachusetts program targeted at school "bullies" have demonstrated impressive success in preventing adolescent adjustment problems among children who have exhibited conduct disturbance problems in the primary grades.

What Happens to Juvenile Offenders When Arrested?

Police Handling

Two of the least studied aspects of the juvenile justice system are the arrest and police processing of juvenile offenders. Statistical studies of police arrests show that from 1974 to 1989 the percentage of arrests resulting in referral to juvenile court for formal handling rose from 47% to 63.9% and the percentage that led to informal handling within the police department and release dropped from 44.4% to 28.7%. Thus, many fewer cases are being diverted from the formal juvenile justice system at the police level. Data for 1989 also indicate that 57.9% of those taken into custody in suburban areas were referred to juvenile court while 70% of those in large cities were sent to juvenile courts (Sourcebook, 1991). A great deal more research needs to be done on police handling of juveniles. Police are on the front line in the effort to protect society, and they are frequently denied adequate resources or tools to do their jobs. There is a great need for training, specialized youth divisions, stronger community support, and other commitments to these men and women who serve as the initial gatekeepers for the juvenile justice system.

The early provision of an effective and zealous lawyer to protect the juvenile's legal rights and advocate for the youth shortly after arrest can have a decided positive impact on future processing of the case. Several studies on the right to counsel in the juvenile court that raise serious questions about the absence or quality of attorneys have serious implications as well for the pretrial stages of the case, especially following arrest and during detention decision-making.

Detention Practices and Alternatives to Detention

Community fear of serious and violent juvenile crime has had a profound impact on the population of juvenile detention facilities in the United States, but largely because little progress has occurred in removing from detention those children who do not need a secure placement. Between 1985 and 1987 the number of juvenile in short-term public detention facilities increased by 15%, and only 1% of this increase was attributable to white detainees. Most of the non-white increase in detention was due to drug law violations, with a 21% overall rise in detention for drug charges and a 71% increase in nonwhite detentions for drugs (Snyder, 1990). The number of detainees increased by 53% from 1979 to 1989 (Krisberg et al., 1992). Data seem to indicate that increases in detention of one class of juveniles seldom leads to a decrease in other classes, so that if more

juveniles are detained for serious and violent offenses, or for drug offenses, little is done to decrease the level of non-violent detainees. There also appears to be little focus on the legitimate purposes of detention—protecting the community from a violent offender pending case handling or insuring that a juvenile likely to flee will appear in court. Detention decisions seem to be offense-driven rather than driven by other considerations more directly related to the need for deprivation of liberty.

Several localities have used innovative approaches to keep juveniles out of secure detention, while still protecting society and insuring the youth's attendance at court. The most effective tool is the development of more objective risk assessment instruments to drive the detention decision. One program, funded by the Annie E. Casey Foundation in Broward County, Florida, resulted in a reduction in the average daily population in the detention home from 162 to below 80 from 1988 to 1990, without any significant increase in re-offending or in failure to appear for trial (Schwartz et al., 1991). Testimony by Judge Frank Orlando to the U.S. Senate Subcommittee on Juvenile Justice of the Senate Judiciary Committee on March 4, 1992, indicated that the population in the detention center was only 47 on February 29, 1992. The project utilized a combination of more objective detention criteria, a greater use of home detention, introduction of a daytime report center under the auspices of the Boys Club of Broward, and a private residential alternative for those youths who did not need a secure placement but did need a place to stay. Similar programs have proven effective in San Francisco, Orange County, California, and New York City (Steinhardt & Steele, 1990). These programs need to be replicated around the country to reduce the unnecessary detention of juveniles, and OJJDP can help by initiating a nation-wide effort to help states and localities to implement these useful and cost-effective programs.

Jail Removal

States and territories that have implemented jail removal have shown that alternatives to inappropriate use of adult secure facilities can be found, even for serious and violent offenders. Community Research Associates has found that success in fashioning alternatives to jail depends on the following key elements: (1) community commitment to keep juveniles out of adult jails; (2) alternatives for juveniles who do not need to be in secure facilities; (3) access to secure juvenile detention for those who need such; (4) objective decision-making criteria for detaining juveniles; (5) written policies and procedures for intake and detention services; (6) an effective system to monitor the process for keeping juveniles out of jails; and (7) local sponsorship and funding of intake and detention services. The National Coalition remains unequivocally committed to total and expeditious achievement of the Act's goal of removing *all* children within juvenile or family court jurisdiction from

any adult facility, even those youths who are violent and serious offenders. The increasing use of waiver or transfer to remove juveniles from the juvenile justice system, as noted below, also results in a greater number of youths being placed in adult jails, although they are not counted as violations of the Act's jail removal mandate because of their adult status. We need to examine the extent of this reintroduction of youths to adult jails, and the effect it has on long-term incarceration. We also need to address the problem of jailing waived juveniles in some creative way so as to avoid a reversal of the gains made since 1980.

Waiver and Transfer of Juvenile Offenders

Generally

As concern about serious juvenile crime increased during the 1980s, so has resort to waiver or transfer of young people from the juvenile or family court to the adult court for trial as adults (Champion, 1989; Feld, 1987). Modification of waiver or transfer statutes appears to have been the strategy of first choice for legislators concerned about juvenile crime. Most states traditionally have given the juvenile court exclusive jurisdiction over children charged with delinquent acts, with a typical upper age of eighteen, but authorized the court to waive its jurisdiction and transfer the case to the adult court for trial. The decision for waiver, or transfer, generally has been a discretionary function of the juvenile court judge based on certain statutorily-defined criteria. The process for transferring jurisdiction has different names in the several states. Transfer hearing, waiver hearing, jurisdictional hearing, fitness hearing, and certification hearing are the most common, but the purpose is the same, determining whether a particular juvenile is to be tried for delinquency in the juvenile court or be transferred to the criminal court for trial as an adult (Szymanski, 1991). **In a very real sense, this is a dispositional decision, because it likely results in sentencing as an adult.**

During the 1980s, however, states tinkered considerably with these procedures. Some lowered the minimum age at which transfer could take place or lowered the maximum age for juvenile court jurisdiction. Other jurisdictions allowed prosecutors to file charges directly in the adult court or carved exceptions out of the exclusive jurisdiction of the juvenile court for certain categories of offenses. A few states placed jurisdiction over certain matters, or classes of juveniles, in the adult court and permitted that court to decide whether to transfer jurisdiction to the juvenile court. Regardless of the approach taken, there has been a trend to "get tough" by making more juveniles subject to trial as adults in the criminal courts.

Very few studies have examined this trend and the effect it has on the juveniles waived or on the justice system generally. Some studies have shown that minority youth are transferred in disproportionately high numbers, particularly in jurisdictions with great judicial discretion (Fagan, Forst & Vivone, 1987a; NCJFCJ, 1990; Houghtalin, 1991). Other studies demonstrate that in some jurisdictions juveniles waived for trial as adults rarely end up with lengthy sentences in the criminal court and may even experience a relatively high acquittal rate (Fagan, 1991; Champion, 1988). Where prosecutorial discretion enters into the decision-making, there is much inconsistency from jurisdiction to jurisdiction and the transfer decision is often subject to the vagaries of geography (Feld, 1987). Little attention has been paid thus far to the quality of legal representation for juveniles involved in the transfer process. There are three basic approaches to waiver or transfer, legislative waiver, prosecutorial waiver, and judicial waiver, which are described in more detail in **Appendix B** at pages 75-77, and these approaches have quite different consequences. Although one reason for change has been to reduce discretion, the schemes have largely shifted discretion from judges to prosecutors.

Juveniles in Adult Courts and Corrections

The changes in transfer and waiver statutes in the past decade or so have had a major impact on the adult court. In Florida, for example, the number of youths in adult court rose from 904 in 1975-76 to 2883 in 1981-82 to 5877 in 1989-90 (Gorsuch, 1991). Although some early studies showed that those juvenile transferred to the adult criminal justice system received relatively short sentences to incarceration, or no incarceration at all (Greenwood et al., 1984; Hamparian et al., 1982; Gillespie et al., 1984), **more recent studies show that juveniles are now receiving more severe sanctions in the adult court than youths with similar charges receive in the juvenile court** (Rudman et al., 1986). The study by Rudman and others also showed that it took an average of 246 days for violent youth to be transferred to, convicted in, and sentenced by the criminal court as opposed to an average 98 days for juvenile court processing, thus undermining the pleas for swift and sure justice. Practically all these youths are in secure detention or jail during the pendency of the proceedings. Studies show a wide disparity in results in criminal courts, with some studies showing a low rate of conviction for the charged violent offense (Fagan et al., 1984), and others showing a high conviction rate and for the offense charged rather than a lesser offense (Rudman et al., 1986). Juveniles tried in adult courts do seem to receive shorter sentences on the average than adults for the same offense.

Perhaps the most significant findings are based on comparisons of youth and adult treatment of juveniles in the area of corrections and comparisons of recidivism rates in the two systems. **Juveniles in adult institutions are five times more likely to be sexually**

assaulted, twice as likely to be beaten by staff, and 50% more likely to be attacked with a weapon than youths in a juvenile facility (Forst et al., 1989; Eisikovits et al., 1983). The same studies also indicate a much lower rating of counseling programs, efforts to improve family relations, and medical care in adult corrections. The youth institutions were also rated much higher in promoting social and personal development through inmate and staff interaction. This obviously reflects the dichotomy between treatment and custody in the two programs, but it also has major implications for future behaviors. Forst, Fagan and Vivona noted that "although transfer decreases community risks through lengthy incapacitation of violent youngsters, it carries both fiscal and social costs. The social costs of imprisoning young offenders in adult facilities may be paid in later crime and violence upon their release" (Forst et al., 1989). The financial costs of housing juveniles in the adult system is also greater. **Three different studies over a ten-year period show significantly higher recidivism rates for youths tried in adult courts versus those tried in juvenile courts for the same offenses and with similar personal profiles** (Snyder & Hutzler, 1981; White, 1985; Fagan, 1991).

Capital Punishment

America is one of only three nations in the world that currently allow the execution of persons for crimes committed while they were children. The others are Iran and Iraq. As of May 1, 1992, there were 31 persons on death row under death sentences for juvenile crimes in this country (Streib, 1992). Since 1979, only eight juvenile executions have occurred worldwide—three in the United States and the other five in Bangladesh, Rwanda, Pakistan, and Barbados, nations that have since abandoned the practice by signing or ratifying the United Nations Convention on the Rights of the Child. In addition to departing from the standards of the rest of the world in determining the appropriateness of the ultimate penalty for children, the imposition of the death penalty ignores the substantial evidence of the greater vulnerability and impulsivity of youth and of the false sense of omnipotence and immortality that many juveniles have (Stanford v. Kentucky, 492 U.S. 362, 394-398 (1989)(Brennan, J., dissenting)). The study by Dr. Dorothy Lewis and others of fourteen juveniles on death rows in the United States showed that these children universally have "a battery of psychological, emotional, and other problems going to their likely capacity for judgment and level of blameworthiness" (*Id.*, at 398; Lewis, 1988). Almost all the children had a history of serious physical or sexual abuse, and many have suffered severe head injuries during childhood. For many of these reasons, the United Nations Convention on the Rights of the Child has disapproved of the execution of those who committed crimes while under the age of eighteen. The National Coalition unanimously endorsed American ratification of the Convention at our 1992 Annual Spring Conference,

thus reaffirming our earlier resolution, also unanimously adopted in September, 1989, calling for abolition of the death penalty for juveniles (See **Appendix C**, at page 77).

Trial of Serious, Violent, and Chronic Offenders in Juvenile Courts

Recent studies show that there are serious problems in the delivery of effective legal services to delinquent youth in America. As we commemorate the twenty-fifth anniversary of the Supreme Court's decision in In re Gault, 387 U.S. 1 (1967), it appears that many juveniles are being denied the right to counsel guaranteed by that historic decision, and others are receiving perfunctory representation from those lawyers assigned to represent them. Professor Barry Feld has noted that "nearly twenty years after Gault held that juveniles are constitutionally entitled to the assistance of counsel, half or more of all delinquent and status offenders in many states still do not have lawyers . . . , including many who receive out of home placement and even secure confinement dispositions" (Feld, 1988, 1989). An earlier study of the law guardian system in New York, the primary means for the delivery of defense services to indigent delinquents outside of New York City, revealed an appalling level of competency, ". . . 47% of the courtroom observations reflected either seriously inadequate or marginally adequate representation; 27% reflected acceptable representation, and 4% effective representation. . . . Specific problems center around lack of preparation and lack of contact with the children" (Knitzer and Sobie, 1984).

In spite of these studies, continued urgings of professionals for inclusion of a focus on legal representation in OJJDP's plans and the inclusion in the 1988 amendments to the Act of a mandate for allocating special emphasis funds for "programs stressing advocacy activities . . . including services . . . which improve the quality of legal representation of such juveniles . . .," no funds yet have been designated for advocacy for delinquent youth. **Better and more training is needed for all the participants in the juvenile justice system—police officers, intake officers, prosecutors, judges, defense attorneys, guardians ad litem, probation officers, aftercare workers, correctional and residential care workers, and others.** The expansion of the Serious Habitual Offender Comprehensive Action Program (SHOCAP) to more prosecutors' offices around the country can also aid in the more effective and more consistent handling of serious, violent, and chronic juvenile offenders (Harshbarger, 1992; Shine & Price, 1992).

Juvenile Court Dispositions

Juvenile Boot Camps

Programs for shock incarceration, often referred to as boot camps, have been tried in a number of jurisdictions around the country, although most of them are designed for youthful, non-violent offenders and not juveniles. These programs are politically quite popular but highly controversial among persons expert in corrections, especially juvenile corrections (Taylor, 1992). Most of the programs have a paramilitary organization, are designed generally for minor, non-violent offenders, and serve a population in the 17 to 25-year-old range. The programs get their name from the fact that they are modeled after military basic training facilities, commonly known as boot camps. One major study of the correctional boot camp suggests that studies of military recruits following a boot camp experience showed an increase in aggressive, impulsive, and energetic features on the Minnesota Multiphasic Personality Inventory (MMPI) and observes that these are the very characteristics that were described as being high predictors of recidivism in a correctional population (Morash & Rucker, 1990). An examination of successful and unsuccessful juvenile treatment programs in California reached the following conclusion:

Successful programs share certain characteristics—characteristics that can also be found in gangs. They tend to be mentally and physically demanding, sometimes even dangerous. They require alertness, and they allow the individual to participate usefully in a common effort. They also include a one-to-one relationship with a respected counselor or adviser, and stress self-reliance. They are, in other words, basically the opposite of most juvenile halls and training schools, which operate more like boot camps, offering little positive reinforcement for obedience to commands from above (Gustaitis, 1983).

Indeed, military basic training itself has been modified to reduce some of the negative and aggressive characteristics and to ameliorate the potential for abuse of recruits. In addition, a military boot camp experience is followed by a period of service in a highly structured military organization while correctional boot camps are followed by release into the community. Many of the correctional boot camps have not included a comprehensive aftercare or intensive parole component to facilitate return to and reintegration into the community. Morash and Rucker have urged caution in following such a model, especially for juvenile or youthful offenders. A recent evaluation by the **Juvenile Programs Division of the American Correctional Association** found that **“most of the [existing] programs lack a number of the components we believe are essential for a successful juvenile boot camp, including academic and vocational education, literacy education and substance abuse treatment”** (Taylor, 1992).

Serious, Violent, or Chronic Offender Statutes

A few states have adopted serious or violent offender statutes, but most of these simply follow the "more is better" philosophy by allowing a judge to fix a determinate minimum period of incarceration in the state juvenile correctional program, rather than following the traditional indeterminate commitment policy (Forst et al., 1985; Feld, 1991). The rationale behind many of these statutes is to present an alternative to transfer or waiver to adult courts, as well as reflecting more of a "get tough" philosophy. Some of these statutes also reflect the philosophy articulated in the IJA-ABA Juvenile Justice Standards, and other sets of standards, that call for periods of incarceration that are proportionate to the severity of the offense. The determinate disposition program adopted by the Washington legislature has had little impact on recidivism rates, however. In a few states, as in Ohio and Utah, specific correctional programs have been designed for serious or violent offenders. These programs are generally small, with intensive programs and an extensive aftercare component. Other states have developed programs designed for a specific serious juvenile offender population, such as sex offenders. These programs have generally proven to be more effective than similar programs for comparable adult offenders.

Juvenile Correctional Programs

The Juvenile Justice and Delinquency Prevention Act states the following:

[It is the] policy of Congress to provide the necessary resources, leadership, and coordination (1) to develop and implement effective methods of preventing and reducing juvenile delinquency, including methods with a special focus on maintaining and strengthening the family unit so that juveniles may be retained in their homes; (2) to develop and conduct effective programs to prevent delinquency, to divert juveniles from the traditional juvenile justice system and to provide critically needed alternatives to institutionalization. . . .

The Act is thus entirely consistent with the Coalition's position against simple, punitive incarceration. It favors, instead, a continuum of care keyed to the rehabilitation of juveniles and the protection of society in the least restrictive setting possible.

Current research data clearly indicate that traditional large and centralized correctional institutions do little to reduce delinquency in general, or the rate of recidivism among delinquents in particular, and may actually worsen the situation. According to several studies, recidivism among delinquents in innovative community-based pro-

jects is less than among those in centralized institutional programs, such as training schools, provided the project includes intensive supervision and effective reintegration strategies (Fagan, 1990; Clements, 1988). Even less innovative community-based programs that have recidivism rates that are comparable to those in traditional institutions are more humane and far more cost effective than the conventional institutions. Yet minimal progress has been made to date with regard to ensuring the widespread availability of such appropriate community-based and family-oriented care for delinquents.

While some contact with juvenile court cannot be avoided in every instance for many delinquents, penetration into the system can be minimal, resulting in probation or foster home or group home placement instead of detention or incarceration. For others, especially those who are repeat offenders and whose offenses are of a very serious nature, some detention is unavoidable and may even be advantageous. The degree of restriction in detention, the length of stay, and the effectiveness of rehabilitation and reintegration efforts then become critical.

Community-based treatment can be used effectively when youth cannot be diverted from the juvenile court but do not require intensive, lengthy incarceration. In such cases, youth should be treated in small community-based programs instead of those offered in large, centralized correctional settings or in private facilities rather than public ones. A recent publication by the National Council on Crime and Delinquency describes several highly successful programs for community-based alternatives to institutions, such as the Broward County, Florida, home detention program, the Juvenile Alternative Work Service programs in Orange and Los Angeles counties in California, the Associated Marine Institutes (AMI) Day Treatment programs, the Seattle-based Homebuilders program, and the KEY Outreach and Tracking program in Massachusetts (Steinhardt & Steele, 1990). Family-based, multisystemic therapy (MST) programs have been effective with serious juvenile offenders in several localities (Henggeler et al., 1992; Henggeler, 1986). More than a year after referral to the MST program, participants had only about half as many arrests as youth in a control group receiving usual services, and their recidivism rate was 42% rather than 62% for the control group. The MST youth also tested higher on family cohesion and lower on peer aggression, while peer aggression was the same for the control group and family cohesion was lower for that group.

Despite the political and economic ups and downs of the past decade, the State Advisory Groups and their National Coalition have continued to advocate strongly and persistently for community-based treatment for delinquents. Through the dark years of naysaying in both Washington and the states, we have continued to fund and encourage the development of community programs to rehabilitate delinquents and decrease their chances of recidivating. Those states that have moved toward a stronger community-based model have

received considerable encouragement from their State Advisory Groups, and the National Coalition has given these states high visibility at our national conferences.

The National Coalition's 1989 Report, *Promises To Keep*, addressed the issue of conditions of confinement at great length, especially at pages 14-26, and we shall not repeat that discussion here. However, little positive has occurred in the past three years to change our assessment of the status of conditions in juvenile correctional facilities articulated in that report. We are encouraged that OJJDP is planning a training program for juvenile corrections staff on "Improving Conditions of Confinement," but we are discouraged that the description of this program lists the training as being "in such areas as drug testing and gang activity." The National Coalition does not believe that the projected training matches the needs previously identified. The Office also needs to focus more on providing technical assistance to policymakers and to increase training for police officers, intake workers, judges, and others on effective strategies and programs that work and on the development of effective assessment and screening tools. The conclusion we stated in our 1989 Annual Report is still sadly timely:

The main theme of the 1989 National Coalition of State Juvenile Justice Advisory Groups Conference was conditions of confinement, one of the basic issues that the Juvenile Justice and Delinquency Prevention Act of 1974 was intended to address. As we have reported, the promises made in this area turned out to be temporary and short-lived even though problems identified then persist to the present time. We see our responsibility as one of working with the Office and the individual states, through our Regional coalitions, to address, once again, some of the causes underlying the problem.

We have no illusions that the task of improving conditions of confinement for juveniles will be simple or short-lived. We do recognize it as important to our credibility as a Coalition seriously committed to juvenile justice reform. We also see it as important to the credibility of the Office of Juvenile Justice and Delinquency Prevention. It is an area in which our interests and responsibilities coincide, and it is an example of a problem that requires the states and the federal government to work together. We can and will provide the bridge that will permit this to happen.

Intensive Supervision and Aftercare Programs

As noted above, an essential component of any effective treatment program for serious, violent, and chronic juvenile offenders is the development of comprehensive intensive supervision and aftercare programs to facilitate reintegration into the family and community after the treatment program (Barton et al., 1989). Reintegration is that complex of approaches that

emphasizes "early reintegration activities preceding release from secure care, and intensive supervision in the community with emphasis on gradual reentry and development of social skills to avoid criminal behavior" (Fagan, 1990). Reintegration is most often used, and is most cost-effective, with delinquents whose careers are chronic and whose crimes are quite serious. Reintegration strategies can help provide youth with resistance against the social disorganization, weak social controls, and limited economic opportunities they will inevitably experience upon release. In an article published in 1990, Dr. Jeffrey Fagan reported on his evaluation of the Violent Juvenile Offender (VJO) Program that made extensive use of reintegration (Fagan, 1990). The VJO Program was conducted in four urban juvenile courts: Boston, Detroit, Memphis and Newark. The program was directed at violent youths, about 70% of whom were adjudicated delinquent for armed robbery or aggravated assault, about 17% for murder, and 13% for forcible rape. **Where the program was well-implemented, significantly lower rates of recidivism were found for violent and serious offenses, as well as for total crimes. The VJO Program is an excellent example of what is possible when appropriate, effective treatment is the focus of the juvenile justice system's creativity and resources.**

While traditional corrections practices for violent juveniles usually emphasize investment of most of the resources on treatment services within the institution, the VJO Program is characterized by its emphasis on correctional system intervention combined with community reintegration. The program provides a balance between treatment and control and effected reintegration in three ways—(1) early reintegration efforts that begin in the secure setting and follow the youth into the community upon release; (2) intensive supervision in the community to provide support upon reentry; and (3) life skills and social skills training. As Fagan points out, virtually every delinquent youth, whether housed in small, community-based programs or large training centers, eventually returns to the community. Altschuler and Armstrong have published a model program guide for intensive aftercare with the support of OJJDP. Continued efforts must be made to create and research similarly effective programming for serious, violent delinquents. **To be effective, this programming must recognize that a youth's successful return to the community is the primary goal. The cooperative resources of corrections and the community must be applied to effect that success through individualized assessment and appropriate treatment.**

Special Needs

An increasing number of the juveniles committed to correctional and detention facilities around the country have special problems and needs that require additional tailoring of the rehabilitative programs in such facilities. Commentators

have long noted that incarcerated juveniles have a higher incidence of special educational needs than exist in the adolescent population as a whole, and the Act acknowledges this reality with a specific focus on learning-disabled youth. The current crop of institutionalized youth increasingly exhibit even greater problems, such as mental retardation, emotional difficulties, physical or psychological dependency on substances such as drugs or alcohol, and sexual abuser characteristics. These troubled young people tax the current program capabilities in many states. There needs to be greater attention paid to the more troubled and diverse population of correctional and detention facilities. State Protection and Advocacy Offices need to become more sensitive to these youths and their special needs within the juvenile justice system. Training should be designed to assist staff of juvenile facilities to deal with youngsters with special needs. Some of these youth are incarcerated because of the absence or overcrowding of community-based or specialized private treatment facilities or programs. The Office of Juvenile Justice and Delinquency Prevention must address the problems of these youth with special needs.

Coordination of Services and Resources

There is a great need for developing greater interagency cooperation and collaboration in providing services to children who are at risk of delinquent behavior or who have engaged in such activities. San Diego, California has had considerable success in implementing such a program through a San Diego County Interagency Agreement, and this coordination of services has had a positive impact on delinquency in the area. (Pennell et al., 1990) The state of Virginia has experienced similar positive effects through pilot projects incorporating interagency collaboration, and 1992 legislation institutionalized the program statewide over the next few years. Several studies have advocated utilizing such an approach through school-based services (Center for the Future of Children, 1992).

Expansion of Federal Jurisdiction over Juvenile Offenders

There has been little or no discussion of Attorney General William Barr's suggestion in his April speech in Wisconsin about expanding Federal jurisdiction over juvenile drug and gang-related offenses. Perhaps that was a political balloon lofted which simply elicited little response. There is little historical basis for extensive Federal jurisdiction over juvenile delinquency, and there is also little in the way of juvenile programs within the Federal system. We are highly skeptical of any effort to federalize the processing of juveniles charged

with delinquent behavior, and we believe the most positive Federal role is through pursuing the goals incorporated in the Juvenile Justice and Delinquency Prevention Act.

As we have noted before, the Federal government is one of the greatest violators of the policies embodied in the Juvenile Justice and Delinquency Prevention Act through its detention of children by United States Marshals, the Immigration and Naturalization Service, and other agencies. It seems ludicrous to expand Federal jurisdiction over a population that is not well served by the United States government now.

Overrepresentation Issues

The State Advisory Groups and their Coalition demand action regarding the acknowledged overrepresentation of minority youth in the juvenile justice system, a representation far disproportionate to their numbers in the general population, as articulated in our 1992 Position Paper (See Appendix D at pages 77-79). Research confirms that from arrest through sentencing and incarceration, disproportionate representation and differential treatment are evident along the entire system continuum (Pope and Feyerherm, 1990). The extent to which such disproportionate representation exists on a state-by-state basis, the points in the juvenile justice process at which it is most likely to exist, and the reasons for its existence are less clear.

Two points of view are usually stated to explain the disproportionate representation of minority juveniles in the system. One urges that the problem rests with the system which employs, unintentionally or not, a "selection bias" that results in a disproportionate number of minority youth in the system. In other words, minority youth do not commit more crimes than any other youth; they merely get treated differently and more harshly at various points in the system. The other view posits that the nature and volume of offenses committed by minority youth are the real issue. In other words, minority youth commit more offenses, and more serious offenses, than other youth because of the social and economic conditions in which they are forced to live. The differential involvement in crime on the part of minority youth, according to this perspective, accounts for their larger number in the juvenile justice system.

Consistent with the mandates of the Juvenile Justice and Delinquency Prevention Act, the Coalition is primarily concerned with problems directly related to the juvenile justice system itself and, in this case, its potential for "selection bias." Does a bias in selection of minority youth exist within our juvenile justice system? Accumulated findings indicate that it does. Data suggest that both direct and indirect race effects, or a mixed pattern of bias, exist nationally. There is also evidence that small racial differences may accumulate and

become more pronounced as minority youth penetrate deeper into the system. Pope and Feyerherm conclude the following:

That minority offenders are over-represented in juvenile institutions across the country is an indisputable fact. Further, there is sufficient evidence to suggest that over-representation will continue and probably increase in the coming decades. The majority of research studies to-date, especially those undertaken since 1980, suggest that racial status may well be a factor influencing outcome decisions in certain jurisdictions at certain points in time . . . it would seem that processing of minorities through the juvenile justice system is an issue that cannot and should not be ignored. . . . It can be argued that the lack of program initiatives and policy statements focusing on racial equality across the juvenile justice system is cause for concern and a condition that should be addressed (1990, p. 3).

An OJJDP-published study by Dr. Howard Snyder attributes the 13% growth in minority detentions between 1985 and 1986 primarily to drug law violations. According to this study, during those years the number of white youth referred to court for drug law violations declined by 6%, while the number of nonwhite youth referred for drug offenses rose by 42%. This, coupled with "the court's greater likelihood of detaining drug cases resulted in a 71 percent rise in the number of nonwhite youth detained for a drug offense" (Snyder, 1990). Another conclusion based on the data also may be warranted. Since this finding relates to court referrals, considerable selection bias may operate at the arrest and intake stages. In addition, while new judicial policies with regard to drug-offenders may account for some of the recent increase in minority detention, it is by no means the entire story. For over 20 years solid research has pointed out the more complicated picture, that numerous variables are associated with disproportionate representation of minorities in the juvenile justice system and at various stages within that system. A recent study also reveals that **white youth may engage in significantly greater abuse of drugs than African-American youth but that differential enforcement of the laws proscribing such use results in greater involvement of minority youth in the formal justice system.**

Another area of potential discrimination is in the transfer from juvenile or family courts to courts of adult criminal jurisdiction. Waiver or transfer decisions require judges to determine which juveniles would benefit from the rehabilitation efforts of the juvenile justice system, and which require the harsher sanctions of the criminal justice system. Since transfer is one of the most severe sanctions of the juvenile justice system with potentially harsh consequences, it is an area worthy of more careful attention. Fagan and others analyzed a sample of youths to ascertain the differences between those retained in the juvenile court and those waived to the adult system (Fagan et al., 1987b). They noted that practices varied widely across jurisdictions and were characterized by vagueness and a lack of

standards. More to the point of this *Report*, they also found that fewer whites were considered for transfer. Minority youth were transferred more often than white juveniles. This racial disparity held true regardless of prior record and type of offense. A recent study of transfer practices in New Mexico reveals a similar disparity between Hispanic and Anglo youth in that state (Houghtalin & Mays, 1991).

Conclusion

There are no easy answers to the serious problems presented by the increasing violence against, and by, our children and youth. Simplistic pleas for a return to those family values that were portrayed on television in the 1960s, for the total transformation and reformation of our cities, for a transfer of all serious offenders from the juvenile court to an adult criminal justice system that is less effective in reducing crime and less humane than the juvenile system, or for a banning of all guns without reducing our nation's commitment to violence as a lifestyle will not succeed in addressing a highly complex problem. Delinquency and the serious, violent, and chronic delinquent crime that are its subparts is linked directly or indirectly to multiple characteristics of adolescence and the social and family systems within which these characteristics are embedded. **If we are to reverse the recent trends of escalating serious juvenile delinquency, we must advocate for, and encourage the development of, multi-faceted strategies for addressing this variety of characteristics and systems.**

We do not know all the answers, but we do recognize that the questions are complex and cannot be answered simply, with a single strategy or "magic potion." We do know some of the answers, and we have attempted to focus on many of them in this *Report* and in our past reports. We need a society that is committed to primary prevention, one that acknowledges that the variety and quality of support systems for families, particularly at the poverty level are the best possible formula for preventing crime. Adequate health care, including the delivery of prenatal services to pregnant women, sufficient housing, strong Head Start and other preschool enrichment programs for all eligible children, an effective system of day care to allow parents to work while still providing for their children, safe neighborhoods, and quality educational opportunities all are necessary components of a society committed to its children. We also need the services to allow us to intervene effectively and appropriately if at-risk behaviors are manifested, such as when children are abused or neglected or when children in the early grades start exhibiting violent or bullying characteristics, and we need to do so in the least intrusive effective fashion, as through family-based programming and services.

We need to develop a greater range of services and programs for those youths who do transgress against society's rules by becoming

delinquent. We need interventions that are truly tailored to the needs of the individual child—as the juvenile justice system has promised since its inception almost a hundred years ago—and not just a paucity of options that are invariably utilized according to a preordained formula regardless of the needs or characteristics of the particular child. And we need for the court's intervention, when absolutely necessary, to take place in strict accordance with the requirements of due process. Children and youth need even more due process protections than adults, and we must ensure that these protections are afforded in a timely and effective fashion. We must ensure that those youths who are necessarily transferred to adult courts for trial and punishment in the criminal justice system are treated fairly, punished humanely, and given an opportunity for meaningful change through creative programming targeted at youthful offenders.

We must also provide policymakers with accurate and timely information about those programs for serious and violent offenders that work, programs that avoid treating increasing numbers of children as adults, exposing them to the procedures and institutions of a criminal justice system that brutalizes and hardens them. We do not need to turn to programs, policies, and institutions that exacerbate the violence and insensitivity of our most serious juvenile offenders, especially when we have strategies that work—both in protecting society and in reducing future delinquency or criminality. Many of these strategies reduce recidivism at least twice as effectively as traditional institutional placements and at significantly less cost.

In-depth public opinion surveys demonstrate that these goals are supported by substantial percentages of the general public. A national survey of almost 1,000 randomly selected adults revealed that 78% believe that the primary purpose of juvenile court should be to treat and rehabilitate young offenders while only 12% agreed with a punishment orientation. Although a majority of respondents believe that juveniles who commit serious or violent offenses should be tried in adult courts, 62% believed they should not receive the same sentences as adults, and 55% do not want juveniles convicted of serious violent crimes sent to prison. Depending on the crime, between 88–95% of the respondents believed that rehabilitation should be the goal even for juveniles tried in adult courts. Over two-thirds of those responding—71% believe that juveniles should be treated in community-based programs rather than in training schools (Schwartz, 1992a, 1992c).

Elie Wiesel tells the story of the famous Hasidic rabbi who attracted a loyal and dedicated group of students who surrounded him and hung on his every word. One day, the most loyal of the students went to tell the rabbi of the group's love and respect. Upon pledging the students' undying love for the master, the rabbi responded with the surprising statement that he did not believe that they loved him. The astonished student again blurted out the love of the students. But the master again replied with his doubt about their feelings. A third time the loyal student protested with an expression of the

group's love. The rabbi finally asked the young man if the students knew where their master hurt, receiving the astonished response that they didn't know that he was in any pain. The rabbi answered, "How can you love me if you don't know where I hurt?"

We are the volunteers and professionals out in the field who know where children hurt, and we show our love by developing and advocating for humane and effective programs for those that hurt the most.

RECOMMENDATIONS

To the President:

1 We recommend, in light of the conclusions of this report, that the President strongly affirm the continued and profound relevance of the goals and strategies embodied in the Juvenile Justice and Delinquency Prevention Act and that he provide the visible leadership so desperately needed to carry the Act's initiatives successfully forward. **The Office of Juvenile Justice and Delinquency Prevention should be allocated the adequate resources and the full complement of staff to efficiently and effectively implement the requirements of the Act.**

Discussion

The profound problems of serious, violent, and chronic juvenile crime require and deserve a major commitment by the President to mobilize the resources necessary to successfully intervene with these problems. Strong national leadership is essential to ensure continued and accelerated progress in achieving the goals of the Juvenile Justice and Delinquency Prevention Act, and the President is well positioned to provide that leadership through support of the goals of the Act. We are particularly desirous that the Administrator of the Office of Juvenile Justice and Delinquency Prevention be given adequate tools to carry out the Office's statutory charge through the allocation of adequate resources and a full complement of staff. As we noted in our 1991 *Report*, the Act envisions a unique partnership between the states and territories and the federal government, and the tools should be provided to enable the partnership to flourish (Lunenburg, Altschuler & Bell, 1992).

2 We recommend that the President use his leadership to define and implement a dynamic strategy to improve the status of America's families and children in the 1990s comparable to the recommendations of the 1991 *Report* of the bipartisan National Commission on Children for ensuring income security, improving health care, increasing educational achievement, preparing adolescents for adulthood, strengthening and supporting families, protecting vulnerable children and their families, and making policies and programs work.

Discussion

Children have been neglected by American society for far too long. They do not vote, they have no political action committees, and they are often treated derisively as just another "special interest," but without the power or voice that many other such groups have. They are most often the beneficiaries of rhetoric, rather than action, of kisses during election campaigns, rather than attention when policies are established. American children and youth are now in crisis, a crisis of the magnitude of many of those on the international scene, or in the banking industry, where our government has mobilized resources under emergency conditions in a short period of time, and we need to do the same here. The President should utilize the prestige and visibility of his office to mobilize similar resources to rescue our children from poverty, violence, and despair.

3 We recommend that the President propose to Congress a significant increase in formula grant funds to enable the states and territories to work more effectively in carrying out the mandates of the Act.

Discussion

True support for the goals of the Act includes a commitment to provide the resources necessary to achieve those goals. The President should propose a sufficient level of funding to allow the State Advisory Groups and its National Coalition to more effectively carry out the mandates of the Act.

(See Recommendation 2, 1991 Report, page 64.)

4 We recommend that the President transmit the United Nations Convention on the Rights of the Child to the Senate for ratification.

Discussion

Practically every nation in the world has ratified the United Nations Convention on the Rights of the Child, and the United States, which has initially articulated many of the rights defined in the document, should move quickly to join those nations. We need to be in forefront of those who are committed to a world that is friendly to children.

5 We recommend that the President direct the Attorney General to withdraw his policy on juvenile record-keeping so as to preserve the confidentiality of juvenile records unless they result from an adult conviction of a juvenile for a serious offense.

Discussion

The recent action by the Attorney General of the United States regarding widening the net of record-keeping for juvenile arrests and adjudications was ill advised and cast too wide. Most states allow records to be kept when juveniles are tried as adults, and government record-keeping should be limited to those situations. We oppose keeping records in centralized systems that give access to many persons for juvenile contacts and adjudications.

To the Congress:

6 We recommend that Congress increase the appropriation level for the Juvenile Justice and Delinquency Prevention Act to permit the states and territories to achieve the goals of the Act and to continually reaffirm its basic goals and strategies through the development of innovative programs.

Discussion

The reauthorization of the Juvenile Justice and Delinquency Prevention Act has recommitted the Federal government to fundamental reform of the juvenile justice system in America. The Act needs to be funded at an adequate level to allow these laudatory goals to be realized.

7 We recommend that Congress act to define and implement a dynamic strategy to improve the status of America's families and children in the 1990s comparable to the recommendations of the *1991 Report* of the bipartisan National Commission on Children for ensuring income security, improving health care, increasing educational achievement, preparing adolescents for adulthood, strengthening and supporting families, protecting vulnerable children and their families, and making policies and programs work.

Discussion

We have urged that the President focus his leadership on the crisis facing America's children and we repeat that plea for the Congress as well. The 1991 report of the bipartisan National Commission on Children—**Beyond Rhetoric: A New American Agenda for Children and Families**—clearly articulated a blueprint for addressing the critical problems facing our most vulnerable and fragile citizens. We need to move "beyond rhetoric" to implement that blueprint.

8 We recommend that Congress take action to address the differential treatment and confinement of juveniles due to gender, socioeconomic status, ethnicity, sexual orientation,

race, learning disability or other handicap, and medical condition.

Discussion

Historically, young offenders have received differential treatment in the juvenile justice system according to the demographic groups to which they belong or to the stereotypes with which they may be identified. Female and minority status offenders have tended to be institutionalized more frequently than white male youth. Minority offenders have been the victims of invisible, often unconscious, discrimination, while well-intentioned efforts to remove them from a negative environment have often backfired and made things worse.

While there is little formal research to date, there is widespread concern that white middle class youth, especially females, are being transinstitutionalized from correctional programs into private, residential treatment facilities, at least to the extent that third party insurance payments are available to cover the cost. At the same time, minority youth are often denied appropriate residential treatment for similar emotional problems and are instead incarcerated in correctional facilities, perhaps because of their lack of insurance coverage or other resources. These inequities need to be probed and strategies developed to eliminate them.

(See Recommendation 2, *1990 Report*, page 33; Recommendation 4, *1991 Report*, page 65.)

9 We recommend that Congress require that all Federal agencies with jurisdiction over juveniles, whether direct or indirect, be fully subject to the mandates of the Act.

Discussion

A number of Federal agencies that have jurisdiction over youth, either directly or indirectly, do not abide by the requirements of the Act. This discrepancy is inherently unjust and counterproductive. The equal application of the mandates to all states is based on the premise that individual rights should not depend on the vagaries of geography. Likewise, the needs and susceptibilities of youths are not diminished or transformed when they enter Federal territory or find themselves under Federal jurisdiction.

The Act should be amended to cover all agencies that may have jurisdiction over juveniles, including Federal military installations, the Immigration and Naturalization Service, the District of Columbia, the Bureau of Indian Affairs, the Department of the Interior, and the Federal Bureau of Prisons. The Coalition is particularly concerned about the confinement of juveniles by these agencies in jails and adult detention facilities.

(See Recommendation 8, *1990 Report*, page 36; Recommendation 5, *1991 Report*, page 65-66.)

10 We urge that Congress appropriate funds to develop standards and guidelines to deal with issues presented by juveniles who are transferred, waived, or certified to adult court or otherwise placed within the jurisdiction of the adult court, especially the issues of detention, the standards for transfer, waiver, or certification to adult court or placement within adult jurisdiction, and of the safety and security of such juveniles when placed in adult facilities and institutions.

Discussion

Over the past decade there has been a trend across the country to increase the trial of young people in the adult courts. States have lowered the maximum age for exclusive juvenile or family court jurisdiction, reduced the discretion of juvenile and family court judges to determine the proper court in which a juvenile is to be tried, and increased the number of offenses that are referred automatically to the adult criminal court.

There has been little study of the effect of these legislative changes on youths and on the juvenile justice system. What effect have the changes had on minority representation in the population of youths who are transferred to or placed in the adult system? What impact have the changes had on the placement of young people in adult jails and correctional facilities and the treatment of juveniles in these institutions? Have the changes reflected any coherent philosophy or body of knowledge about successful intervention with serious, violent, and habitual juvenile offenders? Are objective criteria utilized to decide who is tried and treated as a juvenile and who as an adult? What procedures are followed in the juvenile and adult systems to determine which juveniles are to be tried and treated as adults, and do these procedures comport with the fundamentals of fair play and due process? What happens to juveniles who are transferred or referred to the adult criminal system in the sentencing process or in those adult institutions where they may be placed? There needs to be a fuller recognition of the fact that juvenile transfer decisions are dispositional decisions that impact more profoundly on the future of youths than more traditional treatment choices. We need to examine the transfer process far more closely.

(See Recommendation 7, *1990 Report*, pages 35-36; Recommendation 8, *1991 Report*, pages 67-68.)

11 We urge that Congress enact effective legislation to reduce the easy availability of handguns and assault weapons in America, especially for young people.

Discussion

As this *Report* points out, there is a significant problem presented by the easy accessibility of handguns and assault weapons in America today. The American Medical Association and the American Academy of Pediatrics have declared that this violence is now a public health emergency, and they have called for greater control of weapons. We join in that call and urge Congress to enact meaningful legislation controlling access to handguns and assault weapons.

12 We recommend that the Senate move to ratify the United Nations Convention on the Rights of the Child expeditiously upon transmittal by the President, thus joining most of the rest of the world in ratifying the Convention.

Discussion

We join with the bipartisan coalition of Congressional leaders in urging that the President communicate the United Nations Convention on the Rights of the Child to the Senate, and we recommend that the Senate ratify the Convention, thus linking the United States to the rest of the world in affirming the rights of children.

13 We recommend that Congress act to reverse the Attorney General's policy on juvenile record-keeping so as to preserve the confidentiality of juvenile records unless they result from an adult conviction of a juvenile for a serious offense, if the President does not act to rescind the policy.

Discussion

The action by the Attorney General of the United States widening the net of federal record-keeping for juvenile arrests and adjudications was ill advised and cast too wide. Most jurisdictions allow records to be kept when juveniles are tried as adults, and government record-keeping should be limited to those situations. We oppose keeping records in centralized systems that give access to many persons for juvenile contacts and adjudications. If the President does not act to rescind this policy, we believe that Congress should act to do so.

14 We recommend that the Congress study the present pass-through funding formula for Native Americans with an eye toward developing an approach that provides sufficient resources for them to address their unique juvenile justice concerns.

Discussion

The current pass-through funding formula allocates formula grant dollars to American Indian tribes with law enforcement programs based on their percentage of a state's total youth population. This system, in reality, results in a minuscule amount of funding, insufficient to attend to the needs of American Indian youth and their juvenile justice systems. Even in populous states, the percentage amount available is so small that it is not worthwhile for a Native American group to submit an application for the funds. In less populous states, where most Native Americans reside, the grant base is minimal, which translates to a small dollar amount available, or the actual Native American population is not recognized because it does not provide a law enforcement program as defined in legislation. Likewise, in the smaller states, the pass-through requirement reduces the already modest grant amounts available to the general population of youths at risk.

When the National Coalition reported the findings and recommendations of the American Indian Ad Hoc Committee in 1986, we envisioned that discretionary grant money should be available for American Indian tribes and Native Americans to assist in dealing with the unique problems with their juveniles. The need for such assistance still exists. However, we are convinced that the pass-through approach is not the answer. We hope that Congress will allocate funds designated specifically for Native American juvenile justice efforts and will enact a separate section of the Act devoted to such issues and efforts.

(See Recommendation 9, *1990 Report*, pages 36–37; Recommendation 6, *1991 Report*, pages 66–67.)

15 We recommend that Congress move aggressively to address the problem of inappropriate confinement of juveniles in psychiatric hospitals, secure residential treatment programs, and other forms of secure out-of-home care to ensure such a placement is used only when absolutely necessary, for the shortest duration, and only when it constitutes the least restrictive alternative.

Discussion

There is growing evidence that status offenders and youths who commit minor delinquent acts are being confined inappropriately in

mental health and drug rehabilitation centers and that this confinement is similar in intent and effect to placement in correctional institutions. Independent counsel and a prompt hearing preceding or following admission would help protect juveniles against violations of their due process rights and would provide a greater opportunity for appropriate care within the least restrictive setting. The development of alternative non-residential resources, such as day treatment, home-based care, and outpatient diagnostic and evaluation services, is needed to expand the continuum of care.

(See Recommendation 4, *1990 Report*, pages 33–34; Recommendation 9, *1991 Report*, page 68.)

16 We recommend to Congress that states be required to collect data about juvenile placements from psychiatric hospitals and other residential treatment programs and report such to the Office of Juvenile Justice and Delinquency Prevention as part of their regular yearly *Reports*.

Discussion

While inconclusive, evidence suggests that some status offenders are being inappropriately transinstitutionalized into private psychiatric hospitals and residential drug abuse programs from those correctional facilities where they previously were housed before the Act forbade such housing. A national study is required to accurately assess the situation and, if appropriate, to recommend a course of action to address it. Additional resources will have to be provided to enable the states to perform this important task.

(See Recommendation 5, *1990 Report*, page 34; Recommendation 10, *1991 Report*, page 69.)

17 We recommend that Congress authorize research to track those status offenders who can no longer be held in jails or lockups and assist in generating funds for community resources for such youth.

Discussion

The deflection of status offenders from the formal juvenile justice system has not always led to the development of effective treatment services for these young people in the least restrictive setting. As already mentioned, there is the continuing concern that some of these youths are being labeled differently in order to be placed in other secure or otherwise restrictive facilities, such as psychiatric hospitals. We need research to track more effectively those status offenders who are in the system and to evaluate the treatment settings they enter, in order to determine what is happening to these children at

risk. This research will give us better information about these youth so as to influence policies about effective treatment programs and activities.

(See Recommendation 3, *1990 Report*, page 33; Recommendation 11, *1991 Report*, page 69.)

18 We recommend that Congress mandate greater cooperation and collaboration among those federal agencies involved in research and programming regarding juvenile delinquency and juvenile justice issues to insure better dissemination of the research findings and effective programming.

Discussion

A number of federal agencies engage in research on juvenile delinquency and on other aspects of youth crime, such as gangs, guns, and violence, and yet this research is not readily shared with those in the states and territories charged with developing programs for youth. There needs to be more communication and coordination among these agencies and with the states on the results of this research.

To the Administrator of the Office of Juvenile Justice and Delinquency Prevention:

19 We recommend that the Administrator of the Office of Juvenile Justice and Delinquency Prevention augment state formula grant funds with discretionary funds to assist states in developing the data collection, juvenile tracking systems, training, and action strategies needed to assess and eliminate minority overrepresentation in the juvenile justice system.

Discussion

The Office of Juvenile Justice and Delinquency Prevention allocated discretionary funds in the past to assist states in complying with the jail removal mandate. These funds were used effectively by the states that received them, and the result was a substantial increase in compliance. Congress amended the Act in 1988 to address minority overrepresentation in the juvenile justice system and provided funds for research and the development of programs on the issue. The National Coalition believes that the State Advisory Groups are the most appropriate entities to utilize and distribute these funds, since it is the SAGs who are mandated with the responsibility to reduce minority overrepresentation.

(See Recommendation 13, *1990 Report*, page 39; Recommendation 12, *1991 Report*, page 70.)

20 We recommend that the Administrator make greater use of discretionary funds in achieving full compliance with the mandates of the Act. These funds particularly should be used to address special and unusual problems in the several jurisdictions, such as those presented by geography, including distance and topography.

Discussion

The Office of Juvenile Justice and Delinquency Prevention should act to use more of the discretionary funds allocated to it in order to achieve full compliance with the mandates of the Act. These funds particularly should be used to address special and unusual problems in the several jurisdictions, such as those presented by geography, including distance and topography. An excessive percentage of such funds is allocated currently to peripheral programs and activities rather than being focused on areas previously identified by the Coalition and Congress as needing immediate attention.

(See Recommendation 13, *1991 Report*, pages 70–71.)

21 We recommend that the Administrator of the Office of Juvenile Justice and Delinquency Prevention significantly increase interest in and funding for advocacy on behalf of juveniles in court, especially in the areas of training legal counsel and guardians ad litem for juveniles, examination of the incidence of the waiver of counsel by juveniles, and the development of pilot and model programs for delivering effective defense services to juveniles.

Discussion

The 1988 amendments to the Act included in Section 261(a)(3) a mandate for “establishing or supporting programs stressing advocacy activities,” including “the improvement of due process,” improving the “quality of legal representation of such juveniles,” and “the appointment of special advocates by courts for such juveniles.” So far, the Office has responded only to the last of these, through the encouragement of Court-Appointed Special Advocate (CASA) programs. There has been little or no focus on issues presented by the provision of legal representation for delinquent youth to implement the requirements of *In re Gault*, *supra*. The American system of justice is predicated on an adversarial model, and the juvenile justice system adopts this model for at least the adjudicatory stage of the process. The Act recognizes this approach in urging the delivery of effective advocacy services for delinquent youth, as well as those

abused or neglected children well served by CASA volunteers and guardians. The Office has done much to improve prosecutorial services and judicial services over the years but little to improve the provision of due process through the assurance of competent, committed, and informed defense services to youths charged with delinquency.

(See Recommendation 11, *1990 Report*, pages 37-38; Recommendation 14, *1991 Report*, pages 71-72.)

22 We recommend that the Administrator of the Office of Juvenile Justice and Delinquency Prevention, in cooperation with the Federal Coordinating Council, propose and initiate a major delinquency prevention demonstration effort—one that addresses, at least in part, the problems of those youth who are disproportionately represented in the juvenile justice system and are near or below the Federal poverty level.

Discussion

It has been a decade since OJJDP has focused on prevention of juvenile delinquency as a major agency priority. During this period, research findings from all disciplines have revealed that the same dozen antecedent risk factors are at the root of almost all kinds of anti-social behavior. These include behavior as diverse as alcohol and other drug use, adolescent pregnancy, school failure, participation in gangs, suicide, and school dropout, as well as a wide variety of illegal activities classed as juvenile delinquency. These findings indicate that any effort to affect different kinds of undesirable behavior must target the same risk factors. They also establish that a merely punitive "just deserts" approach to assessing responsibility attacks only the symptoms and not the underlying causes of behavior.

The National Coalition has consistently urged a high priority for delinquency prevention program research and demonstration, as well as information dissemination and technical assistance to the states. Our State Advisory Groups have continued to commit as much of their resources as possible to prevention programs in their jurisdictions, many of which have been quite successful.

Since OJJDP historically has supported research efforts which led to the identification of risk factors common to troublesome adolescent behavior and has funded tests of prevention models which have been successful in ameliorating the impact of risk factors on delinquency, the Office is in a unique position to take a leadership role in a major delinquency prevention effort. Thus, the National Coalition again urges the Administrator to provide the leadership in developing and implementing a juvenile delinquency prevention effort based on the cooperative efforts of those constituent members of the Federal Coordinating Council that will participate.

(See Recommendation 15, *1990 Report*, page 40; Recommendation 15, *1991 Report*, pages 72-73.)

23 We recommend that the Administrator of the Office of Juvenile Justice and Delinquency Prevention, in cooperation with the Federal Coordinating Council, seek greater cooperation and coordination among agencies conducting research and developing programs concerning juvenile delinquency and violence.

Discussion

As noted above, there is a need for greater coordination and communication among the various federal agencies that address the various problems of youths engaged in antisocial behavior. We recommend that the Administrator of OJJDP seek greater cooperation and coordination among these agencies and take the lead in communicating the results of this research to the states.

24 We recommend that the Administrator of the Office of Juvenile Justice and Delinquency Prevention re-examine the Native American youth situation and formulate a more effective and practicable means of providing assistance.

Discussion

The current pass-through funding formula requires states to allocate a portion of grant dollars to American Indian tribes that perform law enforcement functions based on the number of Indian youth residing in the state as a percentage of the total state youth population. In the more populous states, the percentage amount available is so small that it is not worthwhile for a tribe to submit an application for the funds. In the less populous states, the grant base is so minimal that the dollars available are also hardly worth applying for.

When the National Coalition reported the findings and recommendations of the American Indian Ad Hoc Committee in 1986, we envisioned that discretionary grant money should be made available for Indian tribes and Native Americans to assist them in dealing with the unique problems of their youth at risk. We are convinced that the current pass-through funding formula is not the answer. We hope that the Administrator will work with the Coalition and Congress to devise a more effective way of dealing with the issue.

(See Recommendation 14, *1990 Report*, pages 39-40; Recommendation 16, *1991 Report*, page 73.)

ommendation 14, *1990 Report*, pages 39–40; Recommendation 16, *1991 Report*, page 73.)

25 We urge that the Administrator of the Office of Juvenile Justice and Delinquency Prevention study the issues presented by the transfer, waiver, and certification of juveniles to adult courts or otherwise placed within the jurisdiction of the adult courts and formulate standards and guidelines for use by legislatures, courts, and other participants in the juvenile justice system in addressing transfer issues.

Discussion

We have attempted to obtain data on the number and characteristics of youth who are waived or transferred to adult courts each year in the United States. The Office does not have this information, and we have been unable to find definitive statistics elsewhere. We need better data to effectively address the magnitude of the problem presented by juveniles in the adult criminal justice system. The Office should be a leader in formulating standards and guidelines for use by legislatures, courts, and other participants in the juvenile justice system to help assure that children are not being inappropriately transferred to adult courts and placed in adult detention or correctional facilities. Uniform standards and guidelines can help in insulating the decision-making process from the public and political pressures that flow from serious or sensational crimes. The Office should begin collecting data from the states to enable the development of a more accurate picture of the numbers of transfers or waivers and of placements in adult institutions and facilities.

(See recommendation 12, *1990 Report*, page 38; Recommendation 17, *1991 Report*, pages 73–74.)

26 We recommend that these subjects of previous suggestions for the Administrator of the Office of Juvenile Justice and Delinquency Prevention continue to receive major attention and support by the Office:

- a. Jail removal
- b. Identification and dissemination of information on alternatives to confinement, improving conditions of incarceration for those juveniles requiring such confinement, and new approaches for handling overcrowding, classification, and promising new programs utilized in the states and territories.

Discussion

Great strides have been made in achieving and providing alternatives to incarceration for juvenile offenders, but the work is far from complete. Efforts in these critical areas must continue with the same or greater intensity. The Administrator's recent action in permitting the state of Wisconsin to come under the Act again but with relaxed standards for accomplishing jail removal demonstrates that OJJDP is not always steadfast in its commitment to the mandates of the Act. Such action also cheapens the diligent efforts of those states that have toiled long and hard in achieving removal of children from jail, and it dulls the enthusiasm of those still seeking to attain that goal. We welcome any state that seeks to join in this high endeavor, but we all desire to "play by the same rules."

(See Recommendation 17, *1990 Report*, page 41; Recommendation 18, *1991 Report*, pages 74-75.)

APPENDICES

APPENDIX A

Definitions of Serious, Violent, and Chronic Juvenile Offenders

Serious Juvenile Offenders

The Juvenile Justice and Delinquency Prevention Act of 1974, as amended, defines "serious crime" in Section 103(14) to include "criminal homicide, forcible rape or other sex offenses punishable as a felony, mayhem, kidnapping, aggravated assault, robbery, larceny or theft punishable as a felony, motor vehicle theft, burglary or breaking and entering, extortion accompanied by threats of violence, and arson punishable as a felony" (42 U.S.C. § 5603). A 1976 study for the federal Office of Juvenile Justice and Delinquency Prevention (OJJDP) defined a "serious juvenile offender" as one who was convicted "of non-negligent homicide, armed robbery, aggravated assault, forcible rape, and arson" (Mann, 1976, p. 2). The 1980 comprehensive report to OJJDP by Smith and others defined a serious juvenile offense to include homicide or voluntary manslaughter, forcible sexual intercourse, aggravated assault, armed robbery, burglary of an occupied residence, larceny or theft of more than \$1,000, auto theft without recovery of the vehicle, arson of an occupied building, kidnapping, extortion and illegal sale of dangerous drugs, and a "serious juvenile offender" as one "whose offense history includes adjudication for five or more serious offenses . . . , or one who is adjudicated for one or more offenses whose severity is equal to homicide or forcible sexual intercourse. . ." (Smith, 1980, p. 8). The 1980 definition is based on the widely accepted seriousness scale developed by Thorsten Sellin, Robert Figlio, and Marvin Wolfgang in their classic study of *Delinquency in a Birth Cohort*. The FBI Uniform Crime Reports definition used by the United States Department of Justice includes as Part I offenses the following: murder and non-negligent manslaughter, forcible rape, robbery, aggravated assault, burglary, larceny-theft, motor vehicle theft, and arson (Sourcebook, 1991, Appendix 3).

For the purpose of this *Report* the controlling definition of a "serious juvenile offender" will be that of an individual who has been convicted of a Part I offense as defined by the Uniform Crime Reports, excluding auto theft, or of distribution of a controlled dangerous substance, and who was 14, 15, 16, or 17 years old at the time of the commission of the offense. This will allow for statistical uniformity across the various federal reports and will be consistent with the treatment in many states and territories.

Violent Juvenile Offenders

There is less dispute over definitions of "violent crime" or "violent juvenile offenders" than there is over what constitutes serious juvenile delinquency. There is general agreement that the four "index" offenses within the Part I category of the Uniform Crime Reports that are directed against the person—murder and non-negligent manslaughter, forcible rape, robbery, and aggravated assault—are "violent crimes" (Smith, 1980; Sourcebook, 1991). The Office of Juvenile Justice and Delinquency Prevention in its Violent Juvenile Offender initiative considered a youth a "violent juvenile offender" if he or she was found guilty of murder alone or of attempted murder, rape or attempted rape, aggravated assault, armed robbery, arson of an occupied dwelling, voluntary manslaughter, or kidnapping combined with a prior adjudication for any of these target offenses or other offenses against a person (Fagan, 1984). Most programs for such offenders utilize a similar definition, incorporating a presenting violent offense against the person with the existence of a prior record of adjudication of a similar offense, so as to exclude from the category a juvenile whose current violent offense might be aberrational. For the purposes of this *Report*, a "violent juvenile offender" is a youth who has been convicted of a violent Part I offense and who has a prior adjudication of such an offense or a youth who has been convicted of murder.

Chronic Juvenile Offenders

The "chronic juvenile offender" may present entirely different characteristics from those exhibited by the serious or violent offender and is a youth who has engaged in behaviors that may not all be serious but are persistent. Wolfgang, Figlio, and Sellin's groundbreaking 1972 study of a "cohort" of 10,000 males from their birth in Philadelphia in 1945 through adolescence demonstrated that a relatively small group of delinquents commit a significant percentage of the juvenile crime. About 18% of the juvenile offenders, and about 6.3% of the total youth within the cohort had five or more offenses and committed 52% of all the delinquent offenses (Wolfgang et al., 1972). A similar study of a later birth cohort showed a similar pattern, although the number of juvenile offenders within the cohort who had five or more offenses rose to 23% and 7.5% of the entire cohort (Tracy et al., 1985). Thus, there is a hard-core group of chronic delinquents that are responsible for a great number of juvenile offenses. Interestingly, in the 1972 study only 6.2 per cent of the offenses committed by chronic or repetitious juvenile offenders are serious crimes. However, chronicity is a hallmark of a primarily less serious offender who requires intervention because of a major threat of recidivism. For the purposes of the *Report*, a "chronic juvenile offender" will be one who has a record of five or more separate charges of delinquency, regardless of the gravity of the offense.

APPENDIX B

Discussion of Juvenile Waiver to Adult Courts

Legislative Waiver

Legislative waiver is the descriptive term applied to statutory schemes that remove juveniles from the jurisdiction of the juvenile or family court based on certain legislatively defined criteria, such as the offense charged, the age of the youth, or the number or nature of prior charges, with a minimum of discretion in the process participants. Professor Barry Feld of the University of Minnesota Law School advocated the substitution of objective statutory criteria for judicial discretion early in the 1980s as a means of increasing predictability and reducing discrimination (Feld, 1978, 1981). Some states, such as Illinois, Indiana, Louisiana, New York, and Oklahoma, have excluded certain categories of offenses from the jurisdiction of the juvenile court, and others, including Florida, have provided for grand jury indictment of juveniles charged with enumerated major offenses (Bishop & Frazier, 1991). Efforts to institutionalize objective criteria for transfer of jurisdiction to the adult court so as to minimize discriminatory effects are laudatory, but little empirical research has been published regarding the impact of these statutory schemes. No states have adopted legislative waiver criteria as restrictive as those advocated by Professor Feld or the IJA-ABA Juvenile Justice Standards, and thus the net cast by the laws enacted has generally been broader than urged and has swept into the adult court those juveniles who are accomplices with lesser culpability for the serious crime defined (Zimring, 1991). More study should take place of the effect of objective criteria coupled with limited discretion to deal with those youths who should remain in the juvenile justice system.

Prosecutorial Waiver

An increasing number of states have transferred discretion from the judge to a prosecutor, such as Arkansas, Florida, Nebraska, and Wyoming (Bishop & Frazier, 1991). Although prosecutorial discretion may be an important component in other transfer or waiver systems, such as having a prosecutorial motion as the "trigger" for a waiver hearing in judicial waiver states or having a legislative waiver determined by the prosecutor's charging decision, as between murder

or manslaughter in a homicide case, the statutory introduction of prosecutorial waiver makes such a decision largely unchecked. Such a policy decision has far-ranging ramifications. As Bishop and Frazier note, "Because prosecutorial waiver statutes greatly expand the power of prosecutors—who historically have been more concerned with retribution than with rehabilitation—widespread use of prosecutorial waiver seems to signal a fundamental shift in delinquency policy away from the *parens patriae* philosophy that is the cornerstone of the juvenile court and toward a punitive orientation characteristic of criminal courts." A study by Bishop and Frazier of prosecutorial waiver practices since the legislative changes in Florida revealed the somewhat contradictory conclusions that prosecutors had exercised considerable restraint and that fewer of the juveniles transferred were charged with violent offenses than before the introduction of prosecutorial discretion. Also, the study showed that while 81% of those transferred in 1981 before the statutory change received a sentence of incarceration, only 51% received such a sentence in 1984 under prosecutorial waiver (Bishop & Frazier, 1991).

Judicial Waiver

Judicial discretionary waiver is the traditional model for removing youths from the jurisdiction of the juvenile or family court. This approach has come under attack from those who subscribe to more of a "just deserts" philosophy of dealing with juvenile crime and from those who question the discriminatory effects of a system that relies on highly subjective discretionary criteria such as "not amenable to treatment as a juvenile." The National Council of Juvenile and Family Court Judges has recommended the preservation of a judicial waiver approach in dealing with serious juvenile crime, "under guidelines developed to protect the constitutional rights of the juvenile and the safety of the public" (NCJFCJ, 1984). A recent article by Frank Zimring has urged the continuation of traditional discretionary judicial waiver with the introduction of more specific statutory criteria and the institutionalization of greater appellate review of all waiver decisions (Zimring, 1991; Fagan & Deschenes, 1990).

APPENDIX C

Resolution Unanimously Adopted by the Board of Directors

National Coalition of State Juvenile Justice Advisory Groups

Meeting in Washington, D.C., May 17, 1992

BE IT RESOLVED that the National Coalition of State Juvenile Justice Advisory Groups urges the President to transmit to the Senate the "United Nations Convention on the Rights of the Child" and calls on the Senate to ratify the Convention.

APPENDIX D

Overrepresentation of Minority Youth in the Juvenile Justice System

Minority youth involvement in the juvenile justice system continues to be an ever increasing, seemingly unabated reality. It is quite apparent that the lack of program initiatives, policies, and procedures focusing on racial equality across the juvenile justice system is a cause for concern and a condition that must be addressed (Pope and Feyerherm, 1990).

MINORITY YOUTH DISPROPORTIONATELY CONFINED:

Between 1979 and 1982, when the numbers of juveniles confined in public facilities began to climb, minority youth bore the brunt. In total, incarcerated minority juveniles increased by 5,757, representing 93% of the entire increase. This disproportionate increase in detention continued through 1989; between 1985 and 1989 juvenile detentions increased by 13%, but the proportion of black and Hispanic youths in custody increased by 9% and 4% respectively while the proportion of white youth declined by 13%.

CONGRESS RESPONDS: The 1988 Reauthorization of the Juvenile Justice and Delinquency Prevention Act of 1974 required the states:

[to] address efforts to reduce the proportion of juveniles detained or confined in secure detention facilities, secure correctional facilities, jails, and lockups who are members of minority groups if such proportion exceeds the proportion such groups represent in the general population . . .

PROGRESS TO DATE: In 1990, the Office of Juvenile Justice and Delinquency Prevention (OJJDP) produced a publication entitled "Disproportionate Minority Confinement Technical Assistance Manual" which provided states with a road map and resource suggestions for developing program plans to reduce overrepresentation of minority youth in the juvenile justice system. This publication, combined with a training conference, provided states with some resources. OJJDP has also spent nearly \$2.4 million since 1989 on several other projects, including studies and initiatives in five pilot sites.

STATEMENT OF POSITION: This initiative has suffered by not being a budget priority of OJJDP. Neither sufficient special emphasis funds nor state liaisons familiar with this issue have been provided to address the problem. Little more than problem identification has been accomplished by the states. We need to move beyond this to changes in policies and procedures that reduce selection bias and toward developing programs that are sensitive and responsive to cultural differences.

RECOMMENDATION: An expansive, vital effort be initiated by OJJDP, including the establishment of stable, significant funding and staff support for this critical initiative.

APPENDIX E

Deinstitutionalization of Status Offenders

A Position Paper of the National Coalition of State Juvenile Justice Advisory Groups

DEFINITIONS

Status Offenders—are those juveniles who engage in behaviors—curfew violations, running away from home, truancy, some alcohol violations—that if committed by adults would not be considered a crime.

Deinstitutionalization—removal from secure detention and correctional facilities, in favor of referral to community based services.

Coalition—is the National Coalition of State Juvenile Justice Advisory Groups.

Act—is the Juvenile Justice and Delinquency Prevention Act.

STATEMENT OF POSITION

The Coalition supports the present intent of the Act as it pertains to status offenders, and opposes any efforts to reincarcerate or recommit these youth to any correctional facilities, jails, or detention centers. (Report of the 1986 National State Advisory Group Conference by the Coalition, p. 1)

The mandate of the Act to deinstitutionalize status offenders and the provision for the least restrictive alternatives for status offenders should be retained. (Report on the 1986 National State Advisory Group by the Coalition, p.1)

We have worked diligently to keep status offenders out of secure custody. While we have made some progress, we must continue to resist the impulse of some to use custody as an expedient excuse for not providing appropriate programs for troubled and troublesome youth. (Coalition Report, "Promises to Keep" 1989, p. 2)

As to the relabeling of status offenders for placement in other institutions—primarily "restrictive" drug treatment or mental health programs—institutionalization, regardless of the label under which it takes place, is an extreme and potentially harmful option which must be used with caution only after other less restrictive and less

intrusive treatment alternative are exhausted. (Coalition Report, "Looking Back to the Future" 1990, pp. 22-23)

We recommend aggressive action to address the problem of inappropriate confinement of juveniles in psychiatric hospitals, residential treatment programs, and other similar facilities. (Coalition Report, "Looking Back to the Future" 1990, p. 3)

APPENDIX F

Jail Removal

A Position Paper of the National Coalition of State Juvenile Justice Advisory Groups

Placing juveniles in adult jails and lockups goes far beyond the issue of the protection of the public and of justice for the victim. It symbolizes a deeper issue, a moral issue—that of how we treat children in our society.

Why are children placed in jail? The most common reasons are to teach them a lesson, to punish them, or worst of all because there is nowhere else to put them. Unfortunately, the lesson often learned is how to be like the adult criminal. The unhappy truth is that for some, no matter what the offense, the punishment is death through suicide; for others physical and sexual assault at the hands of adult offenders. Almost all those jailed come back to their community worse for their jail experience. The unpleasant reality is that a good number of these children are accused of acts which if committed by an adult would not be a crime—status offenses, such as truancy or runaway. Sometimes children placed only in protective custody because of abuse are held in jail. Even those youngsters sent to jail to await an initial court appearance are frequently released at the show case hearing. When an adjudication or dispositional hearing is held, an even smaller number of children are found to need further secure confinement. The fact is that any type of confinement in some cases is unnecessary.

In the 1974 Juvenile Justice and Delinquency Prevention Act, Section 223(a)(13) requires "that juveniles alleged to be delinquent . . . shall not be detained or confined in any institution in which they have regular contact with adult persons incarcerated . . ." The Juvenile Justice Act as amended in 1980 set an even higher standard. The Act now prohibits states from detaining or confining juveniles, ". . . in any jail or lockup for adults" Section 223(a)(14). Mere separation was not enough. Existing facilities frequently used isolation areas to achieve sight and sound separation. A police lockup or drunk tank was often the choice since closing units in jails for one juvenile caused tremendous operational difficulties, especially within already overcrowded facilities. Moreover, jails lacked the treatment, educational, recreational, medical, or other services needed by juveniles. Today, the federal government is committed to a policy of complete removal.

Inducements to remove children from jail have come through the jail removal initiative of the Office of Juvenile Justice and Delin-

quency Prevention. The National Coalition applauds this effort on behalf of all children, not just those involved in the juvenile justice system. The National Coalition believes that such initiatives must be continued to attain the goal of removal.

During the 1990 Fall Chair's Meeting in Tampa, Florida, the Board of Directors of the National Coalition reaffirmed their position that no child belongs in an adult jail or lockup. The Coalition believes that while separation represents a milestone toward achieving the goal of jail removal, the complete removal of juveniles from adult jails and lockup remains the journey's end.

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