

Separation of Children and Adults in Adult Jails

The Children's Defense Fund

During debate on S. 254, the Violent and Repeat Juvenile Offender Act, Senators Feinstein and Chafee will offer an amendment to ensure that children are kept separate from adults in an adult jail.

Under current law, juveniles (who are not being tried as adults) cannot have any contact with adult inmates. When a juvenile is in an adult facility, that juvenile cannot be within "sight or sound" of any adult. That's a core requirement under the Juvenile Justice and Delinquency Prevention Act. Why? In the early 1970s, before there were protections for children who came into contact with our court system, a number of studies found that children in adult jails were subject to rape, assault, sodomy, murder, and other acts, which sometimes led to suicide. Congress responded to these studies in 1974 by enacting the JJDP Act (and subsequent renewals) to ensure that children would be treated fairly by the juvenile justice system and would be kept safely away from adults in jail.

The Exclusion to "Prohibited Physical Contact"

Under S. 254, as currently drafted, physical contact is prohibited. However, there is an exclusion to the definition, which could lead to harm to children. The exclusion says, "*the term [prohibited physical contact] does not include supervised proximity between a juvenile and an adult that is brief and incidental or accidental.*" That standard is too weak. That standard is a loophole for harm for children.

- This standard would allow children to be paraded in front of adult inmates as they are being transported from one area of a jail to another. That means that every day the same youth could be required to walk by the adult cell block. Adult inmates would have a chance to tease, taunt, harass, use suggestive body language, expose themselves, spit, or otherwise scare juveniles as they are being transported through the facility.
- While juvenile offenders might appear tough on the outside, inside they are just children, scared stiff in an adult environment. A few years ago in a Kentucky jail, it was the practice of the facility to walk juveniles past the adult cell block in an effort to scare them from committing future crimes. Robbie Horn won't be committing future crimes; he committed suicide. Juveniles in adult jails are eight times more likely to commit suicide in an adult jail than in a juvenile facility.

Feinstein-Chafee amendment: The Feinstein-Chafee amendment would ensure that "prohibited physical contact" also includes that a juvenile cannot be in close proximity such as supervised brief and incidental parades by adult cells or other actions by adults to transport children from one area of a jail to another where they could be harassed or have contact with adults.

MYTHS: One of the most far-fetched rumors we have heard this week is that if the Feinstein-Chafee amendment is adopted, adult inmates would not be able to mow the law at an adult jail if juveniles are kept at the facility because juveniles might see them. That makes no sense. That's not what this amendment is about. Adult inmates could mow the lawn and it would be alright for juveniles to see them, it's just that juveniles couldn't be close enough for the adult to run them down with the lawnmower. Hence, "sight" is not the issue. The issue is physical proximity.

The Children's Defense Fund urges you to support the Feinstein-Chafee amendment to ensure that children are safe in adult jails in a common sense manner.

INCARCERATION WITH ADULTS IS NOT THE ANSWER FOR YOUTHFUL OFFENDERS

Incarcerating Youth in Jails with Hardened Criminals Results in Tragedies

Research demonstrates that children in adult institutions are five times more likely to be sexually assaulted, twice as likely to be beaten by staff, fifty percent more likely to be attacked with a weapon,¹ and eight times more likely to commit suicide² than children confined in a juvenile facility.

- In Ohio, six adult prisoners murdered a 17-year-old boy while he was incarcerated in the juvenile cellblock of an adult jail.³
- In Florida, a 17-year-old mildly retarded boy who had pleaded guilty to sexual battery was strangled to death by his 20-year-old cellmate. Both the youth's attorney and the sentencing judge had tried unsuccessfully to get the boy into treatment rather than prison.⁴
- In Ironton, Ohio, a 15-year-old girl ran away from home overnight, then returned to her parents, but was put in the adult county jail by the juvenile court judge "to teach her a lesson." On the fourth night of her confinement she was sexually assaulted by a deputy jailer. More than 500 children had been incarcerated in the jail over a three year period, many for truancy and other status offenses (which would not be crimes if committed by adults).⁵
- In Boise, Idaho, a 17-year-old boy was held in the adult jail for failing to pay \$73 in traffic fines. Over a 14-hour period, he was tortured and finally murdered by other prisoners in the cell. Another teenager had been beaten unconscious by the same inmates several days earlier. More than 650 children had been held in the jail over a 3-year period, 42% for traffic offenses and 17% for status offenses.⁶
- In LaGrange, Kentucky, a 15-year-old boy was confined in the adult jail for refusing to obey his mother. Soon after he got in the jail, he took off his shirt, wrapped one sleeve around his neck and the other around the bars of his cell, and hanged himself. Jail records showed that 1,390 children were held over a 4-year period, most for minor and status offenses.⁷
- In rural Glenn County, California, a 15-year-old girl was taken to the local jail for staying out past curfew. After several days, she had a detention hearing, but was not released. When she went back to her cell, she hanged herself.⁸
- In Knox County, Indiana, a 17-year-old girl was held in the county jail for shoplifting a \$6 bottle of suntan lotion. Despite a history of emotional problems, she was put in an isolation cell. Several hours later, she committed suicide by hanging herself.⁹

Prevention -- The research demonstrates that aggressive prevention programs and alternatives to incarceration are most effective in reducing crime. In fact, when asked to rank the long-term effectiveness of possible crime fighting approaches, police chiefs picked "increasing investment in programs that help all children and youth get a good start" as "most effective" nearly four times as often as "trying more juveniles as adults."¹⁵ Numerous studies have established the effectiveness of prevention programs which successfully address the risk factors that often lead to children engaging in delinquent activities.

- A study of the Big Brothers/Big Sisters mentoring program showed that children participating in the program were 46% less likely to initiate drug use, 27% less likely to initiate alcohol use, 33% less likely to commit assault, and skipped 50% fewer days of school than children who did not participate in the program.¹⁶
- A Columbia University study of low income housing developments in which Boys and Girls Clubs had been established showed that drug activity was 22% lower, and juvenile arrests were 13% lower than in similar developments without a Club.¹⁷
- A 1996 RAND study found that crime prevention efforts were three times more cost-effective than increased punishment. Arrests for students who participated in graduation incentive programs were 70% lower than non-participants.¹⁸
- Studies of a number of community recreation programs showed that the services are effective crime reduction investments that yield dramatic results. For example, Cincinnati's violence prevention, education, social and recreation programs resulted in a 24% drop in crime. A similar gang reduction program in Fort Worth, Texas, resulted in a 26% drop in gang-related crime.¹⁹

Congress should follow the advice of law enforcement professionals and others who have studied these issues and worked in the trenches and know that increased incarceration and jailing children with adults will not solve any problems and will only make the situation worse.

**FOR MORE INFORMATION
CONTACT THE YOUTH LAW CENTER
1325 G Street, NW, Suite 770
Washington, D.C. 20005
(202) 637-0377**

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4. Douglas C. Lyons, *Teenage Rapist Dies in Prison*, Ft. Lauderdale Sun Sentinel, June 12, 1997, at 3B.
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6. See Yellen v. Ada County (Idaho).
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8. See Robbins v. Glenn County (California).
9. See Wilhite v. Kirkham (Indiana).
10. Donna M. Bishop, Charles Frazier, et. al., "The Transfer of Juveniles To Criminal Court: Does It Make A Difference?" 42 *Crime & Delinquency* 171 (April 1996). And see, Donna M. Bishop, Charles Frazier, et. al., "The Transfer of Juveniles to Criminal Court: Reexamining Recidivism Over the Long Term" 43 *Crime & Delinquency* 548 (October 1997).
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The Justice Policy Institute
2208 Martin Luther King, Jr. Ave., SE
Washington, DC 20020
202/678-9282
202/678-9321 (FAX)

July, 1997

POLICY REPORT

The Risks Juveniles Face When They Are Incarcerated With Adults

by
Jason Ziedenberg and Vincent Schiraldi

Introduction

Close to a century ago, the juvenile justice system was developed because children were subjected to unspeakable atrocities in adult jails, and were returned to society as hardened criminals. As the system developed, it became clear that housing young offenders and adult prisoners together was self-destructive and, ultimately, self-defeating in that it helped create more career criminals.

Despite the lessons of history, Congress stands poised to reunite adults and juveniles in the same prison system. The new juvenile justice legislation calls for the jailing of juveniles with adult criminals, and would force state Correction Departments to transfer large numbers of young offenders to adult prisons in order to be eligible for federal funds. Child advocates, law enforcement officials, and criminologists have urged Congress to consider the destructive effects of placing youth in adult jails and prisons. A substantial body of research has evidenced that placing youth in adult institutions accentuates criminal behavior after release.¹

In a recent full page advertisement, sheriffs, district attorneys and legal professionals explained why they think the proposed legislation will make their jobs more difficult: "lock up a 13-year old with murderers, rapists and robbers, and guess what he'll want to be when he grows up?"² Even John Dilulio, head of the conservative Council on Crime in America—a group that has provided much of the, albeit flawed, statistical and analytical support for the juvenile crime bill—has come out against locking children up with adults. Dilulio wrote in *The New York Times* that "most kids who get into serious trouble with the law need adult guidance, and they won't find suitable role models in prison. Jailing youth with adult felons under Spartan conditions will merely produce more street gladiators."³

Juvenile Suicide rates in Adult Prisons

The most recent American study on juvenile suicide in adult institutions and youth facilities was done in 1980. Funded by the Office of Juvenile Justice and Delinquency Prevention (OJJDP), Michael G. Flaherty, a researcher with the Community Research Forum at the University of Illinois, surveyed the number of suicides in one thousand jails and juvenile detention centers.¹¹ The study found that the suicide rate of juveniles in adult jails is 7.7 times higher than those in juvenile detention centers: In stark contrast, the survey also found that the juvenile institution suicide rate was lower than that of the general population.¹²

A more recent report on prison suicides completed by the British Prison Reform Trust supports the findings of the Flaherty study. Analyzing data collected by Her Majesty's Prison Service, the Trust found that while people aged 15 to 21 made up only 13 percent of the prison population, they comprised 22 percent of all suicide deaths.¹³

These studies confirm what law enforcement officials have been telling Congress. Juvenile offenders are abused more regularly and driven to desperation in prison facilities more quickly than adults. Adult prisons and jails are ill-equipped to protect young offenders, and, unfortunately, create an adverse environment where they are more likely to be further victimized.

Sexual attacks in Adult Prisons

A 1989 study by a team of researchers compared how youth reported being treated at a number of juvenile training schools, with those serving time in adult prisons.¹⁴ Five times as many youth held in adult prisons answered yes to the question "has anyone attempted to sexually attack or rape you" than those held in juvenile institutions. Close to 10% of the youth interviewed reported a sexual attack, or rape attempt had been levied against them in the adult prisons, while in juvenile institutions the figure was closer to 1%.¹⁵

Another set of studies suggests which system is more likely to result in an inmate being raped. A group of researchers in 1983 found that among the residents of six juvenile institutions, 9.1% of youth inmates reported being a "victim" of a sexual attack.¹⁶ Conversely a 1996 study of adult prisoners in Kansas found that 15% of inmates reported to being "forced to have sex against their will."¹⁷

Surveys in other countries have found similarly higher rape rates for young offenders in adult institutions. An Australian survey shows that of 183 inmates aged 18 to 25 surveyed in a New South Wales prison, one quarter reported being raped or sexually assaulted, and more than half said they lived in fear of it.¹⁸ A recent Canadian survey showed that among 117 inmates surveyed in a federal prison, 65 incidents involving sexual assault were reported. Among those, the odds of victimization were eight times higher for a twenty year old prisoner than the oldest inmates in the system.¹⁹ Compared to non victims, the study reports, "victims tended to be younger, housed in higher security settings, and in the early part of their prison term."²⁰

The Justice Policy Institute recommends that Congress put much needed resources into a two year, state-by-state evaluation of the changes in America's juvenile justice system. We further recommend that Congress hold off on sweeping and ill-advised legislation at this time. During that period, it is our recommendation that funds be specifically allocated to research:

- The different reoffense rates of similar groups of youth offenders held in juvenile and adult institutions.
- The different rates of sexual and physical victimization and suicides of juveniles in adult institutions, as compared to the rate in juvenile centers.
- A comparison of the different rates of juvenile crime in states with a large number of youth offenders in adult jails, as compared to the rates of states with few or no juveniles in adult institutions.

No legislation that would reverse a century of juvenile justice reform and put thousands of young people into the adult prison system should be undertaken until this kind of research is done.

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The Stories of Children Confined In Adult Prisons

Excerpts from If I Get Out Alive, a Public Radio Documentary

"Dad, I'm really scared, scared that I will die in here. Please pray for me. I want to live with you when I get out...If I get out alive."

— *Rodney Hulin, 16, writing to his father from an adult prison in Texas. Eighty-three days after he arrived in the adult prison, Rodney Hulin hanged himself.*

"Whatever happens in the dorm is between you and the inmates. If you come out there and tell the officer anything about it, 'Go back to your bunk, we don't want to hear this.' Somebody, um, hit you with a pipe in your head, or somethin' like that, they don't care about ya, you know, they just take you to the clinic, wrap you up, put you back in the same pod with the same men that did this to you."

"You get 'bout two or three people on you and then they bring out knives and force you to have sex with 'em. Okay, you got bunk beds, and, and one hand tied up to this pole, one hand tied up to this pole, the feet tied up to one pole. So you spread open and the man is doin' what he do. And, and they're and...after this man get up a next man get on. And after this man get up a next one goes on. And it's like that."

— *Larry Lambert, first went to an adult prison at age 14*

"My first day I got into about probably four or five fights. And I didn't win probably any of those four or five fights. Everything that I had that I brought with me was stolen from me while I was fighting. And they were like animals."

"They use a lot of ice picks and stuff like that...they walk up in the line when you're going to eat at the cafeteria, and they might walk up behind somebody and just stab 'em...when I wake up every mornin' I'm on the lookout for that, 24 hours a day."

— *Steve Raker, first incarcerated in an adult prison at age 16*

"When I first got there, there was this lady that...looked at me and said, 'Look at my name tag, remember who I am, what I can do and how I'll do it.' And I'm sitting here thinking, 'Oh, my God, I'm not going to make it.'"

"There was this one girl, she had a very violent background. And she was constantly telling me things and, you know, she made sexual advances to me...I'd just sit there and shake. I think it's always going to hurt, and no one can take that away."

— *Donna Ratliff was locked in a women's correctional facility at age 14*

If I Get Out Alive, is a report based on a one-year investigation of youth in adult prisons. The documentary was produced by Lichtenstein Creative Media, Inc. 1999.

Fact Sheet: Youth in the Adult Criminal Justice System

The National Network for Youth advocates maintaining current requirements for removing juveniles from adult jails, and for separating juveniles from adult inmates when, for brief periods of time, the juveniles are placed in adult facilities. The National Network for Youth also opposes policies that would result in more youth under age 18 being tried as adults either in federal or state courts.

Removal and Separation

Children who are locked up in adult jails are at great risk for abuse. They are five times more likely to be sexually assaulted, twice as likely to be assaulted by staff, and 50% more likely to be attacked with a weapon than children in juvenile facilities.¹ They are also eight times more likely to commit suicide.² One of the core protections of the JJDPa requires the removal of juveniles from adult jails and the separation from adult inmates when, for brief periods of time, juvenile are placed in adult facilities. All but two states are in compliance with the jail removal and separation requirements. States in compliance with these requirements have experienced a 96% reduction in cases of youth being inappropriately housed in adult jails since enactment of the JJDPa.

The most recent data shows that there are over 5,200 juveniles in adult correctional facilities (double the number of juveniles in adult facilities ten years before) including over 100 juveniles ages 13-15.³ Tragedies like these, which had become less frequent because of the current federal protections, can happen again if young people are locked up with adult inmates:

- ◆ A 15-year-old girl in Ohio who ran away from home was put in the county jail because the judge wanted to "teach her a lesson." This girl was then raped by the deputy jailer.⁴
- ◆ In Idaho, a 17-year-old boy who had not paid a \$73 traffic fine was held in an adult jail where he was tortured and eventually murdered by the other prisoners in his cell.⁵
- ◆ A 17-year-old boy in Ohio was murdered by six adult inmates who were able to enter the juvenile area and stab him 79 times with homemade knives.⁶
- ◆ A 12-year-old girl who hanged herself was one of six children to attempt suicide in a Milwaukee adult detention facility since it opened in April 1996.⁷

Besides being dangerous places for youth, adult jails do not provide the services needed to turn youth around. Many youth who come into contact with the juvenile justice system are in need of mental health services, social/family services and special education services, which are critical to the process of turning these children away from future crime. Adult jails are not prepared to offer these and other specialized services for young people, making adult jails an inappropriate place for juveniles.

Trying Children As Adults

Many states have recently changed their laws to try more children as adults.⁸ This "get tough" approach does not reduce recidivism; in fact, research demonstrates that trying more children as adults can actually have the opposite effect:

- ◆ Children tried as adults have a higher recidivism rate than comparable children tried as juveniles (children tried as adults re-offend sooner and more frequently, and commit

more serious new offenses).⁹ This is not surprising, since children can learn all the wrong lessons from the adult inmates with whom they may be placed.

- ◆ States with high rates of transferring children to adult courts do not have lower rates of juvenile homicide.¹⁰
 - ◆ The majority of children transferred to adult courts were charged with property or drug-related offenses, as opposed to serious, violent offenses or other offenses against persons.¹¹
 - ◆ The court process prior to sentencing in adult court takes longer than in juvenile court,¹² despite the developmental psychology findings that the swiftness of a sanction is crucial to meaningful behavior modification in children and adolescents.¹³
 - ◆ The conviction rate in adult courts is lower than that in juvenile courts¹⁴ (and some research indicates juvenile courts hand out longer sentences than adult courts).¹⁵
 - ◆ Deterrence, through potential sanctions in tough-sounding laws is particularly ineffective with regard to adolescents.¹⁶
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D.M.C.

August 5, 1999

The Honorable Orrin G. Hatch
131 Russell Senate Office Building
United States Senate
Washington, D.C. 20515

Dear Senator Hatch:

On behalf of the civil rights and children's advocacy communities, we would like to take this opportunity to bring to your attention a matter of serious concern to us.

As you know, current law directs states to identify the extent to which disproportionate minority confinement (DMC) exists in their states, to assess the reason that it exists, and to develop strategies to address the disproportionate number of minority children in confinement. While the House-passed juvenile justice bill, H.R. 1501, retains the DMC requirement in the Juvenile Justice and Delinquency Prevention Act, the Senate-passed juvenile justice bill, S.254, substantially revises the current DMC language by removing any reference to minority groups. The Senate provision attempts to bury the issue, is offensive to many, and will significantly hinder efforts to remedy the disparate treatment of minority youth in our juvenile justice systems. We believe it is critically important to retain this core requirement in federal law.

It is well documented that in nearly every state, minority youth are over-represented at every stage of the juvenile justice system, particularly in secure confinement. Federal and state research -- ironically much of it funded through the provision which the Senate has substantially repealed -- has consistently shown that minority youth are more likely than non-minority youth to be detained for the same charges and minorities are detained at higher rates even when other factors are taken into account, such as arrest charge, prior offenses, gender and home living situation.

The research has shown that African American youth are 7 times more likely to be held in public detention facilities than white youth, and the incarceration rate for Hispanic youth nationwide is 60% greater than for white youth. In addition, a study in California showed that minority youth consistently received more severe punishments and are more likely to be incarcerated than white youth who committed the same offenses.

As a result of the current law requirement, 40 states to date are implementing or developing interventions plans to address DMC. The Department of Justice issued a report several months ago, "Disproportionate Minority Confinement: Lessons Learned From Five States" which acknowledged the differential treatment between white and minority juveniles, and highlighted some of the promising interventions undertaken in these five states to address the disparity. To our knowledge, despite claims by some members of Congress, no state has ever released a minority youth from secure confinement on the basis of race as a result of this provision, and all states are in compliance with the current DMC provision in federal law.

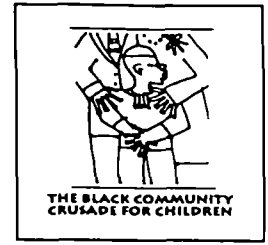
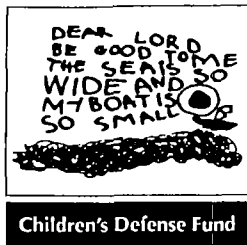
We strongly believe that by gutting the DMC provision, the issue of the widespread disparity in the treatment of minority youth will be minimized and current efforts underway in the states to remedy the disparate treatment of minority youth would be seriously undermined. We urge you to continue to support states in building on the progress that has been made to date by ensuring that the DMC provision is part of the final juvenile justice conference report.

We appreciate your consideration, and look forward to working with you on what we believe to be a most basic issue of fundamental fairness in the justice system.

Sincerely,

American Civil Liberties Union
Amnesty International
Center on Juvenile and Criminal Justice
Child Welfare League of America
Children's Defense Fund
Florida Avenue Baptist Church (Progressive National Baptist Convention Home Mission Board)
Friends Committee on National Legislation (Quaker)
Human Rights Watch
Justice Policy Institute
Juvenile Law Center
Latino Civil Rights Center
Lawyers Committee for Civil Rights
Leadership Conference on Civil Rights
LULAC
National Association for School Psychologists
National Association for the Advancement of Colored People
National Association of Council for Children
National Council of Churches
National Council of La Raza
National Council of Negro Women
National Network for Youth
National Urban League, Inc.
The Sentencing Project
Youth Law Center

cc: U.S. Senate
U.S. House of Representatives



Disproportionate Minority Confinement (DMC)

Children's Defense Fund • Issue Basics • April 1999

What is Disproportionate Minority Confinement (DMC)?

Under the Juvenile Justice and Delinquency Prevention Act (JJDP), disproportionate minority confinement (DMC) is defined as existing when the proportion of juveniles detained or confined in secure detention facilities, secure correctional facilities, jails, and lockups who are members of minority groups exceed the proportion such groups represents in the general population.

How widespread is DMC?

In virtually every state, minority youth are over-represented at every stage of the juvenile justice system, particularly in secure confinement, and receive disparate treatment by the system. For example, a study in California showed that minority youth consistently received more severe punishments and were more likely to receive jail time than white youth *for the same offenses*. Moreover, Black males are 6 times more likely to be admitted to state juvenile facilities for crimes against persons than their white counterparts, 4 times more likely for property crimes, and an astonishing 30 times more likely to be detained in state juvenile facilities for drug offenses than white males.

To comply with the DMC mandate, what are states required to do?

Current law directs states to identify the extent to which disproportionate minority confinement exists in their states, to assess the reason that it exists, and to develop intervention strategies to address the causes for disproportionate minority confinement. The law does not require and has never resulted in the release of juveniles, or require numerical quotas for arrest or release of any youth from custody based on race. No state's funding under the Juvenile Justice and Delinquency Prevention Act has ever been reduced as a result of non compliance with this provision.

What are states doing to implement DMC?

As a result of the current law requirement, 40 states to date are implementing or developing intervention plans to address DMC. The Department of Justice issued a report several months ago, "*Disproportionate Minority Confinement: Lessons Learned From Five States*" which notes the differential treatment of white and minority juveniles and highlights some of the promising interventions undertaken in these five states to address the disparity.

Should the DMC mandate be retained?

Yes, current DMC language should be retained. By removing the current law language, the widespread disparity in treatment would be significantly minimized and current efforts to remedy the disparate treatment of minority youth that are underway in the states would be seriously undermined. States are unlikely to continue to address the problem in the absence of the DMC language in current law.

June 9, 1999

The Honorable William F. Goodling
Chairman, House Education and Workforce Committee
2107 Rayburn House Office Building
Washington, DC 20515

The Honorable William Clay
Ranking Minority Member, House Education and Workforce Committee
2306 Rayburn House Office Building
Washington, DC 20515

Dear Congressmen Goodling and Clay:

On behalf of the civil rights and children's advocacy communities, we would like to take this opportunity to bring to your attention a matter of serious concern to us.

As you know, the Juvenile Crime Control and Delinquency Prevention Act of 1999 (H.R. 1150), which is currently pending before the House Education and the Workforce Committee, retains the core Disproportionate Minority Confinement (DMC) requirement in the Juvenile Justice and Delinquency Prevention Act. Current law directs states to identify the extent to which disproportionate minority confinement exists in their states, to assess the reason that it exists, and to develop strategies to address the disproportionate number of minority children in confinement. The DMC language in the current bill is identical to the language in last year's bill (H.R. 1818), which received bi-partisan support in the House when it was passed by a 414-16 vote. We believe it is critically important to retain this core mandate in federal law.

Unfortunately, S.254 -- the Violent and Repeat Juvenile Offender Accountability and Rehabilitation Act of 1999 -- which recently passed in the Senate, substantially revises the current DMC language by removing any reference to minority groups. This change attempts to bury the issue, is offensive to many, and will significantly hinder efforts to remedy the disparate treatment of minority youth in our juvenile justice systems.

It is well documented that in nearly every state, minority youth are over-represented at every stage of the juvenile justice system, particularly in secure confinement. Federal and state research -- ironically much of it funded through the provision which the Senate has substantially repealed -- has consistently shown that minority youth are more likely than whites to be detained for the same charges and minorities are detained at higher rates even when other factors are taken into account, such as arrest charge, prior offenses, gender and home living situation. This research has shown that African American youth are 7 times more likely to be held in public detention facilities than white youth. In addition, although surveys indicate that blacks and whites use drugs at about the same rates, African American youth are 30 times more likely to be confined in a state facility for drug offenses than their white counterparts. Thus, a study in California showed that

minority youth consistently received more severe punishments and were more likely to receive jail time than white youth who committed *the same offenses*.

As a result of the current law requirement, 40 states to date are implementing or developing intervention plans to address DMC. The Department of Justice issued a report several months ago, "*Disproportionate Minority Confinement: Lessons Learned From Five States*" which acknowledged the differential treatment between white and minority juvenile, and highlights some of the promising interventions undertaken in these five states to address the disparity. To our knowledge, despite claims by some members of Congress, no state has ever released a minority youth from secure confinement on the basis of race as a result of this provision, and all states are in compliance with the current DMC provision in federal law.

We strongly believe that by gutting the DMC provision, the issue of the widespread disparity in the treatment of minority youth will be minimized and current efforts underway in the states to remedy the disparate treatment of minority youth would be seriously undermined. We urge you to continue to support states in building on the progress that has been made to date by ensuring that the DMC provision in H.R. 1150 is a part of any juvenile justice bill considered by the full House.

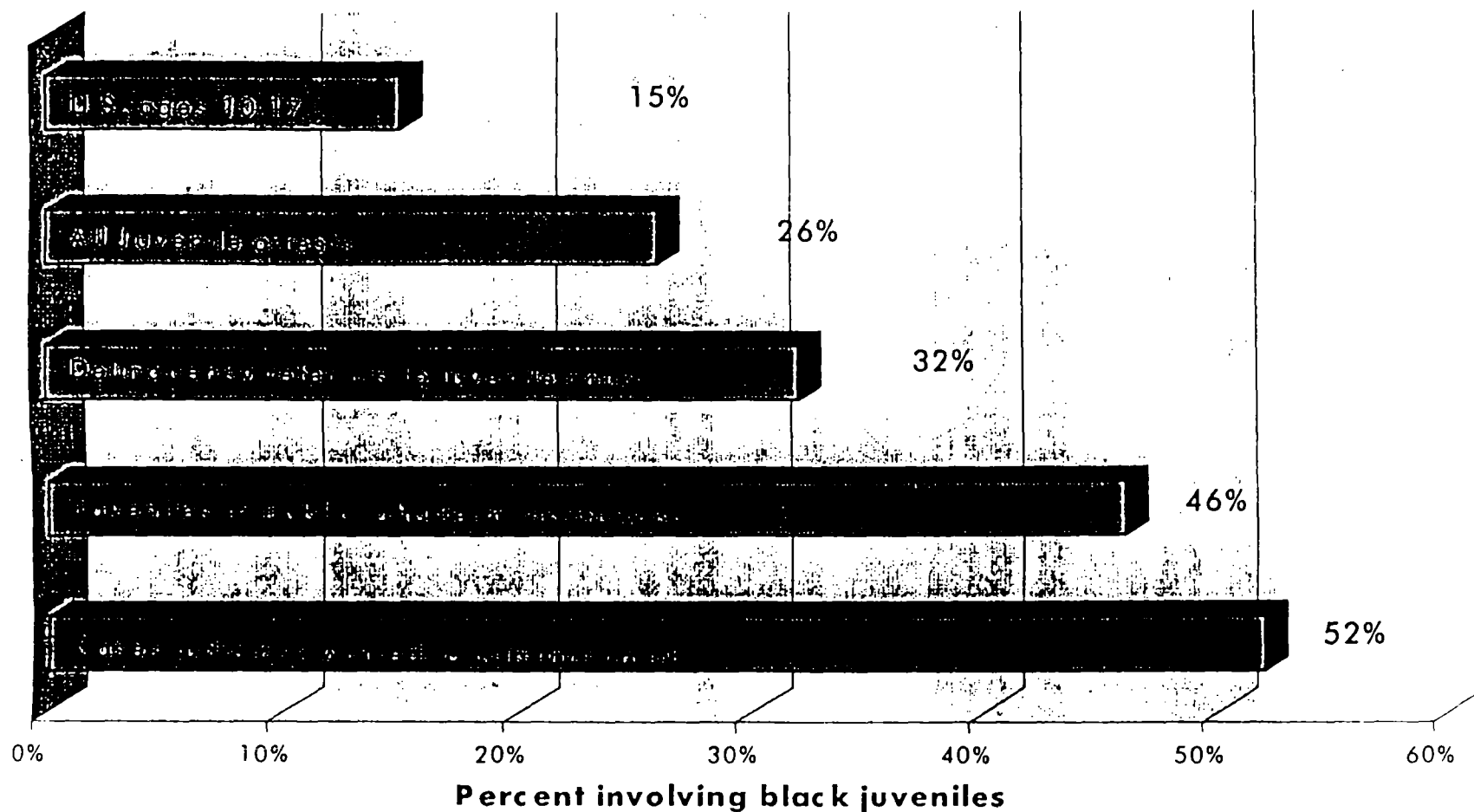
We appreciate your consideration, and look forward to working with you on what we believe to be a most basic issue of fundamental fairness in the justice system.

Sincerely,

American Civil Liberties Union
Amnesty International
Center on Juvenile and Criminal Justice
Children's Defense Fund
Child Welfare League of America
Human Rights Watch
Juvenile Law Center
Lawyers' Committee for Civil Rights Under Law
Leadership Conference on Civil Rights
League of United Latin American Citizens
NAACP
NAACP Legal Defense & Educational Fund, Inc.
National Council of La Raza
National Network for Youth
National Urban League, Inc.
The Sentencing Project
Youth Law Center

CC: Members, House Education and Workforce Committee
Members, House Judiciary Committee

BLACK JUVENILE REPRESENTATION AT DIFFERENT STAGES OF THE JUVENILE JUSTICE SYSTEM



Source: Snyder, H. and Sickmund, M. (1995). *Juvenile Offenders and victims: A National Report*. Office of Juvenile Justice and Delinquency Prevention.

AMERICA'S ASSAULT ON MINORITY YOUTH

THE PROBLEM OF OVERREPRESENTATION OF MINORITY YOUTH IN THE JUSTICE SYSTEM

While juvenile crime, including violent crime, has decreased in recent years¹, legislators throughout the country have supported increasingly punitive responses to youthful misconduct. Thus, despite the fact that in an average year less than one-half of one percent of juveniles in the U.S. are arrested for a violent offense more than 40 states have changed their laws to allow increased prosecution of juveniles in adult criminal court (see chart#1). Moreover, in a radical change in federal policy, Congress is considering legislation that would also encourage states to prosecute even more juveniles as adults, allow young people -- even those accused of very minor misbehavior -- to be held in jails with adult inmates, allow records of juvenile arrests -- not necessarily convictions -- to be made available to schools (including colleges and vocational schools), and force school districts to create policies to require expulsion from school for regular possession of drugs, alcohol or even tobacco.²

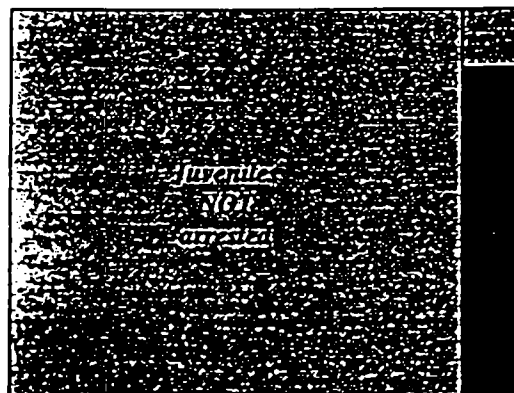


CHART I

Juveniles arrested for violent offenses

Juveniles arrested for all other offenses

These legislative changes are taking place despite clear evidence that more punitive approaches do not reduce crime. Indeed, careful research in Florida, and in New York and New Jersey, has demonstrated that juveniles sent into the adult system are significantly more likely to be rearrested than those kept in juvenile court, commit new offenses sooner, and commit more serious offenses than juveniles kept in juvenile court.³ Yet many legislators and other policymakers ignore the research, and there is little informed public debate on juvenile justice issues. Equally disturbing, the evening news is regularly filled with stories of young (usually minority) perpetrators, sometimes even referring to these youth as "superpredators." Consequently, the public consistently ranks "fear of crime" among its highest concerns, drops in crime notwithstanding.⁴

MINORITY YOUTH GET HIT THE HARDEST

The great weight of these punitive juvenile justice policies falls disproportionately on minority youth. For example, although African-American youth age 10 to 17 constitute 15% of the U.S. population, they account for 26% of juvenile arrests, 32% of delinquency referrals to juvenile court, 41% of juveniles detained in delinquency cases, 46% of juveniles in corrections institutions, and 52% of juveniles transferred to adult criminal court after judicial hearings (see chart#2).⁵

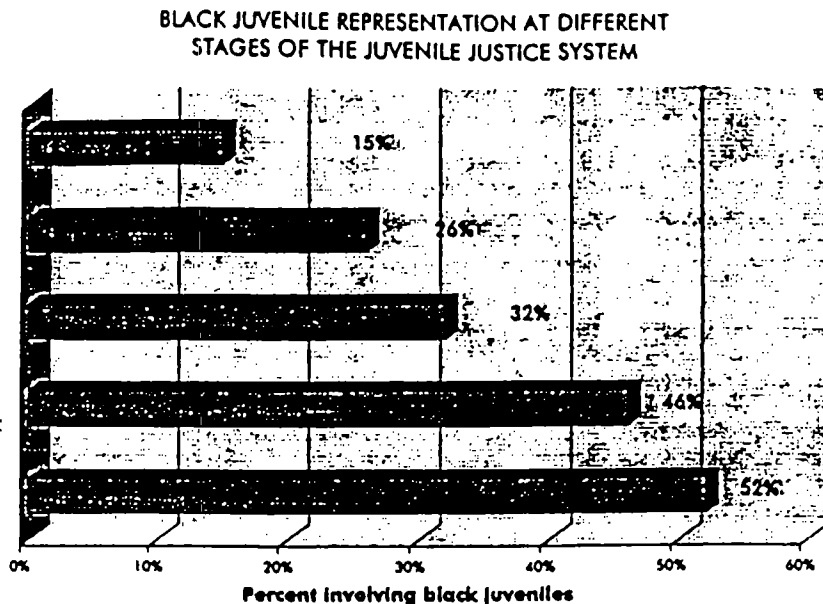


CHART 2

As the numbers indicate, the disproportionality is greater as youth go deeper into the system. In 1991 the long-term custody rate for African-American youth was nearly five times the rate for white youth,⁶ and in 1995 a black youth was seven times as likely to be held in a public detention facility as a white youth. During that same year, minorities constituted over 68% of the incarcerated population in training schools – the most restrictive, most secure public institutional environment for juveniles, and yet they were just under 32% of the general youth population.⁷

It would be easy to simply attribute this large discrepancy to the fact that young people of different racial groups commit different types of crimes. In 1992, though, there were significantly higher rates of admission of African-American juveniles for *every* offense group.⁸

crimes against persons – black males and females were 6 times more likely to be admitted to state juvenile facilities than their white counterparts.

property crimes – black males were almost 4 times more likely to be admitted to state juvenile facilities than white males and black females were almost 3 times more likely than white females.

drug offenses – black males were confined at a rate 30 times that of white males.

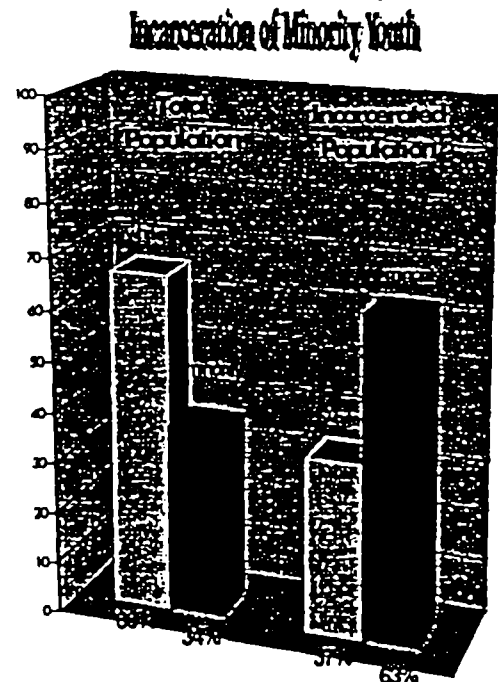
In fact, among *all offense categories*, black youth were more likely to be detained than white youth during every year between 1985 and 1994.⁹ Minority youth are also more likely to be removed from their families than white youth. For example, between 1987 and 1991, out-of-home placements for non-white youth *increased* significantly for property, drug and public order offenses (29%, 30% and 32%, respectively). During that same period in these same categories, out-of-home placements for white youth noticeably *decreased* (by 1%, 29% and 15%, respectively).¹⁰ Black youth are also much more likely to end up in prisons with adult offenders. In 1995, nearly 10,000 juvenile cases were transferred to adult criminal court by judicial waiver.¹¹ Of these proceedings, cases involving black youth were 50% more likely to be waived than cases involving white youth. Overall, black youth were 52% of all the children and adolescents waived to adult court,¹² and in most states, minority juveniles were over-represented, on average, in these adult jails at a rate more than 2 ½ times their proportion of the total youth population.¹³

African-American youth are not the only juveniles disproportionately impacted by the juvenile justice system. The number of minority youth held in detention centers increased by 79% from 1983 to 1991, while the number of white youth increased by only 8%. In a single-day census of all juvenile detention centers on February 15, 1991, minorities made up two-thirds of the detained youth.¹⁴ Indeed, a study of the juvenile justice system in California found that minority youth, particularly African-Americans, consistently receive more severe dispositions than white youth and are more likely to be committed to state institutions than white youth for the same offenses (see chart #3).¹⁵

THE HARSH CONSEQUENCES

The disproportionate impact of the system on minority youth raises particular concerns in the context of the new laws increasing prosecution of juveniles as adults (see chart #3). Many young people prosecuted as adults will go to prison, some for many years. Yet a national survey of Departments of Corrections conducted for the National Institute of Corrections found that in more than half the states, young people under 18 are housed in the general prison population or, as the study said, "in protective custody if necessary."¹⁶ Thus, for many youth, the choice will be between the dangers of mixing with adult inmates or years of isolation in protective custody.

These disparate rates of involvement in the juvenile justice system, leading to incarceration, have a dramatic impact on minority youth as they become adults. The Sentencing Project has reported that one-third of all African-American males age 20 to 29 in the United States are under the jurisdiction of the criminal justice system -- either in jail, in prison, on probation, or on parole.¹⁷ In some cities, such as Baltimore and Washington, DC, the number actually approaches 50%.¹⁸ The primary factors contributing to this extraordinary level of social control over young black men are drug enforcement policies and prior criminal records of minority defendants. Since minority youth are disproportionately



impacted by the juvenile justice system, where they pick up those prior records, the juvenile system in effect acts as a feeder system for minority youth into the adult criminal justice system.

The impact of these incredibly high rates of incarceration on minority families and communities is profound. For example, one of the consequences of an adult felony conviction in most states is the loss of voting rights for a period of time, and sometimes for life. Thus, as a result of increasing numbers of young black males being supervised in the criminal justice system, currently approximately 1.4 million black males (which represents 14%, or one in seven, of the 10.4 million black males of voting age) are now either currently or permanently disenfranchised from voting.¹⁹ It is clear that the cumulative impact of such large numbers of black males being excluded from the electoral process will increasingly dilute the political power of the African American community. Another significant impact of incarceration (or even simply arrest), is the reduction of potential future wage earning and employability. For example, Richard Freeman's study of the impact of imprisonment on earnings potential concluded that among a sample of youth incarcerated in 1979 there was a 25% reduction in the number of hours worked over the next eight years.²⁰ Therefore, as we see increasingly disparate and astoundingly high rates of incarceration for minority youth and adults, the result is likely to be a similarly disparate and devastating impact on the minority communities in which many of these young men live, with the removal of large numbers of potential wage earners, a disruption of family relationships, and a growing sense of isolation and alienation to the larger society.

A CLOSER LOOK AT WHAT'S HAPPENING AROUND THE COUNTRY

Compared to their representation in the general population, minority youth are overrepresented at all stages of the justice system. A closer look at various states across the country provides a glimpse of this bleak picture.

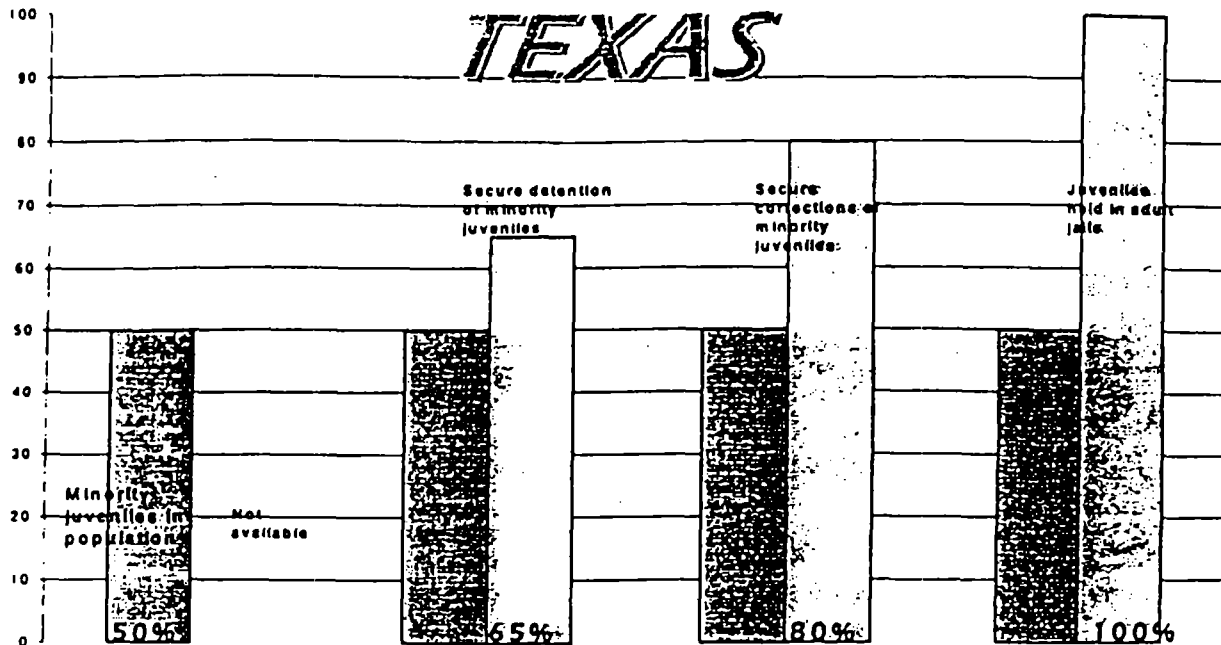
THE STATE PERSPECTIVE

In the majority of states, overrepresentation of minority youth increases from the early stage of arrest through other decision points in the system to the final stage of secure corrections or transfer to criminal court.²¹ When particular states are isolated and highlighted, the disparities and the amplification become glaringly apparent.

- On February 15, 1995, three states together – California, Ohio, and Texas – held nearly 40% (26,623) of all the juveniles in custody in public facilities throughout the nation.²²
 - ❖ California had the highest number of juveniles – 19,567 – in custody in public facilities.²³ Minorities comprise 53.4% of the youth population statewide but they account for 59% of all juveniles arrested, almost 64% of the juveniles held in secure detention and 70% of the juveniles placed in secure corrections.²⁴
 - ❖ In Ohio, there were 3,551 juveniles held in custody in public facilities.²⁵ Minorities comprise 14.3% of the youth population statewide but they account for 30% of the juveniles arrested and 43% of the juveniles placed in secure corrections.²⁶

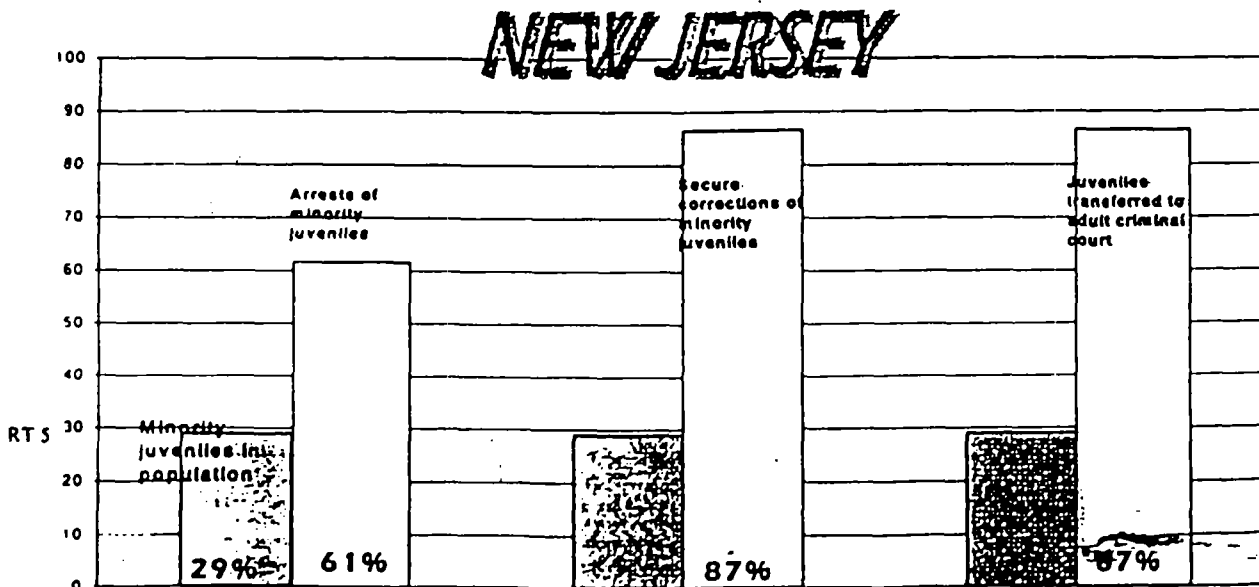
- ❖ In Texas, there were 3,505 juveniles held in custody in public facilities.²⁷ Minorities comprise 50% of the youth population statewide but they account for 65% of the juveniles held in secure detention, 80% of the juveniles placed in secure corrections, and 100% of the juveniles held in adult jails. (SEE CHART 4)²⁸

CHART 4



- ❖ In Virginia, minorities constitute 27% of the youth population statewide but they account for nearly 60% of the juveniles arrested and 57% of the juveniles placed in secure corrections.²⁹

- ❖ In New Jersey, minorities constitute 29% of the youth population statewide but they



RT 5

= account for 61% of the juveniles arrested, 87% of the juveniles placed in secure corrections, and 87% of the juveniles transferred to adult criminal court (see chart #5).³⁰

- ❖ In Pennsylvania, minorities constitute 14.3% of the youth population statewide but they account for 30% of the juveniles arrested, 79% of the juveniles held in secure detention, over 87% of the juveniles placed in secure corrections, and 74% of the juveniles transferred to adult criminal court.³¹
- ❖ In Wisconsin, minorities constitute 11% of the youth population statewide but they account for 19% of the juveniles arrested, 61% of the juveniles placed in secure corrections and 75% of the juveniles confined in adult prisons.³²
- ❖ In Connecticut, minorities constitute 15.3% of the youth population statewide but they account for 46% of the juveniles arrested, 73% of the juveniles held in secure detention, 69% of the juveniles placed in secure corrections, 80% of the juveniles transferred to adult criminal court, and 100% of the juveniles held in adult jails.³³
- ❖ In Massachusetts, minorities constitute 17.2% of the youth population statewide but they account for 52% of the juveniles arrested, 65% of the juveniles held in secure detention, 57% of the juveniles placed in secure corrections, 81% of the juveniles held in adult jails, and 86% of the juveniles transferred to adult criminal court.³⁴

THE LOCAL PERSPECTIVE

- A 1993 study of the Dallas County juvenile justice system in Texas demonstrated overrepresentation of minority youth, especially blacks, at every stage of the process. As the degree of formal contact in the system increases, the overrepresentation of black youths becomes even more profound and disturbing. While only 25% of the county's population, black juveniles represent 38% of all arrests, 44% of all referrals to the Dallas County Juvenile Department, 57% of the youth in secure detention, 60% of the county's referrals to the Texas Youth Commission, and an astounding 64% of the youths certified to be tried as adults.³⁵
- A study conducted by the National Center on Institutions and Alternatives shows the devastating effects of the drug war in Baltimore, Maryland. A total of 18 white juveniles were arrested in the city of Baltimore in 1980 and charged with drug sales; by 1990, that number had actually dropped to 13 such arrests. In stark contrast, 86 black juveniles were arrested in Baltimore in 1980 for drug sales; by 1990, with the drug war in full swing, that number burgeoned to 1,304 black juveniles. *Black juveniles in Baltimore were being arrested for drugs at roughly 100 times the arrest rate for whites of the same age.*³⁶
- One-fourth of all black youngsters aged 15-17 living in Duval County, Florida had been arrested during the last four months of 1991 alone.³⁷ In 1994, the one adult jail in Duval County, Florida held upward of 500 teenagers under 18 years old – 85% of them were black.³⁸

BEYOND THE STATISTICS

While clearly these numbers tell the story of a generation of minority youth being arrested and incarcerated at frightening rates, this is really only part of the story. What the numbers don't and can't reveal is the physical brutality and danger of a system that treats young minority youth as if they are animals needing to be restrained and placed in cages. For example, although we know the shocking statistics that show that youth in adult institutions are five times more likely to be sexually assaulted, twice as likely to be beaten, and 50% more likely to be attacked with a weapon as youth in juvenile facilities,³⁹ without actually seeing the inside of such an institution or talking with a youngster who has been confined in an adult facility, we can't really appreciate these statistics. And what about what is happening on the streets of our nation's cities? Knowing that a black youth in Baltimore is 100 times more likely to be arrested for a drug offense than a white youth is clearly disturbing, but these numbers don't tell the story of young black youth being harassed, intimidated and sometimes beaten in the name of curfew enforcement and neighborhood drug sweeps. The numbers also don't tell the story of what's happening on "the other side of town," and how the treatment of white youth in our communities and justice systems may "look and feel" decidedly different than the way in which minority youth are treated.

**FOR MORE INFORMATION, CONTACT THE
YOUTH LAW CENTER AT (202) 637-0377.**

¹ Federal Bureau of Investigation, Uniform Crime Reports for the United States 1995 216 (1995); Michael A. Jones and Barry Krisberg, *Images and Reality: Juvenile Crime, Youth Violence and Public Policy* 37 (National Council on Crime and Delinquency 1994).

² Juvenile Crime Control Act of 1997 (H.R. 3); Violent and Repeat Juvenile Offender Act of 1997 (S.10)

³ Donna M. Bishop, *et al.*, "The Transfer of Juveniles to Criminal Court: Does It Make A Difference," 42 *Crime and Delinquency*, 171 (1996); Jeffrey Fagan, "Separating the Men From the Boys: The Comparative Advantage of Juvenile Versus Criminal Court Sanctions on Recidivism Among Adolescent Felony Offenders," *A Sourcebook on Serious, Violent and Chronic Offenders* (Sage Press 1995).

⁴ Frank D. Gilliam, Jr. and Shanto Iyengar, "Super-Predators or Wayward Youth? Framing Effects in Crime New Coverage," *The Dynamics of Issue Framing: Elite Discourse and the Formation of Public Opinion* (Cambridge Univ. Press, In press); Franklin D. Gilliam, Jr., *et al.*, "Crime in Black and White: The Violent, Scary World of Local News," 1 *Harvard International Journal of Press/Politics* (1996); Franklin Gilliam, Jr., and Shanto Iyengar, "Violence and Race in Television News Coverage of Crime: Does It Matter?" (Paper prepared for the Benton Foundation Conference on Media and Society, September 1995); Lori Dorfman and Katie Woodruff, "Local TV News, Violence, and Youth: who Speaks?" (Paper prepared for Media Matters: The Institute on News and Social Problems September 1995).

⁵ Howard N. Snyder and Melissa Sickmund, *Juvenile Offenders and Victims: A National Report* 91 (Office of Juvenile Justice and Delinquency Prevention 1995).

⁶ Id. At 166.

⁷ Melissa Sickmund, Howard Snyder and Eileen Poe-Yamagata. (August 1997). *Juvenile Offenders and Victims: 1997 Update on Violence*. Washington, DC: Office of Juvenile Justice and Delinquency Prevention, p. 42

⁸ James Austin, Barry Krisberg Robert, DeComo, Sonya Rudenstine, Dominic Del Rosario. (September 1995). *Juveniles Taken Into Custody: Fiscal Year 1993*. Washington, DC: Office of Juvenile Justice and Delinquency Prevention, Figure 4-3 and 4-4, p. 120-1.

⁹ Eileen Poe-Yamagata. (March 1997). *OJJDP Fact Sheet #56: Detention and Delinquency Cases, 1985-1994*. Washington, DC: Office of Juvenile Justice and Delinquency Prevention.

¹⁰ James Austin, Barry Krisberg Robert DeComo, Sonya Rudenstine, Dominic Del Rosario. (September 1995). *Juveniles Taken Into Custody: Fiscal Year 1993*. Washington, DC: Office of Juvenile Justice and Delinquency Prevention, Figure 3-17, p. 77.

¹¹ Anne Stahl. (May 1998). *OJJDP Fact Sheet #79: Delinquency Cases in Juvenile Courts, 1995*. Washington, DC: Office of Juvenile Justice and Delinquency Prevention.

¹² *S. 10 will hurt all children but especially minority children*. (January 8, 1998). Washington, DC: Children's Defense Fund.

¹³ Donna Hamparian and Michael Leiber. (December 1997). *Disproportionate Confinement of Minority Juveniles in Secure Facilities: 1996 National Report*. Champaign, IL: Community Research Associates, p.9.

¹⁴ Id. at 144.

¹⁵ Jones and Krisberg, *Images and Reality*, at 6.

¹⁶ . Lis, Inc., Offenders Under Age 18 in State Adult Correctional Systems: A National Picture (National Institute of Justice 1995).

¹⁷ Marc Mauer, (January 1997). *Intended and Unintended Consequences: State Racial Disparities in Imprisonment. The Sentencing Project*

¹⁸ *Hobbling a Generation: African American Males in the District of Columbia's Criminal Justice System*, (NCIA, Washington, DC, March 1992); *Hobbling II, African American Males in Baltimore's Criminal Justice System*, (NCIA, Washington, DC , June 1992)

¹⁹ Marc Mauer (January 1997). *Intended and Unintended Consequences: State Racial Disparities in Imprisonment. The Sentencing Project*

²⁰ Id.

²¹ Donna Hamparian and Michael Leiber. (December 1997). *Disproportionate Confinement of Minority Juveniles in Secure Facilities: 1996 National Report*. Champaign, IL: Community Research Associates, p.21-22.

²² Joseph Moone. (November 1997). *OJJDP Fact Sheet #69: States at a Glance: Juveniles in Public Facilities, 1995*. Washington, DC: Office of Juvenile Justice and Delinquency Prevention.

²³ Id.

²⁴ Donna Hamparian and Michael Leiber. (December 1997). *Disproportionate Confinement of Minority Juveniles in Secure Facilities: 1996 National Report*. Champaign, IL: Community Research Associates, p.21-22.

²⁵ Joseph Moone. (November 1997). *OJJDP Fact Sheet #69: States at a Glance: Juveniles in Public Facilities, 1995*. Washington, DC: Office of Juvenile Justice and Delinquency Prevention.

²⁶ Donna Hamparian and Michael Leiber. (December 1997). Disproportionate Confinement of Minority Juveniles in Secure Facilities: 1996 National Report. Champaign, IL: Community Research Associates, p.21-22.

²⁷ Joseph Moone. (November 1997). *OJJDP Fact Sheet #69: States at a Glance: Juveniles in Public Facilities, 1995*. Washington, DC: Office of Juvenile Justice and Delinquency Prevention.

²⁸ Donna Hamparian and Michael Leiber. (December 1997). Disproportionate Confinement of Minority Juveniles in Secure Facilities: 1996 National Report. Champaign, IL: Community Research Associates, p.21-22.

²⁹ Id.

³⁰ Id.

³¹ Id.

³² Id.

³³ Id.

³⁴ Id.

³⁵ Michael Lindsey. (January 16, 1996). *A Dallas County Report on the Overrepresentation of Ethnic Minority Youths in the Juvenile Justice System*. Dallas, TX: Raymine, Inc., p.20.

³⁶ Jerome Miller. (1996) *Search and Destroy: African American Males in the Criminal Justice System*. New York: Cambridge University Press, p.85-86

³⁷ Id.

³⁸ Id.

³⁹ Martin Forst, Jeffrey Fagan, and T. Scott Vivona, "Youth in Prison and Training Schools: Perceptions and Consequences of the Treatment-Custody Dichotomy," 40 Juvenile & Family Court Journal 9 (1989).



Shay Bilchik, Administrator

December 1998

JUVENILE JUSTICE BULLETIN

Disproportionate Minority Confinement: Lessons Learned From Five States

Patricia Devine, Kathleen Coolbaugh, and Susan Jenkins

The 1988 amendments to the Juvenile Justice and Delinquency Prevention (JJDP) Act of 1974 (Pub. L. 93-415, 42 USC 5601 *et seq.*) required that States participating in the JJDP Act's Part B Formula Grants program address the disproportionate confinement of minority juveniles in secure facilities. Specifically, this provision required State plans to assess the level of such confinement and implement strategies to reduce disproportionate minority representation where it is found to exist.

The Office of Juvenile Justice and Delinquency Prevention (OJJDP) created the Disproportionate Minority Confinement (DMC) Initiative in 1991 to help States comply with this State plan requirement of the Formula Grants program by testing various approaches for addressing disproportionate confinement. Through a competitive process, OJJDP selected five States—Arizona, Florida, Iowa, North Carolina, and Oregon—to pilot the DMC Initiative, which was carried out in two 18-month phases. During the first phase, the five States assessed the extent to which minority juveniles were disproportionately confined. During the second phase, the States designed and implemented corrective actions. OJJDP provided three types of assistance:

- ◆ Technical support for designing and developing the interventions, led by Portland State University's William Feyerherm, Ph.D., and a team of academic experts.
- ◆ Technical assistance for implementing the interventions.

The DMC Initiative also included a national evaluation, one objective of which



Grants to fund the DMC assessment and interventions in both phases.

From the Administrator

The Office of Juvenile Justice and Delinquency Prevention (OJJDP) is committed to ensuring that this country appropriately address situations where there is disproportionate confinement of minority offenders in the Nation's juvenile justice system. Accordingly, we should be concerned that nearly 70 out of 10 youth in secure confinement are minority juveniles—a rate more than double their percentage in the youth population.

In 1991, OJJDP established its Disproportionate Minority Confinement (DMC) Initiative to assist States in their efforts to address DMC issues as provided by the Juvenile Justice and Delinquency Prevention Act. Subsequently, OJJDP awarded funds to five States (Arizona, Florida, Iowa, North Carolina, and Oregon) to test various approaches for addressing DMC.

This Bulletin describes how the pilot States assessed the extent to which minority juveniles were disproportionately confined by their juvenile justice systems, designed comprehensive DMC strategies, and implemented interventions to address identified problems.

While specific outcomes varied, the lessons learned from the collective experience of the pilot States should prove valuable in enhancing our efforts to reduce DMC and to guarantee appropriate treatment for every youth involved with the juvenile justice system.

Shay Bilchik
Administrator

to document the lessons learned and factors in successful State and local efforts. This Bulletin summarizes lessons learned from the national evaluation, drawing on findings from related research and current State DMC practices as reported in OJJDP policy and management reports.

What Is Meant by "Disproportionate Minority Confinement"?

Disproportionate minority confinement is defined in the JJDP Act as existing when "the proportion of juveniles detained or confined in secure detention facilities, secure correctional facilities, jails, and lockups who are members of minority groups . . . exceeds the proportion such groups represent in the general population."¹ While the language of the JJDP Act specifically refers to juveniles who are "detained or confined," minority overrepresentation is often a product of actions that occur at earlier points in the juvenile justice system, well before secure placements. A growing body of literature has focused on the problem of selection bias² in juvenile justice systems. Much of this literature suggests that processing decisions in many State and local juvenile justice systems are not racially or culturally neutral. Minority juveniles are more likely than other juveniles to become involved in the system. This overrepresentation is apparent at various decision points in the juvenile justice system (arrest, detention, prosecution, and so forth) and may intensify as juveniles continue through the system (see, for example, Pope and Feyerherm, 1990, 1993).

The intent of the JJDP Act DMC requirement and its implementing regulation (28 C.F.R. Part 31) is to encourage States to address the role that minority status (defined in the regulation at 28 C.F.R. § 31.304 as African-American,

American Indian, Asian, Pacific Islander, and Hispanic) plays in juvenile justice processes, up to and including secure confinement, in a comprehensive manner. According to the research by Pope, Feyerherm, and others, multiple factors may contribute to disproportionate minority confinement, ranging from systemic racial bias to higher minority juvenile offense rates. Central to OJJDP's initiative, therefore, was the need to assess and address the full range of factors that could contribute to overrepresentation. The need for locally developed DMC solutions provided the context for the OJJDP pilot initiative.

Developing Solutions to Minority Overrepresentation

Each of the pilot States undertook a series of activities to assess and begin to develop responses to their respective DMC circumstances. These activities, which varied somewhat from one State to another, generally reflected the following problem-solving process:

- ◆ Assigning organizational responsibility for the DMC initiative.
- ◆ Analyzing juvenile justice data to identify the extent to which minority juveniles are overrepresented in State and local juvenile justice systems.
- ◆ Identifying the underlying factors that contribute to minority overrepresentation.
- ◆ Creating new and enhancing existing DMC interventions.
- ◆ Developing methods to measure the impact of DMC interventions.

These five steps, with examples of the pilot States' experiences and the lessons learned, are summarized in table 1 and described below.

Assigning Organizational Responsibility

A successful DMC initiative requires organizational capacity, commitment, leadership, and resources. Every DMC initiative should designate a lead agency to spearhead the effort. For the pilot

Table 1: Overview of the Five Pilot States' DMC Process and Lessons Learned

DMC Process	Lessons Learned
Assigning organizational responsibility.	◆ Determine the optimal lead organization. ◆ Appoint a coordinator. ◆ Allocate adequate resources.
Analyzing juvenile justice data.	◆ Acquire accurate quantitative data. ◆ Conduct systematic data analyses. ◆ Interpret data within the local social and political context. ◆ Engage stakeholders in the process.
Identifying underlying factors.	◆ Gather information on contributing factors. ◆ Synthesize contributing factors. ◆ Build consensus about contributing factors.
Creating and enhancing interventions.	◆ Clearly specify the role for State organizations. ◆ Focus on local planning and implementation. ◆ Involve all stakeholders. ◆ Develop multiple intervention strategies. ◆ Anticipate the transition from planning to implementation.
Developing methods to measure the interventions' impact.	◆ Design monitoring systems at the local level. ◆ Select an appropriate monitoring organization. ◆ Capture overall results and impacts.

¹ Juvenile Justice and Delinquency Prevention Act § 223(a)(23).

² Selection bias is a process in which justice systems scrutinize the actions or histories of minority juveniles more carefully or more strictly than they do the actions or histories of nonminority juveniles. For example, police officers are generally more likely to stop and question a group of minority youth, whereas they might simply glance at a similar group of nonminority youth. Similarly, prosecutors have been shown to deem prior juvenile involvement on the part of a minority youth as a stronger indication of a predilection to crime and a danger to society than the same record attributed to a nonminority juvenile.

States, the first step was to designate the OJJDP grant recipient, which assumed all responsibility for the DMC project. use this responsibility ultimately it be assigned in every State, the general lessons learned from the pilot States can be instructive to other States' efforts.

Assigning responsibility for DMC-related initiatives entails (1) determining the lead organization, (2) appointing a coordinator, and (3) allocating adequate resources for both development and implementation.

Determine the Optimal Lead Organization

An essential first step in addressing DMC is to assign one agency lead responsibility for overseeing and coordinating the assessment of the problem and the intervention design and implementation. Because of the political, cultural, and social sensitivities associated with DMC, several factors should be considered when choosing a lead agency. These factors include location, political and funding stability, and the ability to provide ongoing leadership for the initiative. The lead agency should have credibility and standing with other juvenile justice system agencies to ensure the following:

- ◆ Collection and submission of data required for State and local DMC assessment.
- ◆ Analytical rigor in identifying factors that contribute to DMC.
- ◆ Organizational support for local interventions.
- ◆ Ongoing monitoring of DMC-related activities to determine their impact.
- ◆ Participation in the initiative by other juvenile justice agencies and related youth services.

One of the overriding responsibilities of the lead agency is to secure and maintain ongoing support at both State and local levels. The experiences of the pilot States reinforced the understanding that addressing DMC requires a long-term commitment from the juvenile justice system and other State and local community representatives. The responsible agency must, therefore, be positioned to ensure that DMC efforts can survive changes in administrations, political climate, and funding priorities. An agency's ability to secure and maintain necessary organizational relationships and funding will help serve stability for DMC objectives, if, and activities.

In four of the five pilot States, the lead agencies were the State agencies responsible for administering the JJDP Act. The lead agency in the fifth State, North Carolina, was the Division of Youth Services, which shared JJDP Act administrative responsibility with a sister State agency, the Department of Crime Control and Public Safety.

These State agencies assumed lead responsibility for DMC assessment and then supported counties and smaller organizational units in developing and implementing their DMC interventions. These agencies also provided technical assistance to support State, county, and local activities related to developing automated juvenile justice information systems. In some States, lead agencies coordinated activities throughout the State, encouraged collaboration among groups doing similar work, handled interactions with the media, and provided technical assistance.

The availability of technical assistance was of particular importance to the efficient and effective assessment of DMC and intervention identification and development. In reflecting on the process, the Juvenile Justice Specialist from Iowa noted that sufficient technical assistance early in the process can help avoid "reinvention of the wheel" by providing States with tools to successfully address DMC. He suggested that technical assistance on the following topics would greatly benefit the planning phase of any DMC initiative: descriptions of DMC model programs, "best practices" related to the development and implementation of DMC initiatives, and methods to develop minority community networks. These minority community networks would include local leaders who could advise projects and inform communities about DMC initiatives and programs.

Appoint a DMC Coordinator

One of the most critical tasks for each of the five lead agencies was to garner the support of other State and local agencies associated with DMC. The pilot States each designated one individual as the DMC coordinator to help engage all of the critical organizations and community representatives. A State-level staff person has the perspective to effectively promote DMC ideas and strategies at both the State and local levels. Also, State-level coordinators can assume responsibility for ensuring comprehensive DMC-related data collection, periodic reviews of state-

State Profile: Arizona

- Based on 1990 data from the Bureau of the Census, the State's racial composition was approximately 72 percent white, 19 percent Hispanic, 5 percent American Indian, 3 percent African American, and 1 percent Asian/Pacific Islander.
- The State Advisory Group, assembled an interagency group of educators, local government officials, law enforcement representatives, and private and nonprofit service providers to advise on DMC issues.
- The extent and nature of differential juvenile justice treatment varied between white and minority juveniles, among minority juveniles, and from point to point in the system.
- The initiative funded seven community-based programs targeting all at-risk populations in the State.

wide DMC initiatives, and dissemination of DMC information. The coordinator can also serve as a repository for and cataloger of local and statewide DMC data and other information.

Allocate Adequate Resources

The pilot States identified three important DMC-related resource requirements. First, the DMC identification process requires resources to cover DMC staff salaries and the collection and analysis of juvenile justice data. Second, providing interventions to address DMC can be resource intensive, particularly if new services must be created. Finally, resources are also required for ongoing monitoring of DMC activities and measuring their effects.

For the pilot States, the cost of the DMC assessment process was covered primarily by the OJJDP grant. When designing and implementing DMC interventions, however, all of the States encountered resource-related barriers. Moreover, none of the States fully resolved the problem of insufficient funding for juvenile services in general and DMC intervention services in particular. Nonetheless, recognizing the resource implications for DMC interventions

red that each of the States documented the extent of inadequate resources and attempted to address these resource issues.

Iowa, for example, addressed the issue of limited DMC resources by applying the OJJDP grant funds to the development of a program that integrated the services of several juvenile service providers. The goal of this approach was to reduce the number of agencies interacting with each juvenile and to assign primary responsibility for each juvenile to the most appropriate service provider. This cooperative, streamlined approach provided a model for improving the efficiency of service delivery and attracted the attention of other Federal grant programs, which resulted in the acquisition of additional resources.

Analyzing Data To Identify the Extent of the Problem

OJJDP has developed a standard equation for assessing the relationship between the proportions of minorities in the juvenile justice system and in the overall juvenile population. This equation, shown in table 2, can be used to calculate rates of overrepresentation at any point in the

juvenile justice system, up to and including secure detention or confinement. The actual mathematical calculation is relatively straightforward. The experiences of the pilot States, coupled with lessons learned from the literature, suggest, however, that applying the calculation within a real world context is complicated by several factors. These factors include (1) acquiring accurate quantitative data about juveniles within the justice system and the broader community; (2) conducting systematic data analysis; (3) interpreting the data within the local social and political context; and (4) engaging stakeholders in the data analysis process.

The importance of two of these factors—conducting systematic analyses and interpreting data within the local social and political context—was a clear lesson from the pilot States. Systematically identifying the extent of minority overrepresentation and the associated decisions concerning juvenile justice system processing provides the basis for identifying the factors contributing to DMC and designing appropriate interventions. Lessons learned from this initiative, together with other findings from the DMC literature, provide guiding principles for assessing the extent and analyzing the causes of

disproportionate minority representation. One of the lessons from the pilot State experiences is that the problem of overrepresentation is reflected neither in a single decision nor in the presence or absence of a single attribute in a juvenile justice system. No single feature distinguished communities with high levels of overrepresentation from those with low levels. Even among communities with high levels of overrepresentation, no single decision point or decisionmaker was identified. Thus, understanding overrepresentation is a matter of understanding how a specific juvenile justice system operates, with all its interdependent parts, to result in more minority juveniles entering and penetrating further into the system. This knowledge is gained through the acquisition of accurate quantitative data and the application of a systemic analysis model. These principles and associated processes are described briefly below.

Acquire Accurate Quantitative Data

Accurate quantitative data about the number and characteristics of juveniles in the justice system are often difficult to obtain. Historically, information about juveniles in the justice system was agency specific, largely inaccessible, and lacking in standardization. The data typically used to assess DMC came from the records of juvenile justice and other relevant State agencies and, in some cases, from census records. As State and local juvenile justice systems moved to automated data collection systems, computerized records were frequently incomplete, missing and/or inaccurate, and rarely comparable across jurisdictions. The move by State and local juvenile justice agencies to develop more adequate information systems ironically creates a potential problem for analyzing DMC across local systems. The more reporting systems "aggregate up"—from local, to county, to State—the more likely that evidence of racial disparity may be lost or hidden (Pope and Feyerherm, 1993).

Conduct Systematic Data Analysis

The experiences of the pilot States, reinforced by significant research, suggest that a DMC assessment must employ a systemic approach. In doing so, overrepresentation is defined broadly as a situation in which minority juveniles have unequal probabilities (as compared with nonminority juveniles)

Table 2: Using an Index Value as a Measure of DMC

Minority overrepresentation index:

$$\frac{\% \text{ of minority juveniles in the juvenile justice population}}{\% \text{ of minorities in the overall juvenile population}}$$

An index value of:

- ◆ More than 1 indicates minority overrepresentation.
- ◆ 1 indicates proportional representation.
- ◆ Less than 1 indicates minority underrepresentation.

The following example shows how the index value is calculated and interpreted.

	Minority juveniles	Juvenile population	Percent minority
Justice-involved juveniles	640	2,000	32%
Overall juvenile population	720	4,500	16%

The index value is calculated as $32\% \div 16\% = 2$. An index value of 2 indicates that minority youth are represented among justice-involved juveniles at twice their rate in the overall juvenile population.

of negative processing decisions within the juvenile justice system. As discussed previously, focusing only on end result—confinement—instead of on the overall process that creates overrepresentation limits understanding of the DMC problem, the contributing factors, and the need for a full range of coordinated interventions.

National research efforts have found that the process of quantifying disproportionality must examine multiple decision points in juvenile processing because race/ethnicity effects at any one point may be canceled out or enhanced at a subsequent point. For a more complete picture of how minority status does or does not influence confinement and other juvenile justice processing decisions, multiple decision points must be examined (Pope and Feyerherm, 1993).

To fully disentangle the effects of race/ethnicity on juvenile justice system decisionmaking, an analytic model developed by Feyerherm and colleagues was refined during the OJJDP DMC initiative. This generic model depicts the major decision points common to virtually all juvenile justice systems, including:

- ◆ Decision to arrest a juvenile, who then appears in juvenile court for intake processing.
- ◆ Decision at intake either to dispense or to process further.
- ◆ Decision to remove the juvenile from the current living arrangements during processing (e.g., detention or shelter home care).
- ◆ Decision to file a formal petition of delinquency, engage in other formal action such as a citation or fine, or seek informal resolution such as a warning or a remand of a juvenile to his or her parents without going to court.
- ◆ Decision to resolve the case by informal probation, formal probation, or custody transfer. Informal probation includes diversion programs and other mandated activities for nonadjudicated youth. Formal probation is for adjudicated youth who are not assigned to detention or confinement but have a court-appointed probation officer and court-defined responsibilities (e.g., frequency and type of contact, frequency of urinalysis, etc.).

Decision point charts specific to a particular juvenile justice system can be used in combination with the analysis

State Profile: Florida

- ◆ Based on 1990 data from the Bureau of the Census, the State's racial composition was approximately 73 percent white, 13 percent African-American, 12 percent Hispanic, 1 percent Asian/Pacific Islander, and 0.9 percent American Indian.
- ◆ The grantee for the DMC Initiative was the Florida Department of Health and Rehabilitative Services until the newly created Department of Juvenile Justice became the lead agency.
- ◆ African-American juveniles were overrepresented at every stage of the juvenile justice process.
- ◆ The intervention strategy focused on intake assessment. Reducing the disproportionate representation of minority juveniles at this early stage was expected to have a positive effect throughout the system.

model to specify all possible decision combinations and summarize the operation of the overall system. This approach helps to identify the decisions, or combinations of decisions, potentially influenced by race/ethnicity. Through probability analysis, the effects of race/ethnicity at each decision point, or combination of points, in the juvenile justice system can be assessed for minority overrepresentation.³

This analysis model can also be used to identify the probability of moving from one point in the juvenile justice system to another. For example, if there is an intake referral and the juvenile is detained (e.g., removed from current living arrangement), the probability that a petition will be filed can be calculated. A comparison of these probabilities for majority and minority juveniles may identify combinations of decisions that are likely to impact minority juveniles differently. In addition, the model provides the opportunity to identify the extent to which the overall system appears to operate differently for majority and minority juveniles by calculating the "accumulation" of small race/ethnic-related discrepancies.

Several of the pilot States applied this model to the assessment of DMC within their juvenile justice systems to support their analysis of disproportionate minority representation. This approach also helped to assess the availability of appropriate data for the analysis because the model requires specific juvenile justice data for each juvenile justice processing decision.

³For a full description of the analytic model, see Pope and Feyerherm, 1993.

Interpret the Data Within the Local Context

Researchers have long recognized that findings from quantitative data analysis are meaningful only if they accurately reflect the context of the information. Context is revealed through the collection of qualitative information about the juvenile justice system and the community. The importance of interpreting the data within the local social and political context was reinforced by the pilot State experiences. For example, one site's quantitative data indicated that minority juveniles were not attending their diversion programs and, ultimately, were confined. An examination of client case records revealed, however, that many juveniles were referred to diversion programs far from their homes and lacked transportation to and from the programs. An analysis of the client case records showed that these juveniles were noncompliant because of physical barriers to program completion. This example illustrates how qualitative information can support meaningful interpretation of the quantitative data analysis.

Accurately identifying the scope and intensity of DMC requires an understanding of social and political forces that may account for, or artificially inflate or suppress, the appearance of disproportionality. For example, in one pilot State, the DMC incidence increased from 1990 to 1994. An investigation of the contributing factors revealed that this time period coincided with the "war on drugs" and the resultant intensification of daily law enforcement activities within urban areas. A closer examination of the county data revealed that the largest increases in disproportionate

arrest rates were in those counties with large urban populations and that increases in arrests were associated with drug-related offenses. Although the explanation of increased minority confinement does not minimize its importance, the social and political events that precipitated the increase help to put it in perspective and identify opportunities for DMC interventions.

Engage Stakeholders in the Data Analysis Process

Disproportionate minority confinement encompasses wide-ranging issues involving many stakeholders: policymakers, juvenile justice system professionals, the broad community of service providers, minority juveniles, and their families. Among the DMC pilot States, the lead agencies sought full participation of all key stakeholders to assist in data collection and to support the analysis and interpretation of results. Stakeholder participation increased access to data under their control and their confidence in the quality of data provided. This, in turn, appeared to increase stakeholders' consensus as to the meaning of the data and their commitment to the findings from the data analysis. Creating a common understanding of DMC issues also promoted stakeholder agreement about factors contributing to DMC. By jointly addressing DMC issues, key stakeholders learned to work together and build a foundation for future collaboration on DMC, the contributing factors, and the need for interventions.

Identifying Underlying Factors

Devising appropriate, community-based DMC intervention strategies requires an accurate assessment of the factors that contribute to minority overrepresentation. Because the contributing factors are known to be complex and interrelated, all key system representatives must be consulted and engaged in the problem-solving process.

Although specific activities varied, the pilot States all used a similar approach to identify factors that potentially contribute to DMC. The DMC Phase I assessment activities and the early Phase II planning activities included extensive data gathering and opinion polling about the evidence of DMC and perceived reasons for its occurrence. Once potential DMC contributing factors had been identified, each State DMC coordinator synthesized his or

her respective information and attempted to develop consensus about the most critical factors, which could then be addressed through DMC interventions.

The Phase I analysis indicated that the extent of DMC varied among counties and/or local jurisdictions. Each State, therefore, targeted its DMC efforts in a location showing the highest rates of overrepresentation and/or the largest minority populations. DMC coordinators focused their attention on these areas to identify all possible contributing factors.

Gather Information on Potential Contributing Factors

The DMC coordinators employed several information-gathering strategies to expand the understanding of DMC within specific communities and for the State as a whole. These strategies included:

- ◆ Public forums, hearings, and town hall meetings with representatives of the juvenile justice system and of education, social service, civic, religious, and community groups.
- ◆ Interviews and mail surveys of staff and managers within juvenile justice agencies.
- ◆ Interviews with minority juveniles and their families.
- ◆ Case record reviews within local juvenile justice agencies.

Information collected from public meetings, surveys, interviews, and case records revealed a wide array of perceptions about DMC contributing factors, which covered the gamut from systemic racism to criminal predilection. In other words, perceptions of DMC causes ranged

from "blaming the system" to "blaming the individual" or, as some would argue, "blaming the victim." The fact that those involved with or touched by DMC hold such extremely divergent views necessitated a full analysis and synthesis of the factors identified and then consensus-building among these individuals.

Synthesize Contributing Factors

Although perceptions of the factors that contribute to DMC varied within and between local communities, the inventory of all possible factors was consistent across the five pilot States. The overall list of contributing factors generally fell into four interrelated domains:

- ◆ The juvenile justice system.
- ◆ The educational system.
- ◆ The family.
- ◆ Socioeconomic conditions.

Examples of the contributing factors in each of these domains and their interrelationships are illustrated in figure 1 and described below.

The Juvenile Justice System. Community representatives from each of the pilot States, including minority juveniles and their families, identified racial/ethnic bias within the juvenile justice system as contributing to DMC. Typically, this bias was viewed as unintentional rather than overt. For example, many State-level participants concluded that societal biases were mirrored in the juvenile justice system, resulting in minority overrepresentation. Other examples of juvenile justice system contributing factors included the lack of adequate diversion programs for minority



juveniles, the lack of culturally appropriate juvenile services, a lack of cultural understanding among juvenile justice system and perceived barriers to parental advocacy because of minority parents' often limited understanding of the system.

The Educational System. All of the local community representatives identified some aspect of the educational system as contributing to DMC. Opinions diverged, however, when attributing causality. In general, perceptions focused on either the failure of schools to adequately serve minority juveniles or the failure of minority juveniles to fully participate in the educational system. Specific examples of educational system failings included inadequate early childhood education, inadequate programs to prevent students from dropping out early, and a lack of appropriate cultural education, together with minority juvenile truancy, suspensions, and expulsions.

The Family. The most sensitive and controversial of factors believed to contribute to DMC were family composition and family functioning. Single-parent families and their often associated high poverty levels were recognized as potential contributing factors, because justice-involved minority juveniles reside disproportionately in single-parent, low-income households. State data also indicate that minority juveniles receive more out-of-home placements than do majority juveniles, partly because of perceptions that minority family home environments are less stable. Similarly, the lack of strong family support may contribute to juveniles' succumbing to negative peer pressure, including gang involvement, substance abuse, and other delinquent behaviors, which, in turn, may contribute to increased delinquent behaviors.

Socioeconomic Conditions. A majority view held that economic and/or social conditions contribute to DMC. Perceived economic factors include the higher likelihood of low incomes, few job opportunities, and urban density among minority families. Contributing social factors include a lack of cultural awareness among the majority community, coupled with a lack of positive role models and social opportunities for minority juveniles, and limited social support services in minority neighborhoods.

Taken together, these four overarching domains—the juvenile justice and educational systems, the family, and prevailing socioeconomic conditions—provide a network for identifying the underlying

State Profile: Iowa

- ◆ Based on 1990 data from the Bureau of the Census, the State's racial composition was 86 percent white, 2 percent African American, 1 percent Hispanic, and 11 percent members of biracial groups.
- ◆ A task force of juvenile justice professionals from the State and county levels, and the Division of Criminal and Juvenile Justice Planning guided the DMC as a project and provided recommendations to the lead agency.
- ◆ Quantitative data analysis indicated that minority juveniles were overrepresented in secure facilities and that they tended to experience longer stays than did white juveniles.
- ◆ Qualitative data analysis from four pilot counties indicated that the effect of race/ethnicity on decisionmaking varied by decision point and county and that unintentional decisionmaking bias, social factors, and community factors were significant contributors to DMC.
- ◆ Interventions focused primarily on community-based problem identification and solutions.

causes of minority overrepresentation, as illustrated in figure 1. This initiative and other research demonstrate that minorities are disproportionately affected by poverty and that educational systems do not adequately serve minority juveniles. The data also clearly show that racial bias exists in some juvenile justice systems, if only because of inadequate cultural awareness. Although causality cannot be ascribed, minority juveniles tend to be disproportionately subjected to multiple social, economic, and educational stressors. To the extent that these stressors contribute to negative behaviors, and if the juvenile justice decisionmaking process is in any way influenced by racial/ethnic characteristics, then disproportionate minority involvement in the juvenile justice system will result.

Bulld Consensus About Contributing Factors

Although individuals' opinions varied as to specifics, significant agreement existed among all participants that DMC is associated with multiple underlying factors that must be addressed with multiple interventions. The consensus-building process that was employed in the pilot States was extremely important in moving groups of diverse individuals toward common understanding and agreement on these highly sensitive DMC issues. The process of listening to, hearing, and addressing individual concerns helps to neutralize divergence and enables disparate community representatives ultimately to work together on strategies to address their DMC problem. All members of the

community are needed for the successful implementation of solutions to DMC, and using an inclusive approach encourages each of the diverse players to contribute to the solution. Specifically, inclusion helps to keep State-level participants involved in monitoring progress and offering appropriate technical assistance and to keep community-level participants involved in ensuring client-level "buy in" and participation.

Creating New and Enhancing Existing DMC Interventions

One of the primary objectives of the DMC Initiative was to design a broad range of strategies to address minority overrepresentation. During the DMC initiative, the pilot States' strategies were only partially implemented. As a result, a full assessment of the interventions' effectiveness was not possible at the time. Critical lessons were learned, however, about the DMC planning process and about factors that support a smooth transition from planning to implementation. Collectively, these lessons stress how important it is to:

- ◆ Clearly specify a role for State organizations.
- ◆ Focus on local planning and implementation.
- ◆ Involve all significant juvenile justice and community representatives.
- ◆ Develop multiple intervention strategies.

- ◆ Anticipate the often protracted transition from planning to implementation.

Examples of pilot State experiences associated with each of these lessons are described below.

Clearly Specify a Role for State Organizations

Although the focus of DMC interventions must be local, State organizations can play a significant role in supporting local planning and implementation efforts. In all of the pilots, staff at the State level took responsibility for developing statewide DMC plans, conducting and monitoring the Phase I data collection and analysis, and supporting the development of Phase II strategies.

Oregon's approach provides a model for clearly delineating State and local roles. In Oregon, the State DMC team:

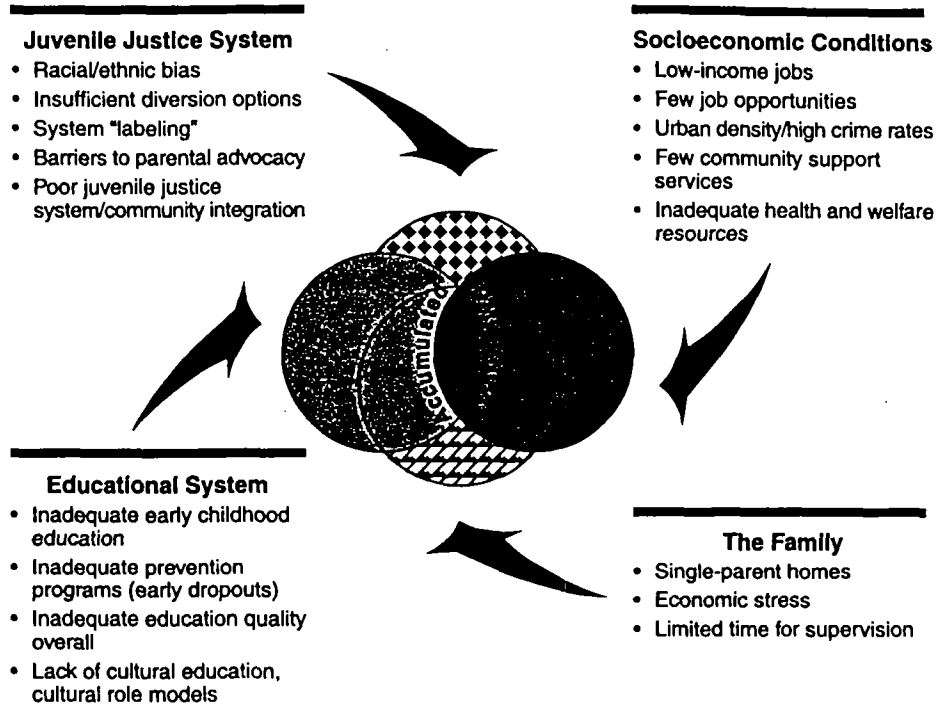
- ◆ Provided the Phase I research expertise.
- ◆ Introduced the DMC research findings to State and local stakeholders.
- ◆ Identified and financially supported DMC interventions in three counties.
- ◆ Provided monitoring throughout the project and a local process evaluation at a conclusion of the planning activities.
- ◆ Served as a repository of information on additional DMC resources and technical assistance.
- ◆ Facilitated county efforts to seek additional funds. The approach was based on a philosophy of collaboration and encouragement to stimulate community-inspired interventions.

Focus on Local Planning and Implementation

There is no single model solution to eradicate minority overrepresentation at either the Federal or the State level. Juvenile justice is primarily a function of local government. The development of solutions to the high rates of minority confinement must, therefore, involve local communities. Local staff are most knowledgeable about available community resources and best positioned to muster the resources needed for DMC interventions.

The experiences of the five pilot States recognized and reinforced the importance of local involvement. North Carolina developed a DMC committee within each of its 10 counties to identify local contributing factors and to develop and implement interventions to reduce DMC. Florida organized a Core Planning Group in its pl-

Figure 1: Underlying Factors That Contribute to Minority Overrepresentation



lot county to coordinate DMC planning and implementation efforts. In Arizona, Iowa, and Oregon, existing county and local organizations developed plans for DMC pilot projects. Each of these pilot communities demonstrated that local involvement of juvenile justice and other community agencies, together with local minority community representatives, was effective in identifying DMC contributing factors and mobilizing existing resources.

Involve All Significant Juvenile Justice and Community Representatives

The pilot States demonstrated that all components of the juvenile justice system must be involved in the assessment, planning, and implementation of DMC interventions, including peace officers, prosecutors, court officials, and corrections personnel. The involvement of these key system players will greatly

State Profile: North Carolina

- ◆ Based on 1990 data from the Bureau of the Census, the State's racial composition was approximately 75 percent white, 22 percent African-American, 1 percent Hispanic, 1 percent American Indian, and 1 percent Asian/Pacific Islander.
- ◆ An initial study found that within 10 pilot counties, minority juveniles were more likely to be arrested, presented to intake, referred to juvenile court, and referred to secure confinement facilities. A second study concluded that race did not significantly affect the likelihood of being referred to juvenile court.
- ◆ State-level DMC stakeholders facilitated DMC activity by identifying potential local leadership, providing information-sharing forums, and offering planning grants to support local efforts.
- ◆ Interventions included the development of detailed plans for corrective actions within both the local juvenile justice systems and other juvenile service delivery systems.

increase the probability that DMC interventions can effect lasting change. Furthermore, since many of the DMC contributing factors are beyond the realm of the juvenile justice system, social service agencies and other community organizations must also be involved in developing DMC interventions. Pilot State experiences demonstrated at least two benefits of involving all significant stakeholders: (1) they meet, often for the first time, and engage in discussions about DMC and other juvenile justice issues; and (2) the stakeholders who are essential to DMC interventions create a shared vision of an enhanced and more equitable distribution of juvenile justice and other agency services.

Develop Multiple Intervention Strategies

Given that multiple factors contribute to minority overrepresentation in the system, multiple strategies are needed to address it. The analysis of contributing factors suggests a framework of several categories of DMC intervention strategies. Specific types of interventions within a given category can stand alone as useful models to reduce DMC, and all are complementary. Approaching DMC reduction from several of these perspectives simultaneously is likely to multiply the impact of the overall effort.

- ◆ **Advocacy** strategies seek to improve the ability of juveniles and their families to navigate the system and the ability of the system to serve its minority juveniles. Examples include:
 - ◆ Providing information, expertise, and/or advocates to assist minority juveniles and their families to interact more successfully with the juvenile justice system.
 - ◆ Exerting pressure on the system to change policies and practices that lead to DMC, such as revising decisionmaking guidelines and modifying existing services to better serve minority juveniles.
- ◆ **Collaboration** strategies stress cooperation between community-based interventions and the juvenile justice system. Examples include:
 - ◆ Addressing cultural competency and attitudinal change among professionals within the system.
 - ◆ Creating coalitions among juvenile justice agencies, other public agencies, community organizations, and

State Profile: Oregon

- ◆ Based on 1990 data from the Bureau of the Census, the State's racial composition was approximately 91 percent white, 4 percent Hispanic, 2 percent African-American, 2 percent Asian/Pacific Islander, and 1 percent American Indian.
- ◆ African-American juveniles were overrepresented at every stage of the juvenile justice process. The greatest magnitude of African-American overrepresentation occurred at the back end of the system. The pattern of overrepresentation was less pronounced and more variable for other minority groups.
- ◆ The intervention strategy focused on three different county-level approaches simultaneously, each providing a continuum of DMC programs impacting various aspects of the juvenile justice system.

individual community representatives to address factors leading to DMC.

- ◆ **Alternative resource development** strategies are appropriate both within and outside the traditional juvenile justice system. Examples include:
 - ◆ Developing diversion programs that are appropriate to minority juveniles.
 - ◆ Developing prevention programs and services within minority communities.

Pilot State examples of DMC interventions for each of the strategies are described below.

One Oregon county developed an **advocacy** approach to addressing DMC. In this county, minority juvenile justice specialists support minority juvenile offenders who are processed through intake at the Division of Youth Services and provide additional counseling and mentoring services to juveniles in minority communities. The goal is to improve communication between minority juveniles and the juvenile justice system, improve system outcomes (e.g., reduce confinement decisions), and strengthen the ability of minority juveniles and their families to negotiate the juvenile justice system.

The **collaboration** approach is exemplified by several of the pilot State initiatives. For example, Iowa developed a statewide cultural competency training program. A major goal of the training is to offer those who interact with minority juveniles better tools for providing meaningful education, guidance, and supportive and rehabilitative services. The training is provided to juvenile justice personnel who make decisions affecting the placement of minority juveniles in secure facilities.

The **alternative resources** strategy is demonstrated by Florida's Civil Citation

Program. Juvenile civil citation is a law enforcement option in Florida that allows a police officer to issue a sanction of up to 40 hours of community service to a juvenile for a nonserious offense without taking the juvenile into custody. The Florida DMC project provided this option, which had not been used previously in the county implementing the DMC initiative in Florida, to divert juveniles from the justice system at the point of initial contact.

Anticipate the Often-Protracted Transition From Planning to Implementation

The five pilot States learned that, when they shifted from planning to implementation, all stakeholders remained essential but their roles were changed. By anticipating and planning for changes in organizational roles and clearly defining the roles for each stakeholder and participating agency, interpersonal and interagency tensions were averted or reduced.

Pilot States reported that the State leadership role was less critical to implementation than to planning. As the focus changed to implementation, State roles were commonly limited to monitoring statewide and local DMC activities, offering technical assistance to local projects related to securing funding, and reviewing local implementation plans. It was at this point that local agencies, organizations, and communities typically took the lead in the DMC initiative process. While the role of the State decreased, pilot States reported that the State role should still be clearly defined and that State-level continuity of staff, objectives, and funding was crucial to local DMC program implementation.

The amount of time needed to reach full implementation was underestimated by everyone involved with the pilot State plans. Phase II of the DMC initiatives was slated for implementation and completion within an 18-month timeframe. Without exception, the implementation of new initiatives had not been completed at the conclusion of the 18 months. In fact, several pilot States obtained 12-month extensions for implementation, which also proved inadequate. The primary lesson here is that the process needed to identify DMC and its contributing factors, obtain full cooperation of diverse community factions, and design and implement DMC interventions can be lengthy, costly, unpredictable, and not easily controlled by any single organization or group.

Monitoring DMC Interventions

DMC rates must be monitored on an ongoing basis to assess the effectiveness of interventions. The pilot States' early efforts to establish systematic monitoring processes suggest several factors to consider when developing monitoring systems including (1) designing them at the local level, (2) selecting an appropriate organization to carry out the monitoring function, and (3) focusing on capturing overall results, including early impacts of the initiative.

Design Monitoring Systems at the Local Level

The capacity to assess progress toward achieving DMC goals should be designed and should function at the local level. Local monitoring of program operations and systems is more likely to provide the detailed and timely information necessary to position the community and its system of providers to respond to emerging needs and incorporate new DMC strategies.

North Carolina, for example, focused on building local monitoring information systems and developed a procedural and resource manual to support local efforts. The manual described a process for planning and implementing a DMC monitoring system and identified the data elements needed for DMC monitoring.

Select an Appropriate Monitoring Organization

Within the pilot States, at both the State and local levels, acceptance of the

overrepresentation message depended largely on the credibility of the participants or agencies reporting the DMC findings. Any DMC monitoring system must, therefore, be perceived as having a legitimate basis for continuing to raise questions about progress toward DMC goals. DMC intervention efforts can be monitored successfully when the monitoring is based on objective data and is carried out under the auspices of an appropriate group or agency. The monitoring process must engage all stakeholders in examining the results, conclusions, and assumptions of those generating the information.

Capture Overall Results and Impacts

The key question about DMC interventions—as with any program—is: “Did they make any difference?” The challenge in answering that question is that many of the strategies and interventions undertaken are designed to effect changes in deeply ingrained beliefs and systems, a process that may take some time. Although developing and implementing monitoring systems are essential first steps toward assessing ongoing, long-term improvements in levels of minority overrepresentation, it is also important to identify and acknowledge other early impacts of DMC initiatives. Several important improvements resulting from the DMC activities in the five pilot State juvenile justice systems are described below.

Recognize Information Needs and Create Appropriate Information Systems. The assessment approach used by the five States revealed important information gaps. None of the States had existing information resources sufficient to meet the needs of the DMC assessment. In North Carolina, for example, no automated juvenile justice information existed. As a result of the development of information for the DMC project, North Carolina recognized that DMC and related information is useful for a variety of assessment purposes and moved to develop information systems. Florida, on the other hand, had a fairly complete juvenile justice information system, but the DMC project identified ways to link information systems with the State Departments of Education and Labor to provide additional information on juveniles. For all of the pilot States, the initial focus on DMC identification frequently had the effect of making local officials more aware of what information resources were avail-

able and how to access them, and whether critical information was collected by other agencies or at other jurisdictional levels. As these States continue to monitor the effects of DMC activity, they plan to continue to refine their information systems.

Develop New Community Collaborative Relationships. One feature common to most of the DMC projects was the effective use of collaboration among community agencies to develop and enhance the provision of juvenile services. For example, the Florida pilot project resulted in new partnerships among State government, the Urban League, the Hillsborough County Children's Board, a set of 18 juvenile service agencies, and the local Juvenile Assessment Center. In Iowa, the project involved strengthening the relationship between the juvenile justice system and the Jane Boyd House, an organization providing “wraparound” community services to Cedar Rapids neighborhoods.

As collaborative efforts take more of a foothold in communities across the country (for example, with Title V Community Prevention Grants), DMC interventions can continue to benefit from existing collaborative structures. Ideally—and it is a goal of the JJDP Act—communities that are seeking to effect systemwide changes in how they prevent and respond to juvenile problems will infuse all of their efforts with an awareness of the issue of disproportionate representation of minority juveniles in the system. With ongoing collaborative processes, attention to DMC issues can become “institutionalized” in all decisions made about youth services.

Institutionalize Mechanisms To Examine and Respond to DMC Issues. In each of the five pilot States, DMC activities resulted in the development of additional institutionalized mechanisms to continue the assessment of DMC issues and the development of responses. Florida developed an entirely new Department of Juvenile Justice, with a major commitment to the overrepresentation issue and significant resources with which to address the problem. In Iowa, staff hired for DMC issues have been retained in positions created to help eliminate DMC. In two Oregon county projects, the county government found ways of “picking up” the DMC activities as ongoing county functions. In North Carolina, a new section was created in the Human Services Department to extend the State audit capacity to examine and improve DMC conditions throughout the State.

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◆ Heidi Hsia, DMC Coordinator
State Relations and Assistance Division
202-616-3667
E-Mail: hsiah@ojp.usdoj.gov

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COJDP

Shay Bilchik, Administrator

September 1998

JUVENILE JUSTICE BULLETIN

Disproportionate Minority Confinement: 1997 Update

Heidi M. Hsia, Ph.D., and Donna Hamparian

The disparate treatment of minorities in America's juvenile justice systems, as evidenced by the disproportionate confinement of minority juveniles in secure facilities, was brought to national attention by the Coalition for Juvenile Justice (formerly the National Coalition of State Juvenile Justice Advisory Groups) in its 1988 annual report to Congress, *A Delicate Balance* (Coalition for Juvenile Justice, 1988). In the 1988 amendments to the Juvenile Justice and Delinquency Prevention (JJDP) Act of 1974 (Pub. L. 93-415, 42 U.S.C. 5601 et seq.), Congress required that States address disproportionate minority confinement (DMC) in their State plans. In the 1992 amendments to the JJDP Act, DMC was elevated to a core requirement, with future funding eligibility tied to State compliance. Prevalence studies to examine the likelihood of juveniles being incarcerated in a juvenile corrections facility before the age of 18 were subsequently conducted in 16 States (DeComo, 1993). These studies showed that African-American youth had the highest prevalence rates of all segments of the population in 15 of the 16 States. In 2 States, it was estimated that 1 in 7 African-American males (compared with approximately 1 in 125 white males) would be incarcerated before the age of 18. Although minority youth constituted approximately 15 percent of the youth population in the country in 1995, they represented

68 percent of the juvenile population in secure detention and 68 percent of those in secure institutional environments such as training schools (Sickmund, Snyder, and Poe-Yamagata, 1997). These figures reflect significant increases over 1983, when minority youth represented 53 percent of the detention population and 56 percent of the secure juvenile corrections population. Additional research has consistently substantiated that minority overrepresentation has not been limited to confinement in secure facilities; it also is significant at each of the major decision points in the juvenile justice system process (e.g., arrest, detention, prosecution, adjudication, transfer to adult court, and commitment to secure facilities). This holds true in most States and the District of Columbia. Thus, the term "minority overrepresentation" has been used to describe the phenomenon of disproportionately large numbers of minority youth who come into contact with the juvenile justice system at various stages, including, but not limited to, secure confinement.¹ During the past decade, the Office of Juvenile Justice and Delinquency Prevention

¹ In this Bulletin, the term "DMC" refers to the impact of minority overrepresentation across the juvenile justice system because nearly all local, State, and Federal efforts to address DMC include the examination of minority overrepresentation at multiple points of juvenile justice system processing.

From the Administrator

A prerequisite of an effective juvenile justice system is to treat every offender as an individual and provide needed services to all. There are troubling indications that the system is not meeting this standard. As one reflection of this problem, we find that the percentage of minority youth in secure confinement is more than double their representation in the general juvenile population—comprising nearly 7 out of 10 juveniles in such environments.

As part of its overall mission, the Office of Juvenile Justice and Delinquency Prevention provides leadership and resources to our Nation's efforts to address disproportionate minority confinement (DMC). This Bulletin offers an overview of the status of the DMC Initiative and describes one State's efforts to meet the needs of minority youth served by its juvenile justice system. Pennsylvania's multiyear systematic approach demonstrates how important it is to have sound data as a basis for raising public awareness, mobilizing support and resources, and planning and implementing an effective DMC strategy.

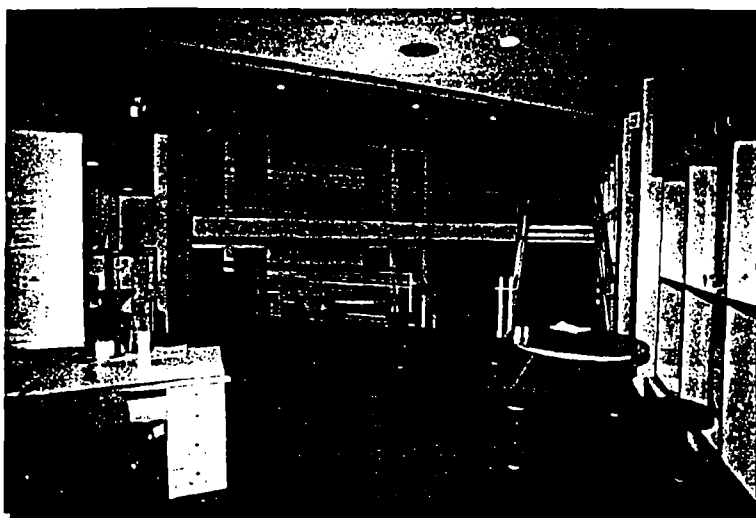
All youth who come into contact with the juvenile justice system must receive an appropriate response, including the treatment they need. We have not yet reached that goal, but this Bulletin tells us that the DMC Initiative is bringing about change and focusing attention on a problem that must be addressed.

Shay Bilchik
Administrator

(OJJDP) has assumed a leadership role, urging on the Nation to address the DMC issue in a deliberate and systematic manner that includes the following:

◆ **DMC as a core requirement of the JJDP Act Formula Grants Program.** OJJDP administers the Formula Grants Program under Title II, part B, of the JJDP Act. Under the Formula Grants Program, each State must address efforts to reduce the proportion of youth detained or confined in secure detention facilities, secure correctional facilities, jails, and lockups who are members of minority groups if it exceeds the proportion of such groups in the general population.² For purposes of this requirement, OJJDP has defined minority populations as African-Americans, American Indians,³ Asians, Pacific Islanders, and Hispanics (OJJDP Formula Grants Regulation, 28 C.F.R. Part 31). Because addressing DMC is one of the core requirements of the JJDP Act, States failing to meet the DMC plan requirement are ineligible to receive 25 percent of their annual formula grant allocation.⁴

◆ **DMC training and technical assistance.** Publications such as the OJJDP Fact Sheet *Disproportionate Minority Confinement* (Roscoe and Morton, 1994) and the DMC national reports cited in footnote 4 have been disseminated widely as technical assistance tools. OJJDP also has sponsored a variety of national and regional training sessions for juvenile justice practitioners, researchers, and policymakers. To further assist States, OJJDP contracted with Community Research Associates (CRA), Inc., in Champaign, IL, to provide training and technical assistance upon request on all aspects of this core requirement. In addition, a



technical assistance manual was produced in 1990 by OJJDP, in conjunction with CRA, to provide State juvenile justice specialists and State advisory group members with a step-by-step blueprint for systematically addressing DMC. This manual is currently being updated. Portland State University also was contracted to provide training and technical assistance to five competitively selected pilot States (Arizona, Florida, Iowa, North Carolina, and Oregon) in their efforts to address DMC. The DMC Initiative in the five pilot States is described below.

◆ **The DMC Initiative.** To enhance States' ability to comply with the DMC requirement, test various approaches to assessing DMC, and experiment with approaches to reducing DMC, OJJDP established the Disproportionate Minority Confinement Initiative in 1991. Over the next 3 years, five competitively selected pilot States aggressively assessed the extent of DMC in their juvenile justice systems, designed comprehensive strategies, and implemented interventions to address the problems identified. OJJDP's national management evaluation contractor, Caliber Associates, Inc., provided all five States with technical assistance and design support to develop a process and/or impact evaluation, evaluate their efforts, and share relevant information nationwide. Five final reports (one on each of the pilot States), produced under the DMC Initiative, were products of this effort.⁵ An OJJDP Bulletin focusing on lessons learned from this initiative is in preparation (Devine, Coolbaugh, and Jenkins, in press).

◆ **National Innovations to Reduce DMC.** This discretionary grants program is also known as the Deborah Ann Wysinger Memorial Program in memory of a deceased OJJDP staff person who spearheaded OJJDP's DMC efforts. Grants have been awarded under the program to States, local units of government, private not-for-profit organizations, and American Indian tribes to develop interventions that address DMC. The program's goals are to refine previous assessment findings and improve data systems, develop new interventions to reduce DMC, develop model DMC programs, and encourage multidisciplinary collaborations at the community level to reduce DMC. In fiscal years 1995 and 1996, 11 DMC discretionary grants were awarded (one program was given a 2-year grant).⁶ The awards included research, training and technical assistance, and demonstrations to test innovative interventions designed by States and local communities. Grants to 10 of the projects have been completed, with the remaining project to be completed in September 1998.

² See § 223(a)(23) of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended.

³ In practice, this category has been interpreted to include American Indians, Eskimos, Aleutians, and others (Hamparian and Leiber, 1997).

⁴ For a detailed historical account of DMC as a "core requirement" of the Formula Grants Program; descriptions of the identification, assessment, and intervention phases of DMC that States are required to address in their State plans; and States' DMC activities in these phases, see *The Status of the States: A Review of State Materials Regarding Overrepresentation of Minority Youth in the Juvenile Justice System* (Feyerherm, 1993).

⁵ *Disproportionate Confinement of Minority Juveniles in Secure Facilities: 1996 National Report* (Hamparian and Leiber, 1997).

⁶ In 1996, Caliber Associates, Inc., Fairfax, VA, published the following reports: *Evaluation of the Disproportionate Minority Confinement (DMC) Initiative: Arizona Final Report*, *Evaluation of the Disproportionate Minority Confinement (DMC) Initiative: Florida Final Report*, *Evaluation of the Disproportionate Minority Confinement (DMC) Initiative: Iowa Final Report*, *Evaluation of the Disproportionate Minority Confinement (DMC) Initiative: North Carolina Final Report*, *Evaluation of the Disproportionate Minority Confinement (DMC) Initiative: Oregon Final Report*. These reports are available from the Juvenile Justice Clearinghouse by calling 800-638-8736 (\$15 each, \$39 for all five).

◆ **National DMC training, technical assistance, and information dissemination Initiative.** In 1997, recognizing the need to foster development and documentation of effective strategies nationwide using training, technical assistance, information dissemination, practical and targeted resource tools, and public education, OJJDP launched a 3-year national initiative. Through an OJJDP cooperative agreement with Cygnus Corp., interested jurisdictions will be provided with information designed to enable them to successfully address those factors that contribute to DMC. Cygnus will review and synthesize current State and local practices and policies; develop and deliver training to grantees, personnel involved with the juvenile justice system, policymakers, and others regarding effective interventions; and identify effective approaches for improving States' DMC efforts.

Update on State Compliance With the DMC Core Requirement

As noted, the 1992 reauthorization of the JJDP Act substantially strengthened the national effort to address DMC by bringing it to a "core requirement" of Formula Grants Program along with deinstitutionalization of status offenders, removal of juveniles from adult jails and lockups, and sight and sound separation of juvenile offenders from adults in secure institutions.⁷ States participating in the Formula Grants Program are required to

address the DMC issue in three phases: (1) identification (identify the extent to which DMC exists); (2) assessment (assess the reasons for DMC if it exists); and (3) intervention (develop an intervention plan to address these identified reasons). Progress is reported by each State and territory in its comprehensive JJDP 3-year plan and subsequent plan updates (in compliance with Section 223(a)(23)). OJJDP reviews the plan updates annually. The status of State compliance with the DMC core requirement based on the States' 1997 plans is summarized below. Readers desiring additional information concerning individual States are encouraged to contact the State's juvenile justice specialist.⁸

Based on OJJDP's review of FY 1997 State plans, 39 States have completed the identification and assessment phases and are implementing the intervention phase of DMC. Three States have completed the identification and assessment phases and are formulating their intervention plans. These States are making a concerted effort to address the factors that contribute to minority overrepresentation in the juvenile justice system. However, DMC remains a serious concern, requiring an ongoing and continuous effort. Recommendations for future action discussed in the *1996 National Report* (Hamparian and Leiber, 1997), including the need for comprehensive data collection and analysis, the development of research- and data-based State intervention plans, and the strategic importance of prevention and early intervention, remain valid actions for States in refining and improving their approaches to reducing DMC.

This Bulletin provides the updated status—as of December 1997—of compliance with the DMC core requirement among the jurisdictions participating in the JJDP Formula Grants Program (48 States, 6 territories, and the District of Columbia). However, unlike previous national reports, which highlighted DMC activities undertaken by various States in the identification, assessment, and intervention phases, this Bulletin provides an in-depth description of how Pennsylvania moved from one DMC phase to the next in a systematic, data-driven, and targeted effort to comprehensively address DMC.

⁸A directory of State juvenile justice specialists is available by contacting OJJDP. See "For Further Information."

Pennsylvania's Process as an Example of a Systematic DMC Approach

Description of the Pennsylvania Model

Pennsylvania's DMC efforts began in 1986, 2 years prior to the inclusion of DMC as a Formula Grants Program plan requirement. During that year, the Pennsylvania Commission on Crime and Delinquency (PCCD) and the State advisory group, the Juvenile Advisory Committee (JAC), recognized the problem of minority overrepresentation. In 1990, JAC established the Minority Confinement Subcommittee to focus on the DMC issue.⁹ The subcommittee's analysis of 1988 juvenile justice data for detention and other secure holding programs revealed that, although representing just 12 percent of the juvenile population, minority juveniles accounted for 70 percent of secure placements statewide. To help determine which decision points in the juvenile justice system and which jurisdiction(s) the State's DMC efforts should target, further analysis was conducted using 1989 data both statewide and in the 18 counties with the highest minority populations. Statewide Pennsylvania data indicated that minority juveniles represented 27 percent of all juveniles arrested and 48 percent of all juveniles formally charged in juvenile court. All of the State's counties showed minority overrepresentation, which was amplified as cases moved through the system. In response to these preliminary analyses, the subcommittee funded outside research to identify causes and develop options to address the problem while simultaneously implementing prevention and intervention programs. This two-pronged approach has guided the subsequent State DMC strategy.

Target Area #1: Dauphin County

Dauphin County, including the State capital, Harrisburg, was selected as the first target site because it showed the greatest difference between the proportion of minorities arrested (50 percent) and the proportion of minorities (22 percent)

⁹The Minority Confinement Subcommittee reports to JAC, which reports to PCCD. JAC submits an annual report to the Governor on juvenile justice and delinquency prevention issues and activities.

⁷The following programs were awarded discretionary grants: TeenCourt Youth Diversion Program (Lummi Indian Nation, Bellingham, WA); Interventions to Reduce Disproportionate Minority Confinement (Academy, Inc., Columbus, OH); Disproportionate Minority Confinement (New Jersey Superior Court Probation Division, Patterson, NJ); Comprehensive Intensive Aftercare for Incarcerated African American Youth (Louisiana Department of Public Safety and Corrections, Baton Rouge, LA); Interventions to Reduce Disproportionate Minority Confinement (Washoe Tribe of Nevada and California, Gardnerville, NV); Disproportionate Minority Confinement (Pima County Juvenile Court Center, Tucson, AZ); Community Alternatives to Detention (Chatham-Savannah Youth Futures Authority, Savannah, GA); Disproportionate Minority Confinement (Wayne County Neighborhood Legal Services, Detroit, MI); Interventions to Reduce Disproportionate Minority Confinement (Project Heavy West, Los Angeles, CA); and Disproportionate Minority Confinement: A Time for Change (American Correctional Association, Landover, MD).

⁸(c)(3) of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended.

Summary of State Compliance With DMC Core Requirement¹ as of December 1997

- ◆ States that have completed the identification and assessment phases and are implementing the intervention phase:

Alaska	Kansas	North Dakota
Arizona	Maryland	Ohio
Arkansas	Massachusetts	Oklahoma
California	Michigan	Oregon
Colorado	Minnesota	Pennsylvania
Connecticut	Mississippi	Rhode Island
Florida	Missouri	South Carolina
Georgia	Montana	Tennessee
Hawaii	Nevada	Texas
Idaho	New Jersey	Virginia
Illinois	New Mexico	Washington
Indiana	New York	Wisconsin
Iowa	North Carolina	Utah

- ◆ States that have completed the identification and assessment phases and are formulating a time-limited plan of action for completing the intervention phase:

Alabama
South Dakota
West Virginia

- ◆ States (and the District of Columbia) that have completed the identification phase, submitted a time-limited plan of action for the assessment phase, and agreed to submit a time-limited plan for addressing the intervention phase:

Delaware
District of Columbia
Louisiana
Nebraska

- ◆ Territories that have completed the identification phase (it has been determined that minority juveniles are not disproportionately arrested or detained in the following territories):

American Samoa
Guam
Northern Mariana Islands
Republic of Palau
Virgin Islands

- ◆ States that have completed the identification phase and are exempt from the DMC requirement because the minority juvenile population in the State does not exceed 1 percent of the total juvenile population:

Maine
Vermont

- ◆ State that has now reached 1 percent minority population (statewide) and will begin conducting the identification phase:

New Hampshire

- ◆ Territory that is exempt from complying with the DMC requirement (as it has been exempted by the U.S. Census Bureau from reporting racial statistics due to the homogeneity of the population):

Puerto Rico

- ◆ States that were not participating in the Formula Grants Program in FY 1997:

Kentucky
Wyoming

¹Pursuant to Section 31.303(f) of the OJJDP Formula Grants Regulation (28 C.F.R. Part 31)

In the at-risk population (ages 10 to 17

The subcommittee convened local city-based organizations serving juveniles along with Dauphin County Juvenile Probation, the Harrisburg Bureau of Police, the Harrisburg School District, and other community representatives to discuss the problem.

In 1991, PCCD provided subgrant funds to initiate five prevention and intervention programs in Harrisburg for a period of 30 months:

- ◆ **The Business Entrepreneur Club.** This program helps young minority females learn work and life skills.
- ◆ **Targeted Outreach.** This program helps identify and recruit minority youth within its service area to take advantage of the educational, physical, social, and vocational programs available through the Boys & Girls Club of Harrisburg.
- ◆ **Positive Choice.** This program, previously known as Teens Together, provides minority juveniles with tutoring, homework assistance, and special classes with speakers who address topics of interest and also helps youth make positive choices for their future.
- ◆ **Connect.** This program, now part of the Boys & Girls Club, prevents youth from dropping out of school by improving school attendance and academic achievement and addressing other social and familial needs.
- ◆ **Hispanic Center After-School Program.** This program helps at-risk Hispanic students improve their school performance, reducing the rate of school failure and dropping out among Hispanic youth.

The community-based organizations of Dauphin County continued to meet monthly with the directors and staff of the funded programs. Through these repeated interactions, and as the group became aware of the advantages of working together, the Youth Enhancement Services (YES) coalition was formally established in 1993. PCCD, based on a recommendation of JAC, funded YES' executive director position. Despite a sometimes fluid membership, the coalition model has continued to encourage the networking of resources and support services and has successfully driven the local planning process. A subsequent evaluation showed that these community-based DMC programs achieved levels of service provision and funding enhancement that would not have been possible without the YES coalition. For example, after the PCCD seed money expired in March 1994, the programs collectively increased their funding level by 2½ times the original funding by expanding their funding sources and contracting with county and State youth services agencies, such as Dauphin County Children and Youth Services (Clouser, 1994).

Moreover, the DMC community assessment evaluation information was utilized extensively for the development of Dauphin County's application for a grant under the JJDP Act's Title V Community Prevention Grants Program. Through the Title V Program, which assesses risks and resources in the community, school, family, and personal domains, Dauphin County developed a delinquency and violence prevention program based on the Communities That Care (CTC) process in the same neighborhoods as the minority programs, thus expanding and enhancing the prevention efforts in targeted areas with a high

concentration of minorities. The Dauphin County CTC program includes economic empowerment, family support, community mobilization against violence and drugs, and youth advisory council components.

Target Area #2— Philadelphia

After gaining experience with the coalition model in Dauphin County, the JAC subcommittee identified a second target area in 1992. Based on the original data analysis, which identified Philadelphia as having the highest number and percentage of minority juvenile arrests statewide (65.9 percent), further analysis of data from all 23 police districts was conducted to identify the police district in which the DMC effort could have the greatest possible impact. The 25th Police District was chosen because of its high number of juvenile offenses, high rate of juvenile crime per 100,000 population (the total number of offenses divided by the total juvenile population), high percentage of drug-related offenses, and diverse racial population (40 percent African-American, 35 percent Hispanic, 23 percent white, and 2 percent Asian-American).¹⁰ Like Dauphin County's coalition model, the formative meeting of the Philadelphia coalition involved police; probation officers; school personnel; city, State, and Federal representatives; and citywide youth-serving agencies. This group, now known as the East Division Coalition, has held monthly meetings since 1992. A director was hired in 1994 with seed subgrant funds provided by PCCD per JAC's recommendation.

Programs implemented in Philadelphia include:

- ◆ **Dreams of Tomorrow.** This program provides educational and social support to minority juveniles who have had or are at risk of having minor involvement with the juvenile justice system.
- ◆ **Project Youthlead.** This project helps minority juveniles develop and attain positive goals for their future.
- ◆ **Checkmate.** Checkmate decreases the delinquency rate and increases the level of school retention and success among targeted youth through life skills workshops, tutoring and homework



¹⁰ Although there are 23 police districts in Philadelphia, some police districts have maintained their numerical designations from a time when there were more than 23 districts in the city.

assistance, physical fitness and sports, community service projects, and monthly parent group meetings.

- ◆ **Youth Self-Empowerment Project.** This project empowers youth to lead drug-free, crime-free, peaceful, and productive lives through training, tutoring, community service, recreational activities, and special outings.
- ◆ **Student Anti-Violence Education (SAVE).** SAVE focuses on preadolescents by offering conflict resolution and impulse control training for juveniles and adults in addition to positive discipline strategies.
- ◆ **Truancy and Dropout Prevention Project.** This program provides staff intervention and family support in working with schools and courts.

Encouraged by the success of these programs and the effectiveness of the East Division Coalition, the Philadelphia Department of Human Services has assumed the responsibility of providing funding for these programs.

Target Area #3—Allegheny County

In 1995, a similar process to address issues began in Allegheny County, the third target area. A local analysis of minority crime and an identification of community-based youth and family programs were completed in 1995. Minority neighborhoods in and adjacent to the east end of Pittsburgh were identified as having high numbers of minority juvenile arrests and were selected as the focus in Allegheny County. This focus was affirmed by the Allegheny County Youth Crime Prevention Council's representatives from the Pittsburgh mayor's office, the Allegheny County Human Services Department, and the U.S. Attorney for the western region of the State. The Allegheny County Youth Crime Prevention Council serves as the coordinating body for prevention and intervention programs, which include both the Title V Delinquency Prevention/CTC and DMC programs. Additionally, across the State, 10 of the 14 Title V/CTC sites (including 2 in Allegheny County) focus on minority neighborhoods, thus beginning prevention work at an early stage in the lives of at-risk children.

Three DMC programs began in Allegheny County in April 1996:

Great Start Program. Great Start provides juveniles with basic skills training, participatory sports, part-time employ-



ment, educational support, career guidance, socialization, and cultural enrichment.

- ◆ **Project Africa and Operation Hammer.** This program offers tutoring, mentoring, community services (e.g., gardening and trash removal), job readiness assistance, nonviolent conflict resolution skills training, healthy recreation, and a youth crime prevention program with community police.
- ◆ **Targeted School-Based Outreach Worker's Program.** This program offers life skills classes, tutoring, job readiness assistance, job referrals, counseling, pregnancy prevention information, recreational activities, and educational trips.

After considerable negotiation among the programs, Allegheny County's Youth Coalition of Western Pennsylvania was formed and the position of director was funded in July 1996 through the same mechanism as in the first two target areas. Subsequently, the coalition decided to use a consultant rather than a director to assist with program development and support. The 30 months of DMC funding will be completed in October 1998.

Target Area #4 (A New Direction)—Lehigh and Northampton Counties

Based on a review of State DMC data, the Minority Confinement Subcommittee is exploring the development of community-

based minority prevention and intervention programs serving primarily Hispanic youth in the Lehigh Valley (Lehigh and Northampton Counties). These two counties are among the top four in reported juvenile arrests of Hispanic youth: 753 arrests in Lehigh County and 483 arrests in Northampton County. Lehigh and Northampton Counties are located in an area of the State that has not previously been served by this program. The director of the Governor's Advisory Commission on Latino Affairs has joined the subcommittee to ensure that the perspectives of the Latino community are taken into consideration and to help identify existing programs in the focus area. The subcommittee anticipates holding meetings with Latino service providers and representatives from the police department, probation department, and local schools. A significant portion of the State's 1998 allocation of Formula Grants Program funds for DMC will be subgranted to support programs developed in the Lehigh Valley.

Evaluation of DMC Efforts in the Target Areas

An integral element of Pennsylvania's approach is the incorporation of evaluation from the very beginning. In the first year of implementation, the National Center for Juvenile Justice Training and Research (the Center) at Shippensburg State University was contracted to perform the first-year evaluation of the Harrisburg programs. Through this evaluation, the Center found that of the 200 adolescent clients referred to the coalition during its first year of operation, 169 satisfied a minimum attendance criterion. While 50 percent of the coalition clients had prior involvement with the juvenile justice system, just 20 percent were referred to juvenile probation subsequent to their involvement with the coalition. Further, involvement in coalition programs was associated with significantly lower levels of truancy and suspension and with slight improvements in academic performance.

As the model expanded to Philadelphia in the second year, a more comprehensive study was commissioned in 1993 through Temple University to evaluate nine funded programs in the two minority overrepresentation initiatives (five in Harrisburg and four in Philadelphia).¹¹ The

¹¹ SAVE and the Truancy and Dropout Prevention project, the other two Philadelphia programs, started more recently and were not included in the Temple evaluation.

evaluation consisted of three parts: a community assessment of the target which included social, economic, crime indicators; an evaluability assessment (i.e., ability to be evaluated) and process evaluation, which included clarification of program goals, activities, and objectives and an examination of service delivery; and an outcome evaluation of client performance both during and after participation in the programs through a review of police, juvenile justice, and school records from 1992 to 1995. The evaluation strategy is an interactive model in that the programs and coalition receive feedback from the evaluators regarding areas of success and difficulty, which is used on an ongoing basis to improve the programs. For example, certain program implementation issues were noted as impeding successful intervention and valid evaluation (Welsh, Harris, and Jenkins, 1995). Ways to rectify these issues, rendering the programs more effective

and more evaluable, were subsequently suggested (see table). In terms of outcome evaluation, the most positive outcome reported was for the 1992-93 Harrisburg target site. The rate of recidivism over a 3-year period for the high-attendance group (25.8 percent) was impressive, especially considering that nearly half of the clients had arrests prior to their referral. In contrast, the low-attendance control group had a recidivism rate of 53 percent for the same period.

The Training and Education Component

To provide relevant information on DMC to juvenile justice practitioners, youth workers, public officials, and the general public, a number of training and educational opportunities have been developed that create awareness of the issue and focus attention on possible solutions. The Juvenile Court Judges' Commission (JCJC) offers periodic training for

judges and probation staff on managing cultural diversity. In 1992, JCJC's annual statewide training conference had as its theme Crime, Kids, and Color: The Issue of Race and Juvenile Justice. The first DMC-related conference, Crisis of Minority Overrepresentation, was held in Philadelphia in January 1993. A second conference, Promising Approaches: Prevention and Intervention Services for Minority Youth, was held in Harrisburg in May 1997. This was recently followed by a third conference, Promising Approaches II: Building Blocks for Prevention and Intervention Services for Minority Youth, in Pittsburgh in May 1998. The goal of the most recent conferences was to highlight the proactive approach Pennsylvania has taken on the DMC issue, focus on effective use of media, and feature both the prevention and intervention programs and coalitions funded by PCCD and the many other State programs that have an impact on minority delinquency.

Program Implementation Issues That Affect Program Effectiveness and Evaluability*

Program Implementation Issues	Suggested Actions
Client selection procedure	Clearly define characteristics of intended clients and regularly monitor client population.
Client participation and completion of program	Develop incentives for participation. Provide outreach to clients. Provide an interesting and challenging array of services.
Staffing levels and staff turnover	Increase program resources. Provide ongoing staff training and development. Realistically address staff qualifications.
Information and recordkeeping	Provide program resources. Emphasize importance of accurate, complete data to staff.
Family component	Provide tangible incentives for family involvement. Conduct parent support groups.
Educational component	Provide tutoring and learning opportunities on a daily basis. Use volunteers. Provide positive feedback to students and volunteers. Work with the neighborhood school system.
Volunteers/mentors	Recruit, screen, train, monitor, and support.
Program structure	Engage in goal-oriented activities that are implemented in a consistent manner at a regular time.
Adequacy of physical facilities	Send positive messages through pleasant, clean, and well-maintained physical space.
Monitoring by program director/ executive director	Employ hands-on directors. Engage in a continuous process of growth and self-evaluation. Welcome criticism in addition to positive feedback.

*Based on information found in Welsh, W.N., Harris, P.W., and Jenkins, P. 1995. *Evaluation of Minority Overrepresentation Programs in Pennsylvania: Evaluability Assessment and Process Evaluation. Report #2*. Philadelphia, PA: Department of Criminal Justice, Temple University.



Pennsylvania's Strengths

The strengths of the Pennsylvania process in addressing DMC follow.

The active support of the Governor, PCCD, and JAC. Governor Tom Ridge has provided strong support for juvenile justice and children's issues. In 1997, the Governor met with representatives of JAC, including Daniel Elby, chair of the Minority Confinement Subcommittee, to discuss recommendations to strengthen the juvenile justice system and prevent delinquency. The Governor has acted on six of these recommendations, including the creation of a delinquency prevention policy specialist position in PCCD. This individual will assist with the coordination of State and local prevention initiatives and oversee the DMC and Title V/CTC programs. From 1991 to 1997, PCCD and JAC have awarded nearly \$4 million to support the DMC Initiative. For 1998, \$500,000 has been reserved to continue support for the initiative.

The effectiveness of the subcommittee. JAC's Minority Confinement Subcommittee was established to ensure that the issue of minority overrepresentation would receive adequate attention and would not become lost among JAC's many responsibilities. The subcommittee has been meeting three to four times a year since 1990 and has set up quarterly meetings for 1998. Nine of the ten subcommittee members are minorities (eight African-Americans and one Hispanic) with rich experience in working with minority juveniles. Their strong dedication and expertise are important to the subcommittee's effectiveness. The subcommittee

has further benefited from the strong and continuous leadership of its chair, Daniel Elby, the executive director of Alternative Rehabilitation Communities, Inc. Moreover, this subcommittee provides regular DMC reports (both verbal and written) to both JAC and PCCD to keep them advised of subcommittee activities and program implementation. These reports serve as information dissemination tools and help maintain and promote the State's focus on the DMC issue. Through the JCJC, cultural diversity training is offered to court staff and minorities are actively recruited for court positions. In addition, a staff position within PCCD provides critical support to the subcommittee, supports program planning and development, and provides technical assistance under the DMC Initiative.

The utility of the coalition model. The coalition model encourages networking and resource consolidation. This model requires dedication by a wide range of concerned people and organizations over an extended time period. Because of the sheer number of individuals and organizations involved, initiating and sustaining coordination and momentum are inherently challenging. The importance of having the police, schools, probation, and community-based agencies involved in the coalition's decisionmaking cannot be overemphasized. Pennsylvania's effort in forming coalitions in its first three targeted DMC areas has proven effective in breaking down barriers among agencies and securing local funding. Funding staff positions for the coalitions proved critical to maintaining and enhancing these community-based groups.

The data-driven and data-based approach and ongoing data analysis. Pennsylvania's need-based selection of DMC sites was determined by total arrest rates, size of the minority population, and the overrepresentation of minorities in arrest rates. In addition, using data from the Pennsylvania State Police, the JCJC, the State Data Center, and the National Center for Juvenile Justice, Pennsylvania analyzes minority overrepresentation annually to determine changes that have occurred in disproportionate minority processing in the juvenile justice system at arrest, detention, prosecution, adjudication, transfer to criminal court, and State and local confinement. These annual analyses are conducted for the State as a whole and for the 18 counties in which 96 percent of the State's total minority juvenile population resides. This ongoing monitoring helps guide the actions of the subcommittee and JAC and provides valuable feedback regarding the impact of Pennsylvania's program efforts. For example, the State's 1995 DMC data showed encouraging signs of progress as compared with its 1988 data. Although the minority juvenile population who are at risk increased from 12 percent in 1988 to 13 percent in 1995, minority juveniles confined in secure detention and correctional facilities decreased from 73 percent to 66 percent and minority juvenile arrests decreased from 30 percent to 29 percent. Minority juveniles transferred to adult court, however, increased from 71 percent in 1988 to 72 percent in 1995.

The systematic and stepwise approach. Instead of tackling the DMC issue throughout the State all at once, Pennsylvania has adopted the strategy of first targeting jurisdictions or communities with the greatest DMC concerns (Harrisburg in Dauphin County, the 25th Police District in Philadelphia, and Allegheny County, in that order, plus Lehigh and Northampton counties for Hispanic juveniles). Within each of the first two target areas, planning and program funding were facilitated by a local coalition of community organizations brought together to address the DMC problem. As Harrisburg and Philadelphia began the evaluation phase, Pennsylvania formed a local coalition and planning process in Allegheny County, the third target area, which is expected to benefit from the cumulative experience of the earlier two.

The emphasis on prevention and intervention. In Pennsylvania, presentation of minorities in the juvenile justice system begins at arrest—minorities are arrested at a rate two times their proportion in the general population. Overrepresentation more than doubles at the detention stage and increases slightly at the point of commitment to juvenile corrections. More than five times as many minority juveniles are transferred to criminal court compared with their numbers in the general population (Center for Juvenile Justice Training and Research, 1989 and 1995). Because the difference between minority and nonminority juvenile representation is amplified at each decision point from early to later stages, Pennsylvania has elected prevention and early intervention as its primary DMC strategy. All five DMC projects in Harrisburg, six in Philadelphia, and three in Allegheny County are designed to reduce DMC at the front end of the juvenile justice system. Reducing overrepresentation in the early stages is expected to further reduce minority representation at later stages in the system. It is important to note that, based on an early and deliberate subcommittee decision, all of these projects are located in established, neighborhood-based organizations with a history of working with at-risk minority youth.

The inclusion of evaluation in the implementation phase. All too frequently, DMC programs and initiatives have neglected to build in an evaluation component. The Temple evaluation is an interactive approach, which means that the evaluators work with the programs during the course of the study to identify ongoing problems and to suggest options

for change. The programs address issues as they arise rather than waiting until the evaluation is complete. Evaluation assessments of process and program content are ongoing. The results are used to design valid outcome measures for each individual program and for the initiative as a whole. However, the overall goal of reducing the number of minority youth in the juvenile justice system and the extent to which the programs meet their other objectives, such as improving educational performance, employment, and interpersonal relationship skills, are addressed for all programs.

Conclusion

Because of multiple factors that are unique to each State, OJJDP does not specify a process or strategy that States must use to address DMC. Instead, OJJDP outlines the phases that the States need to move through to address the DMC core requirement and offers sample intervention strategies for State consideration.¹² However, the principles that emerge from the Pennsylvania process, such as stable leadership by the JAC subcommittee, data-based and systematic strategies, broad community involvement and coalition building, significant financial commitment from the advisory committee, strong support from the State's top officials, and investment in evaluation that, in turn, is used to strengthen prevention and inter-

¹²For example, Pennsylvania's intervention strategies are primarily programmatic in nature. Future DMC national updates may feature different intervention strategies employed by other States, such as legislative, administrative, or policy changes in juvenile justice system processing.

vention projects in a continuing and ongoing manner, are applicable to all settings. States' efforts to reduce DMC are likely to be greatly facilitated if they can be guided by these principles. OJJDP resources will continue to be available to provide technical assistance to State and local governments working to address DMC.

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For Further Information

JJDP Formula Grants Program

Heidi Hsia, DMC Coordinator
State Relations and Assistance Division
Office of Juvenile Justice and Delinquency Prevention
810 Seventh Street NW.
Washington, DC 20531
202-616-3667
202-307-2819 (Fax)
E-Mail: hsiah@ojp.usdoj.gov

Evaluation of the DMC Initiative (Five DMC Pilot States)

Eric Peterson, Social Science Specialist
Research and Program Development Division
Office of Juvenile Justice and Delinquency Prevention
810 Seventh Street NW.
Washington, DC 20531
202-616-3648
202-307-2819 (Fax)
E-Mail: eric@ojp.usdoj.gov

National Innovations to Reduce DMC

Douglas Dodge, Director
Special Emphasis Division
Office of Juvenile Justice and Delinquency Prevention
810 Seventh Street NW.
Washington, DC 20531
202-616-3652
202-307-2819 (Fax)
E-Mail: doug@ojp.usdoj.gov

National DMC Training, Technical Assistance, and Information Dissemination

Gail Olezene, Program Specialist
Training and Technical Assistance Division
Office of Juvenile Justice and Delinquency Prevention
810 Seventh Street NW.
Washington, DC 20531
202-305-9234
202-307-2819 (Fax)
E-Mail: olezenec@ojp.usdoj.gov

Directory of JJDP State Contacts

State Relations and Assistance Division
Office of Juvenile Justice and Delinquency Prevention
810 Seventh Street NW.
Washington, DC 20531
202-307-5924
202-307-2819 (Fax)

Pennsylvania DMC Initiatives State Contract

Mary Ann Rhoads, Delinquency Prevention Specialist
Pennsylvania Commission on Crime and Delinquency
P.O. Box 1167
Federal Square
Harrisburg, PA 17108-1167
717-787-8559
717-783-7713 (Fax)
E-Mail: rhoads@pccd.state.pa.us

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**RACIAL DISPARITIES IN OFFICIAL ASSESSMENTS
OF JUVENILE OFFENDERS:
ATTRIBUTIONAL STEREOTYPES AS MEDIATING MECHANISMS**

**GEORGE S. BRIDGES
SARA STEEN**

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RACIAL DISPARITIES IN OFFICIAL ASSESSMENTS OF JUVENILE OFFENDERS: ATTRIBUTIONAL STEREOTYPES AS MEDIATING MECHANISMS*

George S. Bridges
University of Washington

Sara Steen
Vanderbilt University

Despite extensive sociological research, little evidence exists on how court officials' perceptions of offenders influence their classification, assessment, and final recommendations for punishment. We examine the links among these factors, focusing specifically on the race of the accused. Our analysis combines information from probation officers' written accounts of juvenile offenders and their crimes and court records about the offenders. We find pronounced differences in officers' attributions about the causes of crime by white versus minority youths. Further, these differences contribute significantly to differential assessments of the risk of reoffending and to sentence recommendations, even after adjusting for legally relevant case and offender characteristics. These results suggest that differential attributions about the causes of crime act as a mediating factor between race and sentencing recommendations.

How do professionals within organizations perceive and classify the clients they encounter? Professionals' perceptions help explain organizational outcomes, linking decisions about clients to professionals' diagnoses of their problems and needs (Abbott 1988). Perceptions shape diagnostic and treatment processes by forming the base of information professionals use to classify clients into meaningful categories (Farrell and Swigert 1978; Scull 1975; Sudnow 1965). Because the classification of clients sorts persons perceived as having similar diagnoses and requiring similar outcomes or dispositions, differential perceptions of individuals and groups of clients will yield different diagnoses and treatments (Heimer and Staffen 1995). Further, *inequalities* in professionals' perceptions and diagnoses of clients may produce inequalities in treatment.

Sociological accounts of inequalities in the treatment of persons by organizations are widespread. Studies of racial biases in juvenile courts over the past 30 years have examined whether court officials treat minority

youth more severely than white youth (Aday 1986; Arnold 1971; Bishop and Frazier 1988; Bortner and Reed 1985; Carter and Wilkins 1970; Fagan, Slaughter, and Hartstone 1987; Fagan, Forst, and Vivona 1987; Horowitz and Pottieger 1991; Piliavin and Briar 1964). Although such studies repeatedly raise the specter of racial discrimination in the courts, few identify the mechanisms by which the accused's race influences official assessments of youths and their cases.¹ A critical but overlooked concern is how court officials' perceptions of juvenile offenders contribute to racial differences in legal dispositions. Differential perceptions of youth and their crimes may legitimate racial disparities in official assessments of a youth's dangerousness and risk of future criminal behavior. They also may foster the differential treatment of minority and white offenders in the disposition of criminal cases.

¹ Racial bias is only one possible explanation for racial differences in sentencing. Researchers also have raised the possibility that differential access to resources (e.g., legal aid, psychiatric resources, the ability to arrange and pay for an alternative school) contributes to differential sentencing practices (Emerson 1981; Fagan, Slaughter, and Heartstone 1987; Farrell and Swigert 1978).

* Direct all correspondence to George S. Bridges, Department of Sociology, Box 353340, University of Washington Seattle, WA 98195 (bridges@u.washington.edu).

Many scholars have studied the processes by which courts designate individuals as "criminal" or "delinquent." Most argue that court officials subjectively classify offenders, differentiating between offenders according to their backgrounds and the perceived likelihood of future crime. For example, Emerson's (1969) analysis of the juvenile court reasons that:

[T]he court is largely guided by its judgments and inferences regarding the nature of the delinquent actor involved. That is, the solution to the problem—What can and what must we do with this case?—generally depends on the answer to: what kind of youth are we dealing with here? This involves a process of inquiry into the youth's moral character. (Pp. 89–90)

In classifying youth, court officials make judgments about character—a youth's attitudes, motivations, and background—that influence the outcome of legal proceedings. These judgments and the supporting arguments made in court are persuasive organizational claims about the youth, about how he or she should be treated, and about how officials justify their actions.

We study juvenile offenders and their probation officers' written accounts of the decisions made about their cases. The written accounts are organizational documents that the probation officers design using information known to them to persuade judges to follow a certain course of action (Jacobs 1990; McCleary 1978). Using narratives from these reports and other information about the offenders, we examine the links between the offender's race and the probation officer's assessments of the youth, his or her crimes, the perceived likelihood of future criminal behavior, and sentence recommendations. We explore how attributions about the causes of crime, as reflected in the written narratives, explain the race-punishment relationship.

RACE AND ATTRIBUTION IN JUVENILE JUSTICE DECISION-MAKING

Racial and ethnic stereotypes are important to understanding whites' reactions to minorities, particularly in the administration of criminal and juvenile justice. When minority offenders are stereotyped as particularly predatory or disposed to chronic criminal of-

fending, they "are seen as more villainous and therefore as deserving of more severe penalties" (Peterson and Hagan 1984:67). Sociological theories of law and deviance view such stereotypes as essential to explaining racial differences in criminal penalties. Criminals and delinquents are "emergent products" (Albonetti 1991; Cicourel 1968; Foucault 1977)—persons who are transformed by the court process into officially recognized offenders. These theories explain the legal process, particularly the disposition of criminal cases, in terms of the reactions of court officials to the perceived behavioral and status characteristics of the accused. Reasoning that court officials develop and employ mental images of offenders as they interact with them, the theories argue that these images are often based on offenders' similarities to other offenders they have dealt with in the past or to officials' personal conceptions of such offenders (Albonetti 1991; Albonetti and Hepburn 1996; Emerson 1969, 1983, 1991; Sudnow 1965).

Three issues persist about race, definitions of youth, and how criminal cases are handled. First, do court officials perceive and judge minority offenders differently than similarly situated white offenders? In criminal courts, race is a marker of social status that many scholars believe directly influences how officials evaluate the offender's case and his or her character. For example, Cicourel's (1968) analysis of juvenile courts suggests that minorities are more likely than whites to be seen as disrespectful of authority and, in particular, disrespectful of court officials. Recent analyses report similar anecdotal findings—persons of color, despite having similar offense histories, are perceived differently than whites, often as presenting images of threat and danger (Bridges, Crutchfield and Simpson 1987; Bridges and Conley 1995; Farrell and Swigert 1978; Tonry 1995).

Few studies have analyzed officials' perceptions of youths or their accounts of decisions on juvenile offenders (but see Spohn 1994 for research on perceptual processes as they relate to adult offenders). While studies of adult offenders suggest that court officials use the offender's attitude as an aggravating or mitigating factor and adjust their sentencing recommendations accordingly, the research does not identify a relationship be-

tween race and attitudinal typifications (Ulmer and Kramer 1996). Most research offers anecdotes with no extensive comparison of racial differences in officials' perceptions or accounts. Further, none of the studies examines whether racial differences in assessments of youth are mediated by differences in alleged crimes. None of the studies adjusts for differences in either the severity of the presenting offense or in the offenders' prior offense history in examining judgments of the "good" or "bad" character of youth (but see Bortner 1982; Drass and Spencer 1987). Thus, it is impossible to ascertain whether race is related to judgments about youths independent of the characteristics of their criminal cases or criminal histories.

Theories of social cognition provide a conceptual framework for understanding how officials assess and describe youth and their crimes. Attribution theory explores the process through which individuals "arrive at causal explanations for events" (Fiske and Taylor 1991:23). In making attributions, persons typically assess whether factors perceived to be within an individual—*internal characteristics*—or within the environment—*external characteristics*—are responsible for how the individual acts (Heider 1958). Internal factors include aspects of personal disposition and attitudes.² External factors include situational factors, both immediate and distant, surrounding an act (Weiner et al. 1972).³ Individuals whose acts are viewed as stemming from external factors are generally held less responsible than those

whose acts are viewed as stemming from internal factors (Rotter 1966).

Analyses of official decision-making routinely incorporate external factors (e.g., family structure, substance abuse, associations with criminal others), while neglecting internal factors. Nevertheless, internal factors may be crucial in understanding officials' judgments about offenders. For example, probation officers are more likely to perceive offenders who are disrespectful of their victims, the law, or the legal process as more responsible for their offenses. Further, these offenders are then perceived as having the highest risks of reoffending (Albonetti 1991; Drass and Spencer 1987; Emerson 1969; Spencer 1983). *To the extent that court officials perceive minority offenders differently than whites, they may be more likely to perceive minorities' crimes as caused by internal forces and crimes committed by whites as caused by external forces.*

Second, do officials perceive minorities as more likely than white youths to commit future crimes? Marxist theories of law and social control argue that economic and political elites perceive racial and ethnic minorities as problem populations that threaten the social order (Blalock 1967; Bridges and Crutchfield 1988; Bridges and Myers 1994; Garland 1990; Liska 1994; Spitzer 1975). Courts and other legal institutions may punish minority offenders more severely than whites because they perceive minorities as more threatening, and therefore more deserving of punishment and control.

Despite the importance of perceived threat to sociological explanations of legal deci-

² Some youths, particularly middle-class youths, may have their delinquency explained in psychological terms, whereas such explanations are rarely offered to account for the conduct of lower-class children. This suggests that internal attributions locate a youth's problems in his or her "bad character" and are a product of complex psychological dynamics. We found, however, little evidence supporting this line of reasoning. Most of the narratives made little or no reference to complex psychological explanations of behavior. Instead, they typically referred to basic attitudinal problems such as a lack of remorse or being disrespectful to authority. Other references were made to social forces in the environment that were clearly external to the individual. Thus, there is no way to assess this claim with our data.

³ Attribution theory's emphasis on responsibility and the causation of behavior makes it an ap-

propriate theory for examining probation decisions, which combine assessments of prior conduct with predictions of future conduct. These assessments involve diagnostic attributions about the causes of crime and criminal behavior (Carroll and Burke 1990). Many researchers have attempted to identify salient factors in legal decision-making (e.g., the offender's prior criminal record, the characteristics of the presenting offense, the offender's age, race, and sex), but few have examined this process from an attributional perspective, using the concept of locus of control (internal causes versus external causes) as a central concept. Most studies suggest that attributions about control play an important role in predicting the risk of reoffending (Carroll and Payne 1977).

sion-making, few studies have examined how officials' assessments of offenders or their crimes influence their perceptions of threat. Indeed, most studies focus on legal outcomes (e.g., whether accused youths are detained, prosecuted, or sentenced to confinement) without regard to the perceptual processes involved. Although simulations of decision-making have analyzed how characteristics of the accused influence officials' perceptions of threat, no studies have examined actual cases (but see Bortner 1982; Drass and Spencer 1987). *To the extent that officials are more likely to attribute minority crimes to internal causes and white crimes to external causes, they may be more likely to view minorities as culpable and prone to committing future crimes. Thus, differential attributions about the causes of crime by minorities and whites may contribute directly to differential assessments of offender dangerousness and risk.*

Third, although anecdotal evidence suggests that officials view minority offenders differently than white offenders and that such attributions play a pivotal role in case dispositions, scholars disagree about the causal links between race, officials' assessments of youth, and recommended punishments. Racial differences in officials' recommendations may occur in part because minorities are more frequently involved in serious crimes and have more extensive criminal histories (Blumstein 1982; Carter and Wilkins 1970; Horwitz and Wasserman 1980; Langan 1985; Tonry 1995). Differences in perceived threat presented by white and minority offenders and differences in recommended sentences may occur because officials' perceptions are based primarily on the differences between minority and white youths in behaviors believed to predict future criminal acts (e.g., prior offenses). While attributions about youth and their crimes may contribute to perceived differences in threat and in recommended punishments, many researchers assume (often implicitly) that these attributions will be much less influential than factors such as the severity of the crime or the accused's prior criminal history.

In contrast, other scholars reason that differential punishments are closely linked to officials' perceptions and diagnoses of the offender and his or her crime. Officials who

judge minority offenders as having higher-than-average risks of reoffending do so in large part because they view minorities as more prone to criminal behavior, regardless of the severity of their offenses or backgrounds in crime (Bridges, Crutchfield, and Simpson 1987). According to this reasoning, attributions may be as influential or even more influential than case-related characteristics (Albonetti 1991). Thus, officials' judgments about the causes of crime along with relevant characteristics of a youth's case and criminal history will influence assessments of risk and recommended punishments. *If perceptions and attributions play a critical role in legal classification and decision-making, then differential attributions should contribute directly to racial differences in perceived risk and recommended punishments, above and beyond the influence of legally relevant case characteristics.*

THE STUDY

The primary sources of information used in this study are 233 narrative reports written by probation officers in three counties in a western state. These reports represent a subsample of reports drawn from a sample of juvenile court cases processed through the courts between 1990 and 1991 (Bridges et al. 1993).⁴ Probation officers write these narra-

⁴ The original study sample for the three counties included 1,300 cases. The subsample used in the present study was drawn as an interval sample—every fourth case was drawn from the larger sample for two counties, and every fifth case from the third county. The final subsample included 277 cases (23 cases were not available because they were in use by probation staff at the time of the sampling). The present study compares African American and white juveniles only, and therefore it is limited to 233 cases—170 whites and 63 blacks. The subsample overrepresents defendants with case files that included written documentation about the youths and their families. These cases tend to have higher proportions of minorities and juveniles with extensive criminal histories than occur in the population of all youths processed through the courts. To adjust for the possible effects of sampling biases associated with these differences, the data were reanalyzed using sampling weights. The weighted analyses yielded findings similar to those reported here.

tives for the court at disposition (typically following conviction). The reports offer summary information about a youth's social history and typically conclude with the probation officer's assessment of the likelihood of criminal recidivism and recommendations for sentencing. In each case, the reports are based on the probation officer's interviews with the youth, with his or her family, and on written reports such as school records. The narratives range in length from 2 to 12 single-spaced typed pages of descriptive and evaluative text.

The current study draws from the narratives to explore the relationship between race; officials' characterizations of youths, their crimes, and the causes of their crimes; officials' assessments of the threat of future crime by youths; and officials' sentence recommendations. The narratives play a pivotal role in juvenile justice decision-making, and are therefore prepared according to specific procedures taught in a training curriculum that probation officers are required to attend. The training manual used by officers in preparing narrative assessments specifies that evaluations of youths and the management of their cases should focus on youths' risk of reoffending and on factors in the offender's background influencing his or her criminal behavior:

The juvenile justice worker is . . . responsible for providing the community with protection from the offender . . . this requires an effort to determine the RISK potential presented by the offender. . . .

It is the goal [of the assessment] to identify the offender's strengths and weaknesses . . . to identify patterns of offense behavior and their early warning signals, and to . . . accurately identify the areas that need adjustment if the offender is to change his or her behavior. (Criminal Justice Training Commission 1995:28, 39, emphasis in original)

One senior probation officer, whose reports were included in the study, described how the court evaluates the narratives: "Typically, judges look for 'red flags' . . . things that say a kid is going to reoffend . . . or whether things are okay for the child, like whether they are not doing well at home."

We drew demographic information and legal histories from case files on all juvenile offenders. Demographic variables included

are the juvenile's sex, age, and race. We compare the cases involving black youths with those involving white youths—youths of other races were excluded from the analyses due to small numbers.⁵ Legal information collected from case files included the severity of the presenting offense in terms of interpersonal violence, whether the youth was detained prior to adjudication, and the youth's number of prior criminal convictions. These factors influence the outcomes of juvenile justice processing decisions (Bishop and Frazier 1988; Drass and Spencer 1987).

Equally important are aspects of social context. The typification of deviants may vary by context, with professionals more likely to label clients as deviant and sanction them severely in those courts and communities where the emphasis is on punishment and disintegration (Braithwaite 1989; Heimer and Staffen 1995). In contrast, professionals may be less likely to recommend severe sanctions in those contexts that emphasize rehabilitation or reintegration. Because the counties from which the cases were sampled varied in terms of the professional ideology of the court—one of the counties emphasized a rehabilitative model more than the others—we also collected information on contextual factors, including the identity of the court, the identity of the probation officer who prepared the report, and the probation officer's race. County and the name of the probation officer were drawn directly from the reports themselves; probation officer's race was determined by contacting each probation department.

Attributions about Youths and Their Crimes

We relied heavily on previous ethnographic research to identify attributions about the causes of youths' crime that juvenile court officials use in decision-making (Cicourel 1968; Emerson 1969). Categories of attributions made about youths' crimes were adopted from Emerson's (1969) analysis of the juvenile court. For each major type of attribution, we developed multiple indicators

⁵ Of the 277 cases sampled, 8 were Hispanics, 12 Native Americans, 18 Asian Americans, and 6 were other races or "race unknown."

for coding from the court narratives. In analyzing the content of the narratives, each indicator was coded +1 if the probation officer made explicit reference to it (e.g., "Joey's friends are delinquent"), -1 if the probation officer made explicit reference to its absence (e.g., "Joey's friends are not delinquent"), or 0 if the indicator was not referenced in the report. Discussions with probation officers support this general coding scheme. Because report narratives varied in the number and types of factors identified as causes, probation officers were asked about how reports with little or no information on factors causing delinquency should be interpreted. One officer referred to the absence of "descriptors or characterizations of youth" stating:

In these cases there will be no red flags [negative characteristics] and no real positive characteristics either. If there are no positive descriptors or characterizations either then it means that there is little about the child that's outstanding . . . that gives cause for alarm, . . . or few good things to believe that he or she will be successful with continued supervision. . . . Sometimes I get the sense [in these cases] that the child just truly went braindead for a day, did something stupid, and has done nothing prior to this offense and will not commit future crimes. Sometimes kids will be kids. . . .

Thus, the absence of information about a particular indicator was coded as 0, indicating that the attribution was neutral (i.e., that it was not considered an important factor in the youth's current or future offending).

Previous analyses of the juvenile court distinguish between attributions about the youth's immediate social environment and those about the youth's personality (Cicourel 1968; Emerson 1969). The first type of attributions entails *environmental influences* that officials believe cause delinquency and crime, which, if not addressed through interventions or treatment, are expected to contribute to subsequent criminal behavior. The second type of attributions points toward a delinquent or criminal *personality*. To distinguish between these two types of attributions, two summed scores were employed in the analysis. An eight-item summed score of *negative external attributions* was derived from indicators of factors in the youth's immediate social environment ("peers are de-

linquent," "peers are a negative influence," "dysfunctional family," "lots of family conflict," "poor grades," "poor attendance at school," "uses drugs and/or alcohol," and "has drug/alcohol problems"). A five-item *negative internal attributions* summed score was derived from those indicators referring to the youth's personality as reflected in his or her attitudes and cooperativeness with court officials ("does not admit guilt," "feels no remorse," "does not take offense seriously," "uncooperative with current probation officer," and "uncooperative in past encounters"). The scores capture the number and direction (positive or negative) of attributions made about the youths by the probation officers. The reliabilities of both scores were high ($\alpha = .72$ for the negative external attributions and $.74$ for negative internal attributions).

Threat of Future Crime

We also examined whether attributions about youths and their crimes are related to official assessments that youths will reoffend. Such assessments are the culmination of the probation officers' experiences with the youths, and along with the probation officers' sentencing recommendations these assessments constitute the central element of the summary section of the narrative reports. Assessments of the risk of reoffending—the perceived threat of future crime—act as a bridge between a probation officer's personal interaction with the youth and his or her sentencing recommendation. By translating the social and personal information about a youth into a judgment about her or his likelihood of reoffending, probation officers frame recommendations in probabilistic terms. Typically, probation officers in the final sections of each report assess youths in terms of their risk of reoffending. In effect, the probation officer evaluates the youth's dangerousness or threat of future crime. We coded this information on a three-point scale: 1 = "low risk," 2 = "moderate risk," and 3 = "high risk."

Sentence Recommendations

The final set of variables measured probation officers' sentencing recommendations. At the end of each report, the probation officer

made a recommendation to the court regarding the type and length of sentence the youth should receive. Typically, the recommendations were recorded in terms of the number of weeks and/or days the youth should receive under correctional supervision or confinement. The laws of the state require the presumptive sentencing of juvenile offenders—that is, types and terms of correctional supervision (i.e., sentencing guidelines) are specified by statute for each major class of offense and offender. Probation officers' sentencing recommendations typically take the form of a range of weeks and/or days corresponding to the statutory standard range or to periods and types of supervision greater than or less than the standard range.

We sought measures that would accurately reflect sentence variation across offenders and that captured important departures from the legally mandated standard ranges. Three measures of recommended sentences were constructed. First, we constructed an ordinal scale measuring the degree and direction of departure from the standard range specified by statute. If the recommended sentence was less than the mandated standard range, the variable was coded as 1. The variable was coded 2 if the recommended sentence was within the standard range but at its low end, 3 if the sentence was in the middle of the standard range, 4 if the sentence was at the high end of the standard range, and 5 if the sentence exceeded the standard range.⁶

Second, we constructed a measure of the length of sentence corresponding to the number of weeks of supervision in some form of confinement. If the probation officer recommended a range of weeks (e.g., 8 to 12 weeks) we took the mid-point of the range as the recommended sentence.

Third, we developed an "in/out" measure of confinement to a correctional institution, coding sentences of confinement to a correctional facility as +1 and any other sentence as 0. Although all the analyses were conducted using each of these measures, the analyses yielded no substantial differences in findings. Therefore, we report only results of

the analyses using the first measure.⁷ This measure is the most valid indicator of the discretion exercised by probation officers in sentencing recommendations, particularly insofar as they departed from the statutorily prescribed sentences.

Probation officers' written descriptions of youths are, in part, explanations of their recommendations and decisions about youths and their cases (Scott and Lyman 1968). As such, they are organizational claims intended to persuade judges and that reflect accepted explanations for case handling within the court. Do attributions about offenders reflect the perceptions and "diagnoses" of offenders by probation officers, or are they established legal rationales routinely offered by probation officers and accepted by juvenile court judges for justifying classification decisions? If the former, then the attributions are a critical link in the causal sequence of factors influencing sentencing outcomes. If the latter, then the attributions may play a less important role in treatment decisions. This latter possibility raises the additional question of whether the organizational norms of courts or the expectations of individual judges prescribe different explanations or rationales for different types of offenders. Some court professionals may tailor their arguments and claims to the expectations and perceived needs of individual judges, delivering rationales that produce the most desired outcomes.

Two aspects of our study suggest that the probation officers' attributions typically preceded rather than followed classification and treatment decisions. First, the state laws require presumptive sentencing of juveniles and thereby focus the attention of court officials on characteristics of the offense and offender in formulating sentencing recommendations. These laws establish a formal logic and order to the assessment process that limit the extent to which classification or sentencing may precede assessment. Second, observations and interviews of probation officers who completed the narrative reports also

⁶ Of the 233 cases, probation officers recommended higher than the standard range in 15 cases and lower than the standard range in 21 cases.

⁷ The other two measures showed significant mean differences between blacks and whites in sentences imposed, with blacks receiving more serious sentences on average than whites. Results of the additional analyses are available from the authors on request.

suggest that attribution precedes classification and treatment. Typically, classification decisions were made following careful consideration of the youth, his or her crimes, and the youth's risk of future criminal activity.⁸ None of the interviews or observations gave us reason to believe that rationales were developed following decisions about offenders or that probation officers considered individual judges' expectations or desires about case outcomes when formulating their descriptions of offenders and their crimes.

Nevertheless, dispositional decisions may precede assessment. In some instances typifications of offenders may reflect a gestalt of defendant characteristics that is used to justify a particular dispositional outcome (Maynard 1982). Although court officials clearly look to the characteristics of the offender and his or her crime as they contemplate the sentence and disposition, they may organize these characteristics according to different principles. Some may tailor their written assessment of the defendant's overall character and circumstances to the desired sentence outcome. Others may weigh each characteristic and circumstance of the defendant while making their sentence recommendation. We argue that the legal context of the state and the formal rationality associated with presumptive sentencing encourage the latter approach because of its established guidelines for determining sentence length.

ANALYSIS AND RESULTS

We examine the empirical relationships between race, attributions about minority and white offenders, probation officers' assessments of youths' risk of future crime, and final sentence recommendations. We examine three issues: Whether a youth's race is re-

lated to officials' attributions about youths (independent of other factors), whether attributions influence assessments of the risk of future crime and recommended sentences, and whether attributions mediate the relationship between an offender's race and officials' assessments of risk and recommended sentences, adjusting for the seriousness of the alleged offense and the offender's criminal history.

The analysis of probation officers' narratives reveal important differences in their attributions about white and black youths. Table 1 exhibits means by race for all variables included in the analysis. Two findings are noteworthy. First, reports on black youths were more likely to include negative *internal* attributions than reports on white youths (mean for blacks = .56 versus -.07 for whites). In contrast, reports on white youths were more likely to include negative *external* attributions than were those for black youths (mean for whites = 1.13 versus .75 for blacks). Thus, probation officers describe black and white youths differently, referring to negative personality traits for black youths and more to negative environmental influences for whites. Second, officers' assessments of the risk of reoffending differed significantly by race; black youths were judged to have a higher risk of reoffending than were white youths (mean for whites = 2.16 versus 2.42 for blacks). There was no significant difference by race in sentence recommendations, and the majority of sentences recommended by probation officers for both groups were within the standard ranges.⁹

The observed differences in attributions and risk assessments may be the result of factors other than the youth's race, as other characteristics of youths may shape or influence probation officers' perceptions or assessments. For example, the severity of a presenting offense or a youth's prior criminal record may affect how officers perceive and classify an offender (Farrell and Holmes 1991; Farrell and Swigert 1978; Sudnow 1965). Further, if these factors are also re-

⁸ For example, one probation officer, who completed many of the narratives in our study, was interviewed on at least three occasions and was observed and audiotaped as she prepared and completed a narrative report on a "typical" youth. The analysis of the offender and his case file proceeded logically, considering the offense, the prior history, and the "red flags" in the youth's file that suggested the type of sentence the probation officer should recommend to the court. Further, the probation officer repeatedly referred to the recommendations of the training manual.

⁹ Previous studies of juvenile dispositions from this state reveal no significant racial differences in juvenile sentencing after adjusting for statutorily mandated standard ranges (Bridges and Conley 1995; Bridges et al. 1993, 1997).

Table 1. Descriptive Statistics for Variables Used in the Study: Juvenile Offenders in Three Counties

Variable	White			Black			F-Difference
	Mean	S.D.	N	Mean	S.D.	N	
Age	15.84	1.33	170	15.57	1.29	63	1.79 ^a
Sex (male = 1)	.88	.32	170	.81	.40	63	7.68 ^a
Prior convictions	3.12	3.35	170	4.90	4.50	62	10.63 ^a
Detained prior to adjudication	.48	.50	147	.84	.37	56	23.28 ^a
Violent offense	.33	.47	170	.48	.50	63	4.30 ^a
Negative internal attributions ^a	-.07	1.33	145	.56	1.33	59	9.35 ^a
Negative external attributions ^b	1.13	2.00	167	.75	1.86	61	1.65 ^a
Risk of reoffending ^c	2.16	.79	155	2.42	.78	62	4.73 ^a
Sentencing recommendation ^d	2.92	.71	165	3.00	.89	62	.57

^a Scores range from -2 to +2. Negative scores indicate positive internal characteristics; positive scores indicate negative internal characteristics.

^b Scores range from -3 to +3. Negative scores indicate positive external characteristics; positive scores indicate negative external characteristics.

^c Scores range from 1 (indicating a low risk of reoffending) to 3 (indicating a high risk of reoffending).

^d Scores range from 1 (indicating a recommendation below the standard range) to 5 (indicating a recommendation above the standard range).

* $p < .05$ (one-tailed tests) * $p < .05$ (two-tailed test)

lated to race, they help explain the racial differences in internal and external attributions. Youths with prior criminal records may be perceived as more seriously entrenched in a lifestyle of delinquency and therefore more likely to have personality traits of chronic delinquents.

Internal and External Attributions

To identify the role of race in generating probation officers' attributions about youths and their crimes, we initially conducted two sets of regression analyses. Each set included the internal and external attribution scores as dependent variables. The first set of analyses adjusted for the influence of factors such as age, sex, nature of the presenting offense, and prior offense record. The second set of analyses added contextual variables, including county identity, identity of the probation officer, and probation officer's race.¹⁰ This

¹⁰ Many factors may contribute to differences in these reports, apart from differences among the cases' and offenders' characteristics. Different probation officers may use different criteria in assessing youths and their cases. Further, counties may differ in the criteria used for judging the moral character of youths; probation staff in each

second set of regressions was conducted with this part of the analysis because the policies and practices of court officials may vary significantly across jurisdictions and in relation to important social structural differences in the surrounding communities (Levin 1976; Eisenstein and Jacob 1977; Myers and Talarico 1987). Further, we expected that the structure and dominant ideology of the court would influence the extent to which officials recommend particularly harsh punishments.

Table 2 reports results from only the first of the regression analyses. The second set of analyses demonstrated that contextual factors had only limited influence on attributions about crime and on racial differences in attributions.¹¹ Further, no significant differences

of the counties may have its own policies and culture with respect to handling youths. To assess whether differences among probation officers and county courts contributed to the findings exhibited in Table 1, the analyses were performed twice, once with dummy variables indicating probation officers with a disproportionately large caseload (1 = those with 15 or more cases in our sample; 0 = other), and once with dummy variables indicating the county from which cases were drawn.

¹¹ Only race of the probation officer was a significant predictor of attributions, and then only of

Table 2. OLS Coefficients from the Regression of Probation Officers' Negative Internal and External Attributions on Selected Independent Variables: Juvenile Offenders in Three Counties

Independent Variables	Negative Internal Attributions		Negative External Attributions	
	Unstandardized Coefficient (<i>b</i>)	Standardized Coefficient (β)	Unstandardized Coefficient (<i>b</i>)	Standardized Coefficient (β)
Age	.003 (.082)	.003	.009 (.094)	.006
Race (black = 1)	.419 ^a (.228)	.139	-1.189** (.286)	-.269
Sex (male = 1)	.286 (.291)	.071	-.494 (.358)	-.085
Prior convictions	.409** (.151)	.210	.762** (.190)	.271
Detained prior to adjudication	.551* (.223)	.193	1.672** (.275)	.418
Violent offense	-.123 (.205)	-.043	-.032 (.257)	-.008
Intercept	-.433 (1.371)	—	-1.105 (1.541)	—
R ²	.129	—	.287	—

Note: Numbers in parentheses are standard errors.

^a Marginally significant at $p = .10$ (one-tailed test).

* $p < .05$ ** $p < .01$ (one-tailed tests)

were observed across courts in the characterization of delinquents or in attributions about the causes of their delinquent behavior.

Attributions about the causes of youth crime are heavily influenced by the severity of the youth's current criminal behavior and

internal attributions ($\beta = -.206$). However, the variation in the race of probation officers was limited (black probation officers handled only 23 of the total cases in our study). With this caution in mind, this finding suggests that black probation officers are less likely to make negative internal attributions than are white probation officers. In predicting internal attributions, youth's race remains marginally significant ($p < .10$; $\beta = .131$). These results led us to include an interaction term between youth's race and race of probation officer. An idea that has evolved from attribution theory is that of the "ultimate attribution error" whereby individuals attribute the causes of behavior differentially depending on whether the individual is in the "in-group" (same race) or "out-group" (different race). This predicts that the white probation officers will attribute the behavior of white youths to external characteristics, while attributing the behavior of black youths to internal characteristics. Similarly, black probation officers should attribute the behavior of black youths to external characteristics

the extensiveness of his or her prior criminal record.¹² Race also is important, exhibiting significant but different effects on external and internal attributions ($\beta = -.269$ for external attributions, .139 for internal attributions). Being black significantly reduces the likelihood of negative *external* attributions by probation officers and significantly increases the likelihood of negative *internal* at-

and the behavior of white youths to internal characteristics. Thus, the finding that race influences internal and external attributions differently, could be the result of the larger number of white probation officers. We tested this hypothesis by including an interaction term in the regression; the term was not significant, however, and is omitted from the analysis.

¹² Given the significance of prior record, the sample was divided into two groups—those youths with 0 to 2 prior offenses and those with 3 or more prior offenses—to determine whether social, legal, and contextual factors affect character judgments differently for youths viewed as new offenders versus those viewed as habitual offenders. While the difference in mean scores between the two groups was statistically significant for both internal and external attributions, the same variables were significant in the regressions run for each group.

tributions, even after adjusting for severity of the presenting offense and the youth's prior involvement in criminal behavior.¹³

These differential attributions are illustrated in the following excerpts drawn from the narratives of similar cases, both 17-year-old boys with no prior criminal history who were charged with first-degree robbery. Both crimes involved firearms. In the first case, the offender (Ed) held up a gas station with two friends. In the second case, the offender (Lou) robbed two motels with two friends. No injuries were sustained in either case. Ed is black, and Lou is white.

The probation officer attributed Ed's criminal behavior to unremorseful attitudes and an amoral character:

This robbery was very dangerous as Ed confronted the victim with a loaded shotgun. He pointed it at the victim and demanded that he place the money in a paper bag. This appears to be a premeditated and willful act by Ed. . . . There is an adult quality to this referral. In talking with Ed, what was evident was the relaxed and open way he discussed his life style. There didn't seem to be any desire to change. There was no expression of remorse from the young man. There was no moral content to his comment.

In contrast, Lou is portrayed as a victim of external circumstances (Sykes and Matza 1957):

Lou is the victim of a broken home. He is trying to be his own man, but . . . is seemingly easily misled and follows other delinquents against his better judgment. Lou is a tall emaciated little boy who is terrified by his present predicament. It appears that he is in need of drug/alcohol evaluation and treatment.

¹³ These effects may reflect a differential impact of race on the individual components of each scale. For example, regarding external attributions, race may strongly affect attributions about family but may have no effect on attributions about school, peer relations, or drug/alcohol use. To explore this possibility, separate regressions were run with each component acting as a dependent variable. Results showed that race has a significant effect on each component, except drug and alcohol use and youth's attitude. The effect of race on these two components, while not significant, was in the predicted direction (positive for external attributions and negative for internal attributions).

The Risk of Reoffending and Sentencing Recommendations

We also examined the relationship between race, attributions, and probation officers' assessments of the risk of reoffending and their sentence recommendations. Table 3 displays the results of regression analyses in which risk assessment, and sentence recommendations were regressed on case characteristics, youths' social and demographic backgrounds, and internal and external attributions about youths and their crimes.

Not surprisingly, Model 1 indicates that youths with prior histories of delinquent offending ($\beta = .312$), those judged by the court as dangerous enough to be detained prior to adjudication ($\beta = .399$), and those who committed more serious (violent) offenses ($\beta = .140$) were described as having a high risk of future offending. In contrast, none of the youths' demographic characteristics (including race) significantly influenced risk assessments after adjusting for these factors.¹⁴ In effect, case characteristics mediated the relationship between race and perceived risk.

Model 2 adds attributions about youths and their crimes to the analysis. Negative attributions have strong and significant effects on assessments of risk, independent of demographic and legal variables. The explanatory power of Model 2 is substantially higher than that for Model 1 ($R^2 = .540$ as contrasted to .340). Negative *internal* attributions are more influential on assessments of risk than are negative *external* attributions ($\beta = .442$ versus .143). This suggests that youths whose crimes are attributed to internal causes are more likely to be viewed as "responsible" for their crimes, engulfed in a delinquent personality and lifestyle, and prone to committing crimes in the future.

Excerpts from the narratives illustrate these processes. Typically, probation officers

¹⁴ Given previous research (Daly 1994; Steffensmeier, Kramer, and Sreifel 1993), we expected gender to have a significant effect on the dependent variables. Our lack of significant effects for gender is likely due to the small number of females in the sample (32 of the 233 cases). Although not statistically significant, females received lower risk assessments and shorter recommended sentences than did males.

Table 3. OLS Coefficients from the Regression of the Risk of Reoffending and Sentencing Recommendations on Selected Independent Variables: Juvenile Offenders in Three Counties

Independent Variables	Model 1		Model 2		Model 3		Model 4	
	Unstandardized Coefficient (b)	Standardized Coefficient (β)	Unstandardized Coefficient (b)	Standardized Coefficient (β)	Unstandardized Coefficient (b)	Standardized Coefficient (β)	Unstandardized Coefficient (b)	Standardized Coefficient (β)
Age	-.003 (-.038)	-.005	-.001 (.035)	.001	.012 (.035)	.021	-.020 (.053)	-.028
Race (black = 1)	-.059 (.112)	-.034	-.134 (.102)	-.079	.041 (.111)	.023	-.001 (.154)	.003
Sex (male = 1)	.132 (.145)	.056	.045 (.129)	.019	.082 (.124)	.040	-.074 (.193)	-.029
Prior convictions	.349** (.075)	.312	.198** (.067)	.181	.171** (.065)	.171	.111 (.102)	.092
Detained prior to adjudication	.651** (.110)	.399	.439** (.105)	.268	.103 (.101)	.066	-.145 (.167)	-.080
Violent offense	.227* (.102)	.140	.225** (.087)	.133	-.139 (.091)	-.094	-.123 (.132)	-.070
Negative internal attributions	—	—	.248** (.035)	.442	—	—	.134* (.060)	.215
Negative external attributions	—	—	.054* (.026)	.143	—	—	-.011 (.040)	-.025
Risk of reoffending	—	—	—	—	—	—	.331** (.120)	.299
Intercept	1.572 (.620)	—	1.670 (.576)	—	1.572 (.620)	—	2.510** (.861)	—
R ²	.340	—	.540	—	.037	—	.217	—

Note: Numbers in parentheses are standard errors.

* $p < .05$ ** $p < .01$ (one-tailed tests)

take the youth's attitudes toward the current offense and toward court officials as a critical indicator of whether the youth has a "proper" attitude toward crime. Youths who acknowledge personal responsibility and who express remorse may be portrayed as knowing right from wrong and as more likely to avoid further criminal behavior:

Chris seems to be fully aware of the mistakes he has made in the past and he has been making deliberate efforts to do better. He seems sincere in his desire to stay out of further trouble with the law. He seems to have gained some insight and maturity in his outlook and appears willing to be more responsible in his behavior. He is making plans for the future and is attempting to put his criminal past behind him. He is not likely to reoffend at this time. (Low assessed risk of reoffending)

A disrespectful attitude, on the other hand, may indicate a lack of understanding of or agreement with the legal order. Youths displaying a disrespectful attitude are seen as lacking the internal restraints against committing future crimes:

Jason takes little responsibility for his actions and seems to be unaffected by consequences to date. This officer would not be surprised to see Jason reoffend in the future based on his lack of respect for the property of others, his disregard for the law, and his desire to experience the thrill of the moment. Jason demonstrates little, if any, remorse for his actions and seems to only be sorry that he got caught. (High assessed risk of reoffending)

Court officials view the family as having the same control functions as the justice system. If a probation officer views a youth's family as capable of controlling the youth's behavior, the youth is likely to be assessed as a lower risk to reoffend:

Sean is a likable and typical 16-year-old. The theft was out of character for him. He comes from a stable family which supplies a lot of love and support. They also provide discipline and guidance. The relationships within the family appear positive and constructive. Sean is sure he will never be back before the court. (Low assessed risk of reoffending)

Drug and alcohol use also are seen as serious inhibitors to internal controls. Youths with serious addictions are often deemed unable to control their criminal behavior be-

cause of the physical effects of alcohol and/or drugs:

Margaret is definitely unmanageable in the community. It is clear that until Margaret's addiction is adequately addressed, her behavior patterns will not change and are, in fact, likely to only escalate. It is clear that Margaret is not able to function in a responsible manner without a great deal of enforced structure. It is felt that such structure can best be provided for her within the juvenile justice system. (High assessed risk of reoffending)

Similarly, youths who have family members or friends who are engaged in criminal behavior, who use drugs or alcohol, or who lack motivation for employment and other conventional activities, may be seen as having a high risk of reoffending.

It appears that Joseph's family has been very dysfunctional for some time. Joseph did not have a positive role model. His family members had some serious problems with drugs and alcohol, which led to problems with the law. The family has enabled Joseph to continue in the pattern he is in now. If Joseph doesn't get help now, he will be a very high risk to reoffend. (High assessed risk of reoffending)

The environment may be a positive influence on the youth's behavior:

Reggie has made a positive attempt to change his behavior. He no longer associates with his old friends, has made new friends through his church, and attends group counseling on Sundays. . . . Reggie seemed very adamant that he was not going to reoffend because his work and family mean too much to him. (Low assessed risk of reoffending)

Finally, probation officers interpret lack of engagement in school as a sign of selfishness and a lack of maturity, both of which are viewed as risk factors, making a youth more likely to engage in criminal behavior:

It appears to me that Allen has no strong aspirations academically or vocationally and no desire to please anyone other than himself. His egocentric attitude and apparent indifference to others often throw him into conflict with authority figures at school and in the community. (High assessed risk of reoffending)

Model 2 also indicates that race has no significant direct effect on assessments of risk after adjusting for case characteristics, the accused's prior criminal record, and attribu-

tions made about offenders by probation officers. The single most influential factor on risk assessments is negative internal attributions. Negative internal attributions about the causes of crime, such as "feeling no remorse" or being "uncooperative," have greater influence on officers' assessments of risk than do attributions about a youth's social environment, the characteristics of their cases, or their criminal histories. In other words, youth whose crimes are attributed to negative personal traits are much more likely to be perceived as having a high risk of reoffending, above and beyond any risks associated with their presenting offense or criminal history.

Finally, Models 3 and 4 in Table 3 present the results of the regressions of probation officers' recommended sentences on the independent variables. Model 3, which includes only the legal and demographic variables explains little variance, with prior convictions being the only factor contributing significantly to recommended sentences ($\beta = .171$). In contrast, Model 4, which also includes attributions and the risk of reoffending, explains more variance ($R^2 = .217$) and reveals the importance of negative internal attributions and the perceived risk of future crime in sentence recommendations. Probation officers were much more likely to recommend sentences that exceeded the standard range specified under the state's sentencing guidelines for youths whose crimes they attributed to negative personality traits ($\beta = .215$) and for youths perceived as having a high risk of future crime ($\beta = .299$). Race has no substantial direct effect on recommended sentences in either model.

SUMMARY

Three findings are noteworthy. First, probation officers consistently portray black youths differently than white youths in their written court reports, more frequently attributing blacks' delinquency to negative attitudinal and personality traits. Their depictions of white youths more frequently stress the influence of the individual's social environment. Second, these attributions about youth shape assessments of the threat of future crime and sentence recommendations. Court officials rely more heavily on negative internal attributions than on the severity of the

youth's crime or his or her prior criminal history in determining the likelihood of recidivism. Finally, attributions about youths and their crimes are a mechanism by which race influences judgments of dangerousness and sentencing recommendations. Insofar as officials judge black youths to be more dangerous than white youths, they do so because they attribute crime by blacks to negative personalities or their attitudinal traits and because black offenders are more likely than white offenders to have committed serious offenses and have histories of prior involvement in crime. Insofar as officials recommend more severe sentences for black youths than whites, they do so because they recommend severe sentences for youths whose crimes they attribute to negative personality traits and who they perceive as more dangerous than others.

DISCUSSION

A critical issue in the sociology of law and social control is the role of institutions like the courts in reflecting and reproducing the patterns of inequality present in the larger society. Previous studies have explored how a person's social standing in the community influences the severity of punishments courts impose. However, most of these studies have ignored the mechanisms by which court officials' perceptions of offenders influence legal decision-making. Our research shows that officials' perceptions and decisions are critical to this relationship and may emanate in part from officials' ideas about the causes of criminal behavior. Some offenders are perceived as threatening and at risk of reoffending because their personal characteristics and their behaviors are salient in officials' working explanations of criminal behavior. Officials may perceive blacks as more culpable and dangerous than whites in part because they believe the etiology of their crimes is linked to personal traits. Further, officials may perceive these traits as not amenable to the correctional treatments the courts typically administer. That they recommend more severe penalties for these types of offenders, including commitments to confinement, is understandable given their perceptions and the limited alternatives for treatment available through the legal process.

A related concern in research on law is the question of "human agency"—how the values and beliefs of individuals and groups are transformed into the policies and practices of controlling organizations. Our findings identify important attributional processes in legal decision-making. These attributional processes transform the accused into an officially recognized offender, explaining his or her personal attributes in a manner that influences subsequent legal disposition. Further, officials' beliefs are linked to the organizational practice of courts in a causal sequence of perceptions, assessments, and decisions. Most sociological theories of law portray legal decisions as assembly-line products of offense and offender characteristics, and they portray legal decision-makers as unperceptive and unthinking actors (see Maynard 1982). These theories must now integrate the social psychology of decision-making into the interpretation of legal processes (Albonetti and Hepburn 1996).

The sociology of organizations and professions may prove useful in this integration. By incorporating knowledge about how professionals within organizations perceive and respond to the clients they treat, theories of law and control may more effectively specify how courts and other institutions respond to individuals and groups who commit crimes and other deviant acts.

Equally important is the role of organizational context on perceptions and responses to clients. In some organizations, the process of classifying and labeling clients as deviant may yield efforts to reintegrate rather than reject or punish deviants. For example, when the organization must expend substantial resources to correct deviant behavior and when professionals and their clients are extremely interdependent, organizations often react in an integrative rather than punitive manner (Heimer and Staffen 1995). Our analyses, however, found no differences across courts in attributions about juvenile offenders or in the recommended punishments, despite significant differences among the courts in structure and ideology. Clearly, additional research is needed on the role of organizational context on attributions and on how variation in the structure and ideology of courts may influence individual attributions.

Our research also suggests that analyses of organizations, regardless of type, must consider the issue of agency. Unless theory and research identify the mechanisms by which perceptions of individuals within organizations influence decision-making, they will misspecify causal relationships that explain organizational outcomes. To the extent that these mechanisms are common to professional decision-making across different types of organizations (Abbott 1988), research that explores the role of professionals' beliefs about their clients and their clients' problems is critical. At a minimum, this research must specify how professionals' diagnoses, judgments, and treatments of their clients are causally related. Further, research must specify how aspects of organizational structure (e.g., organizational norms, size, bureaucratization) limit the influence of perceptions and beliefs on the decision-making process.

In this direction, future research on law and social control must accord priority to subjective qualities of legal decision-making, including how court officials define and treat criminal offenders. Analyses restricted to the objective properties of offenders and their crimes offer little promise of extending knowledge about legal decision-making. That officials may have different theories about the causes of crimes for blacks and whites and perceive minority youths as more threatening than white youths indicates that a perceptual logic of explanation and assessment directs the disposition of offenders. Research must identify the important elements of this logic and how these elements relate to disposition decisions. Equally important is the professional doctrine of probation officers and court officials and aspects of the organization of courts that sustain perceptions of crime and criminal offenders. Studies must examine how philosophies of treatment give rise to systems of classification that categorize youth and the causes of their crimes as "treatable" or "untreatable." Research that explains the development of these systems will yield new and important conceptions of law and the legal process.

George S. Bridges is Professor of Sociology and Associate Dean of Undergraduate Education at the University of Washington. His current research focuses on law and legal institutions, and

the mechanisms by which legal decisions of court officials reproduce social inequality in the larger society. With Martha Myers, he is coeditor of *Inequality, Crime, and Social Control* (Westview Press, 1994). He is in the process of editing an anthology on pedagogy, *Teaching the Mass Class, for the American Sociological Association*.

Sara Steen is Assistant Professor of Sociology at Vanderbilt University. Her research examines the social construction of sex offenders and the medicalization of deviance. Her other publications focus on sex and gender roles in society and on pedagogies for teaching sociology at the graduate level.

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A REPORT
ON THE
DELICATE BALANCE
to

**The President, the Congress, and the Administrator of the
Office of Juvenile Justice and Delinquency Prevention**

Presented by

**The National Coalition of State Juvenile Justice
Advisory Groups**

January, 1989

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NATIONAL COALITION OF STATE JUVENILE JUSTICE ADVISORY GROUPS

January, 1989

To: The President, the Congress, and the Administrator of the Office Of
Juvenile Justice and Delinquency Prevention

From: The National Coalition of State Juvenile Justice Advisory Groups

We are pleased to present our fourth Report on federal policies affecting juvenile justice and delinquency prevention and the operations of the Office of Juvenile Justice and Delinquency Prevention. The annual conference of the National Coalition is one of the means by which these tasks are addressed; it is the basis for our Report and our recommendations.

In the past, Congress has been most responsive to the National Coalition of State Juvenile Justice Advisory Groups' recommendations. For that response and subsequent Congressional support for the Juvenile Justice and Delinquency Prevention Act, we express our sincere appreciation. The children of the United States and its Territories thank you for your continued support for the Act at funding levels necessary to improve juvenile justice in the United States.

This year's Report will be of considerable interest to those who are concerned with our nation's future and the role of youth in that future. It examines the critically important matter of differential processing of minorities within the juvenile justice system. Our deliberations, by necessity, went far beyond the traditional province of the Office of Juvenile Justice and Delinquency Prevention. Yet, we believe that the Office and the federal government must be at the heart of any substantive effort to help redress grievances identified in our current system. Our recommendations are a first step in sketching out some strategic and operational suggestions that could redress some of the grievances identified.

Sincerely yours,



Richard Gardell, Chair
National Coalition of State
Juvenile Justice Advisory Groups

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EXECUTIVE SUMMARY

The 1988 Conference of the National Coalition of State Juvenile Justice Advisory Groups focused on the differential processing of minorities within the juvenile justice system. For some, the color of today's juvenile justice population represents a blatant example of racism, regardless of intent or practice, while, for others, it is nothing more than a reflection of the amount of crime minorities commit. Unfortunately, the ensuing rhetoric and rage serve to accentuate the problem, which, in turn, disturbs the delicate balance between equity and justice for those juveniles caught up in the system.

We know that some minorities do commit a slightly greater number of serious crimes but not at a rate or level of any great significance when compared to whites. We also know that small and repeated actions of hundreds of individuals in the juvenile justice system often add up to decisions and actions that are prejudicial and racist in consequence. Having said this, however, we have contributed little to our understanding of the problem.

Our deliberations suggest that the issue of differential processing within juvenile justice is more than simple prejudice by participants in that system. Indeed, we would suggest that the juvenile justice system is nothing more than a shadow of the larger society which defines and supports it. In that sense, equity and justice, the pillars of our justice system, require that we look at a great deal more than our juvenile justice system; it requires that we look at fairness and justice in all of our life pursuits—a delicate balance in a democratic society where differences and individuality are seen as fundamental strengths.

Our mission dictates that our recommendations cover both operational and strategic recommendations affecting juvenile justice and delinquency prevention. Because of our dual mission as a Coalition, the recommendations may appear eclectic. Yet, we believe they are variations on the same theme: leadership at the national level, based on partnership with the States and local jurisdictions coping with the problems of juvenile justice.

The following abbreviated versions of the recommendations that appear in the Report are provided as a quick reference to sections of the Report that may be of greater interest to an individual reader. We encourage the reader to use them in this way.

We recommend:

To the President

- 1. That the President designate his/her Domestic Affairs Advisor as Chairman of a Special Task Force to inquire into issues raised by differential juvenile justice processing practices and to take action to resolve inequities (Page 35).**

To the Congress

- 2. That the Congress hold special hearings to inquire into the multiple**

blems associated with differential incarceration — problems that
of justice equity and justice (Page 38).

That the Congress appropriate special funds for the purpose of creating
small model youth correctional facilities (30 youth or less) that
reduce the amount of differential incarceration for minorities (Page 39).

To the Administrator

That the Office of Juvenile Justice and Delinquency Prevention conduct
support research on the effects of police surveillance, offender
behavior, and police apprehension practices to understand why and
how minority youth are at greater risk of being handled differentially
(Page 41).

That the Office of Juvenile Justice and Delinquency Prevention conduct
support research on the differential effects of detention decision-
making on minority youth in institutional and/or non-institutional
settings (Page 42).

That the Office of Juvenile Justice and Delinquency Prevention sponsor
support research on the effects of dispositional guidelines and laws
imposing penalties for chronic offenders (Page 42).

That the Office of Juvenile Justice and Delinquency Prevention take a
leadership role in developing training curricula for police, prosecution,
courts, and probation officers on the ways their personal prejudices
based on race, gender, class and ethnicity can affect decisions (Page 43).

That the Office of Juvenile Justice and Delinquency Prevention offer
leadership in the development and expansion of the use of highly-trained
enforcement personnel specifically committed to juvenile and youth
services (Page 44).

That the Office of Juvenile Justice and Delinquency Prevention ensure
that, whenever training, technical assistance, or research is supported
by the Office, the principals and participants providing and receiving
service represent a rich and diverse mix of ethnic, cultural, and
educational backgrounds (Page 45).

That the Office of Juvenile Justice and Delinquency Prevention assume
leadership role in identifying jurisdictions experimenting with or
utilizing innovative approaches to juvenile justice and delinquency
prevention and, further, that the Office provide appropriate training
and technical assistance to other states wishing to learn from these new
approaches (Page 46).

That the Office of Juvenile Justice and Delinquency Prevention engage
in a cooperative project with the Department of Education to research,

develop, and promulgate new approaches or uses by which community
colleges can provide educational opportunities for youth, particularly
minority youth, who have not been successful in secondary educational
training (Page 46).

12. That the Congress amend the Act to require that the Administrator ask
appropriate State Advisory Groups to review and comment on
discretionary grants made within their States (Page 53).
13. That the Administrator of the Office of Juvenile Justice and
Delinquency Prevention develop more effective methods for sharing the
results of successful programs, through regional conferences, regional
training seminars, the National Coalition Conference, video tape
presentations, and publications (Page 53).
14. That the Office of Juvenile Justice and Delinquency Prevention offer
special training to State Juvenile Justice Advisory Groups on ways to
effectively coordinate and integrate the use of Federal funds available to
prevent delinquency and improve the juvenile justice system (Page 54).
15. That the Office of Juvenile Justice and Delinquency Prevention develop
and provide States with an effective grant review process, and, in
addition, offer training and technical assistance in the use of that
process (Page 55).
16. That the long and short-range planning process of the Office of Juvenile
Justice and Delinquency Prevention be expanded to include the
Chairman of the National Coalition of State Juvenile Justice Advisory
Groups, or his/her designee(s), in the development of the annual
program plan and long-range planning efforts of the Office (Page 55).

Many of our program recommendations encourage the Office of Juvenile Justice
and Delinquency Prevention to carry out the mandates of the original Juvenile
Justice and Delinquency Prevention Act of 1974, as well as its subsequent
amendments. Our recommendations call for involvement and cooperation. They
also call for a partnership in which the two partners make significant contributions
to achieving the goals of the Juvenile Justice and Delinquency Prevention Act of
1974.

Our strategic recommendations to the President and to the Congress remind us
that fairness, equity and justice in juvenile justice will be difficult to achieve
without action on some broader social and economic issues of critical interest to
our democratic society.

We have learned that equity and justice go beyond the juvenile justice system.
Differential justice stems from unresolved issues in our society. Our
recommendations are directed at some of these unresolved issues.

INTRODUCTION

Without this ridiculous vanity that takes the form of self-display, and is part of everything and everyone, we would see nothing, and nothing would exist.

Antonio Porchia
Voices

In 1984, Congress gave the National Coalition of State Juvenile Justice Advisory Groups a new and significant role in shaping juvenile justice and delinquency prevention policy at the national level. The Congressional mandate created the direct responsibility and opportunity for those of us at the State and local levels to share different points of view on juvenile justice and delinquency prevention with the President, the Congress, and the Administrator of the Office of Juvenile Justice and Delinquency Prevention. As the only statutory group mandated by the Congress to deal with juvenile justice on a national level, we take that responsibility seriously as our three previous Reports demonstrate. Amendments to the Act by the Congress in 1988 offer the promise of an even greater degree of cooperation in this important enterprise on behalf of the children and youth of this country.

This year, the National Coalition of State Juvenile Justice Advisory Groups' Conference focused on the critically important issue of differential processing of minorities within the juvenile justice system. Our deliberations, by necessity, went far beyond the traditional province of the Office of Juvenile Justice and Delinquency Prevention. Yet, we believe that the Office, in its leadership role at the national level, is an appropriate agency to begin to help redress grievances identified in our current system.

The Office, particularly in relation to the Federal Coordinating Council, is in a position to leverage Federal monies, organize and manage cooperative efforts, and demonstrate workable programs that will reduce discriminatory practices (intentional or unintentional) within the juvenile justice system. The section of this Report dealing with "The Delicate Balance" examines the problems, the issues, and possible remedies that the Office of Juvenile Justice and Delinquency Prevention, the Congress, and the President might wish to consider. The issues raised tear at the fabric of our society; they are at the heart of problems like poverty, delinquency, substance abuse, child abuse, dependent and neglected children, and violence—the subjects of so much media attention. These are the issues that we, as a Coalition, refuse to gloss over or ignore.

Our Agenda for 1989

During the 1988 Annual Conference, two special issues emerged from our discussions of racism within the juvenile justice system. 1) the quality of institutional care for juveniles and 2) the continued use of inappropriate confinement of juveniles by some States and regions. These issues deserve careful consideration, and, therefore, it is our intention to make them the focus of our 1989 Spring Conference. The quality-of-care issue will inquire into health

mental health services, education, and other treatment programs. It will cover both the public and private delivery of these services. Inappropriate treatment will cover the entire range of problems associated with both public and private institutions—jails, secure detention facilities, private clinics, private treatment programs, training schools, etc.

The work undertaken this year bears directly on next year's work, i.e., the transition of treatment services covered by private insurance and the treatment of the population of minority children in secure public facilities. What are the issues in the quality of programs offered? What are the issues associated with individual rights and institutional placement? What were the consequences to the system in our national drive to deinstitutionalize status offenders? The product of these discussions should lead to research and development projects by the Office of Juvenile Justice and Delinquency Prevention.

Question Is Fairness

The Conference of the National Coalition of State Juvenile Justice Advisory Groups presents an excellent example of how the Office of Juvenile Justice and Delinquency Prevention and the Coalition can work together to examine critical issues affecting the youth of this nation. Both can take pride in having raised the issue of differential juvenile justice to a level of critical debate by both public and private practitioners working in the field. Questioning the possibility of racism in the juvenile justice system is not a topic for casual inquiry. It is a subject that all people cannot ignore.

The issue of juvenile and criminal justice rates for minorities are not a new phenomenon. Yet, until recently, we have not been sufficiently concerned to ask the important questions: Why do these rates exist? What can we do about them? How do we avoid this continued problem in the future? These questions are not new to ask, particularly for those of us who are participants in the operation and management of juvenile justice at the State or national level. Those of us who attended the Conference had to look at ourselves and our beliefs as they affect juvenile justice and practices. We had to explore our responsibility for differential treatment as well as question those of others. The effort represents what can be achieved by practitioners working together to explore solutions to difficult problems in juvenile justice. It forces us to examine our own behavior as it affects

Alan Paton described it thus in his poem, "We mean nothing evil towards you" in his book Knocking On The Door.

...kman, we are going to shut you off
...re going to set you apart, now and forever.
...mean nothing evil towards you . . .

...resolve is immutable, our hands tremble
...with the greatness of our resolution.
...re going to set you apart, now and forever,
...mean nothing evil towards you.

EQUITY AND JUSTICE: A Delicate Balance

*I swear to the Lord
I still can't see
Why Democracy means
Everybody but me.*

*Langston Hughes
The Black Man Speaks*

The issue of differential criminal and juvenile justice rates for minorities is a growing problem in American society. Slowly, we are seeing greater attention being given to differential arrest, prosecution, conviction, and sentencing by many States and localities. Unfortunately, the problem is, more often than not, made more difficult by rhetoric and rage, which disturb the delicate balance between equity and justice. Many people believe that the differential rates of arrest, conviction, and incarceration are, of themselves, a prima facie case for racism within corrections and the juvenile justice system. Others, just as vehemently, believe that ethnic or racial disproportionateness is primarily a result of greater involvement of minorities in crime.

For some, the color of today's juvenile justice population represents a blatant example of racism, regardless of intent or practice. The argument of those believing the system is racist is as follows: The dominant society defines that from which it wishes to be protected—that is, what it fears most, an image of abhorrent behaviors that blacks and other minorities are believed to engage in more than others. There is less opportunity for legitimate activities for minorities, and this lack of opportunity encourages them to engage in prohibited behaviors in order to achieve the rewards of society. Enforcement practices reflect the interest of the majority; hence, more minorities are likely to be arrested.

Strangely, those having opposite solutions to a problem often use the same rationale to arrive at their position. Those with divergent viewpoints and ideologies often agree that it is the unfairness and inequality of opportunity that account for differential rates of processing for minorities. Both agree that social reforms are needed. It is in their interpretation of problems and the solutions for resolving them that these two groups move apart from their original agreements. Both tend to look for solutions that are individual and personal, such as accountability and responsibility, rather than institutional, which are more difficult to address.

Trying to restructure the nuclear family, to revitalize our educational system, to shift an economy from production to service without dislocating present and future employees, and to ensure that government is responsive to the legitimate needs of individuals are monumental tasks that are easier to ignore than address. Like the classic drunk of vaudeville, we search for our lost object under the street light where we can see, rather than in the dark where we lost it. Our recommendations and discussions will not ignore these institutional issues; indeed, they will focus on them.

we know about 1) opposing explanations for differential juvenile rates, and 2) initial rates of substantial magnitude are evidence of racism and 2) differences in rates are the result of differences in behavior by minority groups? In fact, we know a great deal—as the 1988 Annual Conference of the National Coalition of State Juvenile Justice Advisory Groups demonstrated.

Facts on Incarcerated Minority Youth

An agreement in the literature that minority youth are overrepresented at all levels of the juvenile justice system, as compared to their numbers in the general population. Much of this research has focused on black youth; however, other research has demonstrated high incarceration rates of Hispanic youth, Native Americans and Japanese Americans (Sheflin, 1979; Taft, 1981; Maxwell et al., 1981; Lloyd and Howell, 1977).

Studies in the field of mental health and developmental disabilities show that minority youth are more likely to be channeled into the juvenile justice system than into mental health care facilities (Prescott and Houten, 1982). Studies by Peterson et al. (1975), Perry (1980), and Dunnefer and Schutt (1982) have all shown that race emerges as the single best predictor of arrest, incarceration, and delinquency, even when the influences of other variables are controlled.

Minority youth are being incarcerated in public correctional facilities at rates three times those of whites. Their numbers are growing even though overall rates of serious youth crime are declining. FBI data and self-report studies show that minority youth are more likely to be involved in serious crime than whites, but not to the extent that generally has been assumed (Krisberg, et al., 1987).

Minority youth represented 45 percent of those in custody; in 1982, minority youth represented 53 percent of those held in public correctional facilities. Today, the figure is closer to 60 percent.

From 1977-1982 witnessed large shifts in public policy on youth crime. A period in which deinstitutionalization was in vogue, national policy had a different effect upon youth from different racial groups. For example, during years of declining youth incarceration (1977-1979), whites accounted for 60 percent of the entire decline in youth incarceration, while Hispanic youth incarceration increased by 10 percent (Drisberg and Schwartz, 1987).

Between 1979 and 1982, when the numbers of juveniles confined in public facilities began to climb, minority youth bore the brunt. Blacks in public facilities increased by 269; Hispanic youth increased by 1,336. There were also significant increases in the number of Native American and Asian American youth. In total, the number of minority juveniles increased by 5,759, representing 93% of the entire increase in incarceration in public facilities.

Minority youth constituted 65% of the residents of all private juvenile

correctional facilities, as compared with 47% of public facilities. As public institutions were becoming the holding place for minority youth, while, at the same time, private institutions were becoming the placement of choice for white youth.

Some Facts About Arrest Rates

In the public perception, no group is more associated with crime than young blacks. The arrest data for this group, both in numbers and in relative proportions, are astonishing. In 1979, 456,000 blacks in the 16-19 age group were arrested (Gibbs, 1984). Tillman (1986) has data showing that nearly seven in ten black males in California face at least one arrest in their early adult years. For whites, the rate is three in ten. America now confines more young black males in its public correctional institutions than it has in its colleges and at far greater costs.

If the large minority presence in correctional facilities is due to discriminatory policies and practices, there are definite remedial actions that can be taken. If minority incarceration is principally the result of inadequate community-based resources, a completely different series of policies and action are required. A third possibility is that the large numbers of incarcerated minority youth are a direct result of higher rates of involvement of minority youth in violent and repetitive delinquency. Indeed, the research of Wolfgang et al (1972) and Blumstein (1982), among others, lends support to this last possibility. If such is the case, then ameliorative strategies must look beyond the decision process of the juvenile justice system for answers. We must examine the health of the minority community, the stability of family life, and the highly constrained life chances of youth who live on the streets.

Arrest data by race for Part 1 offenses (serious crimes of rape, murder, robbery, aggravated assault, burglary, etc.) reveal that white youth accounted for approximately two-thirds of all Part 1 juvenile arrests during 1977-1982. During this same period, blacks accounted for about one-third of all Part 1 offenses. If only the most violent crimes (murder, forcible rape, robbery and aggravated assault) are examined, then blacks account for about half of all youth arrested for violent offenses. Data on Hispanics, not collected until 1980, are still unreliable.

On the surface, the FBI arrest data do not explain the proportions of each racial group found in juvenile correctional facilities. The data on violent arrests do present a picture more in line with the racial composition of the residents of juvenile correctional facilities. But, and this caveat is an important one, only a small proportion of arrests results in court dispositions, and an even smaller proportion of arrests results in placements in correctional facilities. Therefore, one cannot assume that arrest patterns by race will be translated into incarceration patterns, and, indeed, self-report crime studies suggest that arrests do not even approximate the numbers of crimes committed in our communities.

Differential incarceration cannot be explained on the basis of greater involvement in violent crime. Research based on Federal Bureau of Investigation data indicates that black youth are arrested for violent crimes more often than other youth and that this may partially account for their presence in public correctional facilities,

Violent crimes are unlikely to result in a formal petition and stricter sentence penalties. Yet, these same data cannot be used to explain the high Native American incarcerations (Elliott, et al), which show a much lower arrest rate. Furthermore, the populations of most correctional institutions do not consist of violent offenders. On the contrary, the majority are arrested for property crimes, drug and alcohol related offenses, and violations of public order. Thus, the high number of minority youth arrested for violent crimes cannot, by itself, account for the overrepresentation of minorities among incarcerated.

Facts About Unreported Crime

The disproportionate rate of incarceration among minority youth, one fact that helps but ask whether this rate reflects differences in individual behavior or responses to behavior or both. As has been reported, some hold that minorities have a greater involvement in delinquent and criminal behavior (Ang, 1978). This greater involvement would then be anticipated to result in frequent arrests, more frequent juvenile court appearances, and higher incarceration rates. A recent work (Huizinga and Elliot, 1987) examines this in the light of juvenile self-reported crimes and comes to different conclusions.

The National Youth Survey, conducted by Elliott, et al, is an ongoing, longitudinal study of delinquent behavior, alcohol and drug use, and problems related to substance abuse in the American youth population. This survey covers the period 1976 to 1983 and includes the 11-17 year-old population of the continental United States. Survey staff annually question a panel of youth about self-reported involvement in delinquent behavior and substance abuse.

We know that only a small proportion of crime is detected and reported, the importance of using information about self-reported delinquent behaviors instead of official data to examine differences between groups is critical to our understanding of whether or not different ethnic or racial groups commit crimes disproportionately. Based on the self-reports of the youth panel, 84% are not arrested for serious offenses they have committed. Not all crimes are reported or known to the police, and not all crimes that are known result in an arrest. The survey indicates that over 80% of serious violent offenders are officially unknown to the police or are known only as minor offenders (Elliott et al, 1986).

In comparison with other racial groups in this continuing study, a larger proportion of blacks report involvement in general delinquency. In general, minority groups have larger proportions reporting involvement in felony assaults. The differences between racial groups are statistically significant, however.

Incarceration rates between racial groups cannot be explained by differences in proportions of persons of each racial group that engage in delinquent behavior. The slightly higher rates for more serious offenses among minorities were of more importance than is statistically indicated, the relative proportions of whites and minorities involved in delinquent behavior could not account for the difference in incarceration rates.

Given these findings, researchers explored the possibility that differences in incarceration rates could be explained by differences in official responses to offenders. Their findings showed that among minority offenders, the "risk" of being apprehended and charged with an Index offense is substantially and significantly higher than it is for whites who report involvement in the same kinds of offenses.

Most researchers stress that "risk" of being arrested, prosecuted, etc., is probably more a function of class characteristics than race. Because the majority of minority individuals are in the lower socio-economic class (estimates of 73%-75%), it is likely that social class and social conditions materially affect 1) the ability to avoid apprehension, 2) the ability to avoid arrest if apprehended, 3) the lack of presence of parental and legal support at both arrest and court processing stages, and 4) general demeanor at points of contact with the juvenile justice system. There are indications of differences in offending rates among social classes (see, for example, Elliott and Huizinga, 1983, Elliott et al., 1985). It is possible that differences about which we are deeply concerned are class-linked rather than race-linked. If so, our questions must begin to focus on institutional processes, as well as individual behavior. As the Honorable Bruce Wright, Justice of the New York Supreme Court and keynote speaker at the National Conference of State Juvenile Justice Advisory Groups, reminded Conference delegates, "We cannot avoid our endings without first avoiding our beginnings."

Contradictory Themes

The cry that the juvenile justice system is racist is an expression of personal experience or observation, rather than of definitive studies of the matter. When aggregate data are analyzed, there appears to be evidence of subtle differential practices that are cumulatively disadvantageous to minorities. The disadvantages are extremely small, but they are incremental in their consequences.

The primary factors affecting this disadvantaged outcome are most important at the beginning of the system, i.e., the police, differential charging, differential arrest probabilities, etc., all contribute their indirect effects. In the total scheme of things, the discriminatory consequences are hidden within a maze of covert activities carried out by literally hundreds of different persons acting independently of one another. It is not a conscious plot directed or orchestrated by mean individuals. Rather, it is a fragmented and regionalized series of actions, that while sometimes washing out and counterbalancing one another, are, at other times, discriminating and racist. The closer to the street, the more confusing the data on what is really happening, because the "street" hides and protects decision makers from scrutiny or disciplined review. Interestingly enough, the more the system relies on a social service model or helping model, the greater the opportunity for discrimination. The more the system represents the legal model, the less the discrimination because of the rules guiding action and decisions. Hence, the philosophical conundrum, equity and sameness or individualized justice?

We do have some evidence on the impact of race on the juvenile justice process.

of Fagan, Slaughter, and Hartstone, 1987, demonstrates racial disparity in sentencing from apprehension through judicial commitment decisions. If whites and minority youth were drawn at each point, controlling for offense severity, other offense characteristics, and extralegal factors, in addition to the results show racial disparities at each point, with minorities consistently receiving harsher dispositions. And, at the "deepest" end of the scale where the consequences are most serious, no factor other than race could be used to explain the harsher responses to minority youth.

Disparities were observed at several seemingly separate decision points, but a consistent pattern was discerned, since discrimination takes different forms at different decision points and personnel. While race is linked to decision outcomes in many ways, the results are identical: minority offenders are at a consistent disadvantage in their efforts to receive equal protection under the law.

The evidence for racial discrimination in the Fagan et al study is disturbing. While we have identified the sources of discrimination lie in the individual attitudes of decision makers in the system's independent agencies, it is unlikely that these decision makers of different backgrounds would produce such consistent, biased behaviors. Like other social institutions, the juvenile justice system is shaped by the same forces of ethnic and racial differences. To understand the differential treatment of minorities in the juvenile justice system, we need to look at the system in relation to the larger society. Aside from the issues of fairness, equity, and justice, racial disparities make a mockery of the notion of accountability. The system's goals are weakened by practices that lead to racial disparities in the juvenile justice system.

But Another Kind of Crime

The economic status of blacks is not only far below that of whites, but also the economic status of white and black economic well-being has not improved in the past. On measures of income, wealth, poverty, and unemployment, economic differences between blacks and whites have not lessened, they have, in fact, worsened (Joe, 1987).

The consequences of this imbalance are reflected in the fact that blacks are overrepresented in public custodial facilities and are more likely to be both the perpetrators and the victims of crime. Blacks also have higher infant and maternal mortality rates, shorter life spans, and a greater incidence of teenage pregnancy.

Ultimately, we are in danger of becoming a dual society: one full of opportunity, with limited avenues and few options for movement up the traditional ladder. This problem is not a white or black problem, it is a structural problem of American society that must be addressed by a variety of actions, by all means, and at all levels of public and private life.

The median income of black families was \$15,432 as compared to \$25,000 for white families for the same year. What is startling about these figures is that they have remained unchanged for the past 24 years. Black family income

was calculated in constant 1984 dollars) as a percentage of white family income was 55% in both 1960 and 1984.

The income distributions for white families and black families are also very different. Whereas fewer than four percent of white families have incomes under \$5,000, nearly 15% of black families have incomes this low. Conversely, whereas 17% of white families have incomes over \$50,000, only six percent of black families have an income this high.

These figures tell us little about long-term economic stability. For this information, we need some measure of total wealth—that is, the net worth of a household. Wealth is important, because it provides a cushion against adversities such as unemployment and divorce. Research reveals that blacks are even more disadvantaged because they have accumulated so few assets compared to whites. While the ratio of median income of whites to blacks is nearly 2:1, the ratio of median net worth of whites to blacks is 12:1. The median net worth of all white households was \$39,140 in 1984, for blacks it was \$3,400. Most strikingly, whereas 92% of white households have at least some net worth, only 70% of black households have any positive net worth. The remaining 30% have either zero net worth or a negative net worth because their liabilities exceed their assets (Bureau of the Census, 1984).

The poverty rate for black children in 1984 was 46.5%. Only 16.7% of white children are officially poor. If you are black and under the age of six years and are living with a single parent, your chance of living in poverty is 70%.

Unemployment among blacks is twice the national rate. For each black man counted as unemployed, another two are not even in the labor force. Since 1960, the number of black men out of the labor force has almost tripled. In 1960, nearly three-quarters of all black men included in census data were working. Perhaps society's attention should be directed to the deteriorating employment status of black men. If young black males grow up knowing that only half of them will be employed as adults, it is not surprising that more of them will view crime and the underground economy as their only means of survival. Recent trends, particularly in the area of drugs, suggest that crime has become the opportunity of choice for large numbers of minority children and youth, as well as adults.

The Ladder of Success—The Rungs Are Broken, Uneven, or Missing

A traditional American view is that anyone who is willing to work long and hard can climb the ladder of success. But, as increasing numbers of minority youth are discovering, the rungs of their ladders to success are broken, uneven, or missing.

Dr. Troy Duster of the Institute for Social Change at Berkeley, California, argues that America has experienced a deep bifurcation of the social structure and a corresponding development of a possible permanent "underclass." In particular, he recommends that any program of crime or delinquency reduction must address the structural transformations that have so altered the unemployment differences between black and white youth (Duster, 1987). Although the analysis focuses on the black male, primarily because of the availability of the data and scope of the

the issues here can be extrapolated to the poor whites of Maine, Carolina, and Mississippi and the Hispanics of Texas, New Mexico, and California. The differences noted track across the entire map of our

employment for young males differs profoundly by race in two ways. First, in 25 years, black youth unemployment has quadrupled, while white youth unemployment has remained relatively constant. Second, the way in which black youth currently come into contact with the labor market is fundamentally different from the way white youth come into contact with that market. In 1954, rates of unemployment for black and white youth (16-17) were almost identical at about 10%. By 1981, black youth unemployment for 16-17 year olds had soared to 81% (U.S. Department of Labor, Bureau of Labor Statistics, *Unemployment and Training Report*, 1982).

There have been significant structural shifts in American society that are closely tied with urban problems, particularly black youth unemployment. The movement of capital to foreign soil, from the cities to the suburbs, and from inner cities to select areas of the Sunbelt, has resulted in a substantial loss of jobs in the manufacturing sectors of the economy. Technology has taken an enormous toll in terms of jobs in both blue-collar and white-collar work. Now, automation is eliminating jobs in the office, as well as on the factory floor. There are rapid changes occurring in the skills required for entry-level positions, especially in those jobs that might provide viable careers. Women in the workforce and changing immigration patterns of the last decade have produced a highly competitive employment market, which has closed off previously important avenues of entry into career work for young people. All of these factors impact heavily on the employment status of black youth and other minorities. In short, we have removed jobs from where minorities live, and we have changed, dramatically, the requirements for entry-level work.

These trends have created serious and deep bifurcations of the labor force. Young people who move from secondary education to a successful form of higher education and then into a labor force that values their skills and qualifications will succeed. But teenagers, attempting to enter the work force directly from secondary education, will learn that they do not have the skills or training to "climb the economic ladder of success." This is increasingly true for some minorities and especially so for the young, black, urban male, who is identified with violent crime. Given this scenario, the plaintive query of a young delinquent before the juvenile court in California, "Is there no place for me? Somewhere?" underscores a harsh new reality in American society.

As we hear from our discussions at our annual Conference, from our experience, and from a substantial body of knowledge accumulated by researchers that racial disparities do occur within the juvenile justice system, from arrest to sentence, to parole, that are prompted, either consciously or unconsciously, by ethnicity and race. It is not the disparate decisions that should concern us but rather the pervasiveness and urgency of a number of unseen forces that permit isolated decision makers of

from substantially different backgrounds to produce consistent, systematic behavior that is racist in consequence, if not intent.

More minorities are arrested, held in custody in public correctional facilities, and serve harsher criminal penalties for their behavior. But if we look only to the juvenile justice system for remedy, we will fail. As we have seen, the rates of crime and incarceration are highly influenced by demographic forces, especially the age structure of the population. Of all the demographic factors related to rates of crime and imprisonment, we know age, gender, and race to be among the most significant.

The vastly disproportionate rates of arrest and incarceration of various racial groups are produced by economic, family, and community forces, as well as the decisions of the juvenile justice system. Given present trends, we can expect more minority juveniles to come into the juvenile justice system, if we do not adopt some alternative strategies.

In the latter half of the 1990s, there will be increased numbers of teenagers in our society. If current trends continue, crime rates in the future will be higher than present levels. The most troubling social indicators include the large proportion of children reared in poverty, high numbers of school dropouts, and persistent high levels of youth unemployment. In particular, residents of urban areas with a high school education or less will be competing for far fewer available jobs. Teenagers from the poorest families currently have the lowest school enrollment rates, thus confirming a "cycle of poverty" and reducing their chances for success in the future job market.

Changes associated with where we live, in the city or suburbs, in the way we produce goods, and where we invest our national resources all impact on juvenile delinquency and who comes into the system and who stays the longest. Changing the nature of our juvenile justice system cannot be done in isolation from the society that creates and maintains it.

This inquiry into differential juvenile justice provides clear guidance in a number of areas. The current system does not realistically address the problems of the youth who are in that system. Because workloads are excessive throughout most of the juvenile justice system, we are able to "write off the bad seeds." After all, if we cannot do anything with these "bad seeds," then we are relieved of any obligation to try. Clearly, this position is nonsense. Today's youth correctional system must address competency training, which prepares those who are under some form of official control, to survive in the outside world. That competency training must be buttressed by adequately-trained and supported staff, who ensure that gains made in institutions, public or private, are not lost when the former offender returns to the community. Offenders, such as those we are describing, will return to a world in which they have no real family. It is a world in which peer groups exercise extraordinary power, and it is a world in which education is not a choice but an absolute requirement for survival.

we must change beliefs regarding how people succeed. Our present reactive. We assume that every individual has the right to fail rather than to succeed. In the field of education, we must ensure an environment in which teachers can teach and students can learn. We need to have preventive programs that change the way very young people learn to live in the world. Head Start represents one such example. However, we know that children who are intellectually and emotionally starved need more than a "fix" to enter the main educational stream. We know now that the investment is of considerably longer duration than once thought, but the result is a more effective investment.

We need to invest in home-based programs for the entire family that teach parents and/or inadequate parents how to function as individuals and as family members. We need family life skill training in our public schools, just as we need to teach simple survival skills for some adolescents.

The problem is not one of making the present system more efficient and capable of serving more people. Instead, we are interested in strong community based programs that reduce the numbers of youth coming into the system and make us more effective with those who do. Experience consistently shows that small facilities, i.e., of 30 or fewer children, rather than large, conglomerate facilities do more, reduce the problem of differential incarceration by reducing the number of minorities held. Small facilities require that we reserve our limited inpatient bedspace for the most serious juvenile offenders.

We need parent training for the children who are the parents of babies. We need more care and organized nurturing for segments of our population which now lack it. We also need to become realistic about what we can do with the children of the youth who end up in the justice system, many of whom are beyond rehabilitation. Where that is the case, we need a whole panoply of family surrogates, not just they be employers, teachers, foster grandparents, etc.

We need to rediscover and encourage community development, responsibility, and accountability. Local support groups, advocates for the young, community groups, and local councils for action on crime, delinquency, and drug abuse are ways through which communities and neighborhoods can be revitalized and community values maintained.

Efforts to make generalists of juvenile justice employees (in the interest of cost efficiency) have not achieved the promises made regarding the effectiveness of these services. The juvenile justice system must have trained and qualified specialists working with juvenile offenders at all levels, in law enforcement, the courts, probation, and institutions. In turn, these specialists must be highly sensitive to cultural, ethnic, and racial differences. Our measure of success is not efficiency in processing numbers of cases but effectiveness in solving the problem of delinquent youth in appropriate programs that can reduce delinquency.

Programmatic suggestions are rooted in the knowledge that our future crime prevention strategies must focus public attention on the demographic and social

factors impacting urban neighborhoods. Emphasis must be placed on preventive programs that (a) augment child protective services and expand resources for early childhood development, (b) improve the educational achievement of low income youth and (c) enhance the vocational skills of urban youth seeking to enter a rapidly changing labor market.

A Nagging Question

In the interest of presenting issues such as differential incarceration, processing, etc., in juvenile justice, we use forms of shorthand that cloak, rather than clarify. Race is an excellent example. We use the concept of race as if it means the same thing to all of us; it does not. For example, we speak of the Asian race or Hispanic group as if they were homogeneous groups of different colors. Yet, in the Asian community, there are Chinese, Thai, Indian, Japanese, etc., all of whom represent different cultures, traditions, and characteristics. The same may be said of Hispanics. Is the Puerto Rican the same as the Cuban or the Mexican American of the far West? Obviously, the answer is no; yet, in our hurry to make things understandable, we simplify differences that should not be simplified. These cultural and traditional differences are extremely important in understanding the ways we, as individuals, are or are not assimilated into American life. We, as members of the juvenile justice community, must be sensitive to these cultural and ethnic differences about which we speak.

For some, our discussion of racism within juvenile justice may seem unreal, in that individuals within minority communities have always been able to climb up the traditional ladder of success. They still can and do, but only when they have certain common characteristics. Two of these characteristics are a strong sense of family tradition and a value of education as the means by which they can achieve success. In many of our urban, central city neighborhoods, neither of these values is in good currency. Witness the following quote from James Baldwin's Nobody Knows My Name.

It is not to be wondered at, therefore, that the violent distractions of puberty, occurring in such a cage, annually take their toll, sending female children into maternity wards and male children into the streets. It is not to be wondered at that a boy, one day, decides that if all this studying is going to prepare him only to be a porter or an elevator boy—or his teacher—well, then, the hell with it. And there they go, with an overwhelming bitterness which they will dissemble all their lives, an unceasing effort which completes their ruin. They become the menial or the criminal or the shiftless . . . (1954)

Or perhaps a contemporary note taken from Time Magazine, May, 1988, which says about "Kids Who Sell Crack":

While the most successful young dealers may be venal and vicious, at least some of them have first-rate intellects that in a better environment could be put to healthier use . . . the kids selling the drugs are the bright and articulate youngsters. They understand how the system works and how to work the system . . . It is almost a corporate mentality.

these are young people who, by the time they reach puberty, have given up the dream of leading normal lives free from crime and brutality. They say, "they will live as good as they can today since they do not see their life continuing." They do not have hope and they are unfazed that drug dealing will send them to prison or the grave.

Researchers who work on the causes of delinquency hold that three variables are critical in determining whether or not a child becomes delinquent: 1) support by the family, 2) success in school, and 3) positive peer involvement. Balance among all three is regarded as the ideal. The argument states that any one of these three can be weak or nonexistent, and a child may still avoid delinquency. But the loss of two of these supports leads, almost invariably, to delinquency.

Research also suggests that, for some minorities, these supports, for whatever reason, are not present or, in the worst scenarios, are negative pressures encouraging delinquent behavior. It explains a great deal about why certain groups are so vulnerable to the juvenile justice system. It also suggests possible solutions. It begins to answer the nagging question of why some groups can be successful in a lawful society in spite of severe hardships, language barriers, and economic status that borders on poverty. It suggests that members of any new immigrant group, "under class" will need something more than encouragement to pull themselves up by their own bootstraps." It suggests a substantially greater investment in proactive programs for children and a more thoughtful use of resources for older youthful offenders. It suggests that equity and justice mean more than fairness just within the juvenile justice system; they mean fairness in all of our life pursuits—a difficult and delicate balance in a pluralistic society where differences and individuality are valued.

Recommendations to the President

We recommend that, within the Office of the President, the Domestic Affairs Advisor be designated the Chairman of a Special Task Force to address the issues raised by differential incarceration of minority youth, and, wherever possible, to take action to correct or resolve the inequities identified.

Findings: In examining this question of differential incarceration, we found that the causes and consequences transcend the juvenile justice system and cut to the heart of much of our domestic policy. For us to pursue specific measures to improve the system from within will make only marginal gains. Greater gains can be made by addressing the cardinal issues connected with the quality and kinds of education, family life, and employment and opportunities for young minorities.

It is evident to say that, when we in the United States experience natural disasters, the Office of the President brings together those agencies and resources appropriate to address the consequences of that disaster. Only in the human realm do we fail to label national disasters as such.

Our contention that a school dropout rate of over 50 percent, unemployment rates reaching as high as 80 percent for 16-17-year-old black males, median family incomes for many minorities at 50 percent that of white families, 55 percent of the population of public detention and correctional facilities composed of minority inmates, and the growing participation of a significant proportion of our minority youth in the underground drug economy suggest something more than just a problem. It is a social disaster of major proportions. It is a disaster that will become increasingly worse, if Federal, State, and local governments, in cooperation with business and industry, do not develop some new strategies for resolving these "problems." While it would be appropriate for the Office of Juvenile Justice and Delinquency Prevention to provide staff and resources for this effort, the scope of the work goes beyond its recognized mandate. Such an effort requires the authority and the stature of the Office of the President if it is to be successful. The Federal Coordinating Council is a mechanism for testing and implementing pilot programs, but it will not do so without the leadership and support of the White House.

The issues raised by our inquiry into differential incarceration and processing of minorities require that a senior official carefully review cutbacks in government employment and domestic spending. These twin policies disproportionately affect minorities. Moreover, declining revenues for cities, with their concentration of blacks, plant closings, and plant relocations in the Third World, the Sunbelt, and suburban America exacerbate an already difficult situation. There is no way that the private sector, by itself, can take up the slack of high minority unemployment, because of the changing character of the occupational structure and the related credentialing needed to obtain these new advanced service-sector jobs. These matters, along with the problems of an educational system that does not work for an increasing number of minorities, require the authority and stature of someone who can help put the pieces back together in a pattern that permits families to function, teachers to teach, students to learn, and adolescents to make the important transition to significant jobs in the world of work.

We believe the problem is of sufficient importance to be treated as a significant concern by top-level persons within the Administration. It is not time to rediscover "A War on Whatever." It is a time to assemble the best minds in government, in education, child development, industry, and labor in creative new mixes of each to develop strategies for the next decade and the next century. The Federal Government has funded many failed programs in the past, but it has also funded many successful programs that addressed the problem about which we are concerned: Head Start, Career Employment Training Act, tax credits for employers, educational incentives for community colleges, family life education, alternative education models, relevant vocational training, childcare for working parents, permanent substitute parenting, and homemaker programs. These are but a few examples. What made them successful? What has happened to them? What would it take to expand them? These are the questions that the Special Task Force for the President's Domestic Advisor should be asking as it searches for answers that are improvements over the ones we have today.

Recommendations to the Congress

We recommend that the Congress hold public hearings to investigate the multiple problems associated with the differential incarceration and processing of minority youth.

Discussion: It is impossible to inquire into the problems associated with differential incarceration and not be confronted with even more critical questions growing up a minority in contemporary American society. The issues we raised in our brief inquiry into the matter raise profound questions about a social anomie for large segments of our society associated with nurturing, life, education, and work. They raise the specter of reason behind the youth up in the underground economy generated by illegal activities. It is a long journey that raises important questions about whether or not society has the right to allow children to elect to fail, let alone the right of an adolescent to choose strategies for life on the streets of America. Our recommendation is to encourage the Congress to share our experience and perhaps to use its prestige and position to amend existing laws to change the way young people live in America.

We recommend that the Congress appropriate additional funds to the Office of Juvenile Justice and Delinquency Prevention for the purpose of creating five State or local model youth correctional facilities, serving 100 or fewer youth, in five different regions of the U.S. and/or U.S. territories.

Discussion: Throughout the United States, several bellwether States are in the forefront of major juvenile justice reforms associated with abandoning large, one-size-fits-all juvenile correctional institutions in favor of smaller program-based facilities. These facilities replace the older and larger institutions which previously represented the single, most important correctional resource. By electing to use smaller facilities and reducing custodial sentences, differential incarceration declines. Smaller institutions result in lower incarceration rates for minority populations, because they are designed for serious and violent offenders, not property offenders per se. These new facilities are tied to a wide range of community-based alternatives to institutional care. Their design reflects the state-of-the-art in architecture but also demonstrates the state-of-the-art in juvenile corrections. The State of Utah, at present, has three such facilities. We would suggest that models be developed elsewhere, as well.

One of the purposes of these juvenile correctional models is four-fold: 1) to create a laboratory in which learning and skills can be tested in order to develop alternatives for juvenile corrections; 2) to demonstrate state-of-the-art in juvenile corrections; 3) to require the development of alternative programs in the future; and 4) to require the states to examine their priorities in terms of child welfare. Only programs committed to significantly reducing the total number of inmates should be eligible for consideration as active candidates for this national effort.

One of the advantages to a subsidy is that it would permit the use of Federal funds for construction, as well as permit the Federal Government to require such things as land purchase and quality staffing as a prerequisite for participation in the program. It would also permit the Office to accomplish one of its basic mandates, the development and promulgation of state-of-the-art models. In addition, it would create five teaching laboratories, in which the States can learn modern technology in a correctional facility subsidized by the Federal, State, and local governments.

Recommendations to the Administrator of the Office of Juvenile Justice and Delinquency Prevention

- 4. The Office of Juvenile Justice and Delinquency Prevention should conduct and support research that explores the effect of police surveillance practices, offender demeanor, and police apprehension practices to understand why and how minority youth are at greater risk of being handled differentially.**

Discussion: While a great deal is known about the consequences of police patrolling and surveillance as they affect minorities, much still needs to be learned, if we are to find ways to increase both the equity and justice of the juvenile justice system. Research is needed to help determine what is good and what is bad about current practices in order to make improvements for the future.

- 5. The Office of Juvenile Justice and Delinquency Prevention should conduct and support research on the differential effects of detention decision-making on minority youth in institutional and noninstitutional settings.**

Discussion: The decisions made on pre-dispositional detention frequently have an impact on other decisions made throughout the adjudicatory and dispositional processes. Available research demonstrates that minority youth are detained in secure settings at a disproportionate rate. This fact requires additional study into the detention decision-making practices of those involved in the early screening process.

- 6. The office of Juvenile Justice and Delinquency Prevention should sponsor and support research on the effects of existing dispositional guidelines and laws mandating penalties for chronic offenders.**

Discussion: Just as we need more information to shape future operations for policing, there is a need to understand the disparate effects and, therefore, consequences of law and dispositions on minorities. As we have seen in the earlier discussions, the happenstance of being a minority often puts him/her at a disadvantage in the orderly processing of offenders. It is in these areas that we find evidence of nonracist intent in procedures and practices that are, in fact, discriminatory in consequence.

- 7. The Office of Juvenile Justice and Delinquency Prevention should take**

a lead role in developing training curricula and promoting technical assistance for the police, persecution, courts, and probation officers on the way their personal prejudices about race, gender, class and ethnicity can affect decisions.

ission: The Federal Government took a leadership role in the 1960s to create awareness of and sensitivity to gender and different cultural, racial, and ethnic groups. Since that time, there has been an assumption that these differences are no longer a problem. The evidence presented amply demonstrates that the problem still exists. Training and active technical assistance must be an ongoing effort, and we strongly recommend that the Office of Juvenile Justice and Delinquency Prevention ensure such effort goes forward.

The Office of Juvenile Justice and Delinquency Prevention should offer leadership in the development and expansion of the use of highly-trained law enforcement personnel specifically committed to juvenile and youth services.

ission: Many major law enforcement agencies have moved away from police specialists, except as part-time personnel in other operational units of a department or agency. The argument for making this move was increased efficiency in the use of human resources. Unfortunately, recent experience does not support this move away from specialization. Delinquency has not been reduced. Diversion from the system has declined. While we recognize the efficiency argument, our measure of effectiveness is different. Our measure of success is increased service to children and youth with problems, not just an increase in the number of children and youth processed by the juvenile justice system.

Law enforcement needs full-time personnel, who are trained to deal with the special and special needs of youth, particularly the inner-city youth, who are responsible for so much street crime. We are not talking about a "kiddy cop," the misaligned police officer of the 1950s and 1960s; we are recommending a well-trained, experienced cadre of officers, who can set the tone of youth work in the department for the present and into the next century. We are speaking of specialized personnel, who are informed about youth development, youth crime, ethnic and racial differences, as well as good police practices. We are talking of a highly-trained elite, not "policemen assigned to juveniles for discipline or punishment." We are recommending personnel, who can raise public awareness and engage in a broad dialogue with the community about youth and crime. We are talking about a unit that can assist communities in planning, signing, and implementing youth service bureaus and alternative programs in law enforcement in making field dispositions.

In carrying out the many training, technical assistance, and research activities called for in these recommendations, the Office of Juvenile Justice and Delinquency Prevention should ensure that principals and

participants offering services to the Office are of diverse ethnic, cultural and educational backgrounds.

Discussion: It is important to recognize that different people with different backgrounds, education, and experience, including racial, ethnic, or cultural, will approach these problems differently and may well ask different questions about the same issues. Only complexity can manage complexity; hence, it is critically important to ensure that those doing the research, technical assistance, and training represent a comprehensive and rich mix of the differences outlined.

10. The Office of Juvenile Justice and Delinquency Prevention should take a leadership role in identifying and evaluating jurisdictions that are exploring new and innovative approaches to juvenile justice which are explicitly choosing to 1) reduce their overall juvenile incarceration rates and 2) curtail rates of minority confinements. Furthermore, it should provide information and technical assistance to other States wishing to learn from successful experiences.

Discussion: States that safely reduce incarcerations automatically reduce the numbers of minorities differentially confined. Serious crime and behavior become the criteria for using limited institutional resources; most property offenders are screened out and placed in alternative programs. This change represents a major shift in the traditional way juvenile justice has been doing business. It is a movement that has been shaping the nature of juvenile justice for the past five to seven years, and yet the Office has played only a minor role in developing or promoting information about these programs. This movement has not escaped the attention of many people at the State and local levels, however.

11. The Office of Juvenile Justice and Delinquency Prevention should do a cooperative project with the Department of Education to research, develop, and, if successful, promulgate the use of higher education, vocational and technical colleges, and community colleges to program for youthful offenders, particularly minority youth, who have not been successful in secondary educational training.

Discussion: Both the public and private sectors are discovering that the higher educational system, including vocational and technical colleges, along with community colleges, of this country are greatly underused for problem youth and dropouts. In many places, colleges are working together to plan how they might best use their resources and skills in new and innovative ways, with the result that new forms of day training for youthful offenders are being developed.

New Jersey has a program in which its correctional youth are taken to community colleges for day-long vocational training. The training covers everything from computers to horticulture. In Baltimore and Cleveland, business is guaranteeing continuing education for youth completing high school. In Lansing, Michigan, day programs that include combinations of education, training, and work as alternatives to juvenile court processing are offered. In still other jurisdictions

ional Occupatic nters are being funded to help reclaim the school
outs.

y not begin to put these ideas together to resolve at least a part of the problem
oung persons who are neither educated nor trained for the real world? This
gram would be an ideal one for the Federal Coordinating Council—creating
i-learning centers where youth can attend for a year or two, a place that eases
ative peer pressure and domination and that envelops them in an environment
ch encourages them to “do well” in the legitimate world. Exploration of a
aborative effort among corrections, regional colleges, and the private sector
ht lead to some exciting new programs, if this effort were given the support
encouragement of the Office of Juvenile Justice and Delinquency Prevention.

LEADERSHIP MEANS PARTNERSHIP

*Before I built a wall I'd ask to know
What I was walling in or walling out.*

*Robert Frost
The Mending Wall*

mission given the National Coalition by the Congress requires that our
mmendations cover both strategic and operational matters. The preceding
ion on “The Delicate Balance” addressed many of our strategic planning
mmendations that go far beyond day-to-day operations. While our
mmendations are sometimes eclectic because of the dual mission assigned by
gress, we believe they all constitute a series of variations on the same theme:
ership at the national level must be based upon a partnership with the States
local jurisdictions in dealing with the problems of juvenile justice and the
ention of juvenile delinquency.

Work of the Office

last report acknowledged that the Office of Juvenile Justice and Delinquency
ention has been responsive to many of the suggestions put forth by the
onal Coalition of State Juvenile Justice Advisory Groups. Although the
ionship has been increasingly cooperative, there are still flash points that
concern, both to the Office and the National Coalition.

ntinuing source of concern for the States is the lack of timely feedback of
ormation on changing policies and procedures. Specifically, the Office has not
veloped an effective system for reporting successful programs and projects to
ield, particularly to the State Advisory Groups. In many ways the Office
s on a few published reports as the primary strategy for disseminating
ormation on successful projects—reports that are not always readily available
e States. Knowledge transfer, if that is to be the product or consequence of
arch and demonstration, requires more than a published report. It requires a
ct and participative role for State Advisory Groups, through their annual
erence or, more appropriately, through regional workshops and seminars
sored by the Office.

A second concern of the State Advisory Groups is the failure of fffice to
comply with Section 225b of the Act and involve them in the pre-review of special
grants made directly within a State by the Office. Other Federal agencies provide
State representatives with the opportunity to review incoming grants that bypass
the existing State structure. In many cases, the State Advisory Groups could
provide the Office with helpful information about the potential grantee or
recipient of an award—information that the Office might not otherwise have.
Compliance with the Act might avoid awards to grantees who have a record of not
fulfilling their responsibilities in regard to contracts and grants.

The Office of Juvenile Justice and Delinquency Prevention has the legal
responsibility to coordinate resources at the national level. To the extent that the
Office has identified techniques, procedures, or strategies that might accomplish
this coordination at the State level, such information is necessary to the States
and should be shared systematically. For example, the Administrator has often
voiced his concern that the States are not as effective as they might be in
leveraging juvenile justice funds. Such information would be helpful, and the
States would appreciate whatever assistance the Office can offer to ameliorate
this problem.

Another example relates to procedures for a good grant review process. Some
States believe they need a better grant-review system. The Office of Juvenile
Justice and Delinquency Prevention has had extensive experience in this area and
should be able to offer good technical assistance and training. If they do not have
such a system, one should be developed and shared.

Compared with our earlier Reports, this year's discussion of operational problems
is modest. Progress has been made in establishing a working relationship between
the National Coalition and the Office. In our Third Report to the President, the
Congress, and the Administrator of the Office of Juvenile Justice and Delinquency
Prevention, we called for a partnership between the Coalition and the Office. One
important area in which cooperation, communication, and the partnership can
been enhanced is planning. It is in sensitive areas, such as program and long-
range planning, that the strategies and programs the States and the Office propose
can be measured against the intended goals and objectives. Experience has shown
that failure in planning often results from a failure to adequately evaluate. As a
result, the Office often has expanded poor or unsuccessful programs rather than
adopting new and better solutions. It is in this area that we believe we could be of
considerable help to the Office, while also fulfilling our obligations under existing
legislation.

Recommendations to the Congress

- We recommend that Section 225b and other appropriate sections of the
Juvenile Justice and Delinquency Prevention Act of 1974, as amended,
further be amended to require that State Juvenile Justice Advisory
Groups must be asked by the Office for review and comment on all
discretionary grants made within their States prior to the awarding of
such grants.**

Discussion: Unlike Federal agencies, the Office of Juvenile Justice and Delinquency Prevention does not routinely advise the appropriate State Advisory Group when making a discretionary grant within the State. As a result, the State Advisory Group is uninformed, the Office forgoes important local information about a grant recipient, and the concepts of partnership and cooperation are rendered meaningless. State Juvenile Justice Advisory Groups must be involved in the grant review process, if they are to fulfill their legal obligations.

Recommendations to the Administrator of the Office of Juvenile Justice and Delinquency Prevention

We recommend that the Administrator and his/her staff find more effective ways to share the results of successful programs, including, but not limited to, the following:

- 1) regional conferences for State Advisory Groups, 2) regional training seminars,**
- 3) an annual conference of the National Coalition of State Juvenile Justice Advisory Groups, 4) video tape presentations and library, and 5) publications.**

Discussion: As indicated in our first three reports, the lag between the completion of a successful project and information being disseminated to the juvenile justice field is, and continues to be, excessive. In most instances, the information the field needs does not reach the appropriate people in the juvenile justice field in a timely manner. Reports and publications on library shelves transfer knowledge on a very limited basis. We suggest that there be a greater use of conferences and regional training, a more active use of video presentations, and perhaps even a phone hotline for the newest and best in program findings.

The Office of Juvenile Justice and Delinquency Prevention should offer special regional training in the coordination and integrated use of Federal fund sources to State Juvenile Justice Advisory Groups.

Discussion: The Administrator of the Office of Juvenile Justice and Delinquency Prevention has been critical of State Advisory Groups for not leveraging other Federal funds with their juvenile justice monies. It seems most appropriate, therefore, to ask that the Office provide regional training for the States on ways to improve their use of various Federal funds in the interest of improving juvenile justice at the State and local level.

The Office of Juvenile Justice and Delinquency Prevention should offer the States an effective grant review process, along with training and appropriate technical assistance.

Discussion: States must make the most effective use of the resources available to improve juvenile justice services. Effective screening of various applications is a method by which the States could do a better job at allocating the available dollars. With the extensive experience of the Office in making grants, we assume

they have developed or learned of an effective grant review process. That process should be shared with the States. If it does not exist, it should be developed and shared.

- 16. The long and short-range planning process of the Office of Juvenile Justice and Delinquency Prevention should be expanded to include the Chair of the National Coalition of State Juvenile Justice Advisory Groups, or his/her designee(s), in the development of the annual program plan and long-range planning efforts by the Office.**

Discussion: Legislatively, the National Coalition of State Juvenile Justice Advisory Groups has an ongoing responsibility to inquire into the operations of the Office. What better way to gain input from the States and keep them advised than to involve them directly in the development of the annual program plan and the long-range planning process? This single improvement in working relations would help overcome a number of recurring problems.

CHANGING TIMES/CHANGING NEEDS

*The sense of danger must not disappear:
The way is certainly both short and steep,
However gradual it looks from here:
Look if you like, but you will have to leap.*

*W.H. Auden
Leap Before You Look*

The National Coalition of State Juvenile Justice Advisory Groups' Conference, "Changing Times/Changing Needs," held in Jackson, Mississippi, in May, 1988, had a profound affect on its participants. Sensitive, sometimes heated, and always informative discussions increased the awareness of those present as to how insidious discrimination is. We all live with a "just world hypothesis," one that is not supported by reality. We came to understand that the world and we, as professionals in it, are truly not blind to color or ethnic differences, even though we would like to believe we are. Nor should we be blind to differences that shape our attitudes and actions. To the extent we are aware of our attitudes, then, to that extent, we can manage our behavior in ways that do not discriminate against others. Individualized treatment means being conscious of ethnic and racial differences and balancing justice and equity within the juvenile justice system.

Our proceedings produced numerous recommendations at two different levels: 1) specific programmatic suggestions and 2) more global strategic recommendations. Our Report has ranged over a much broader area than in previous years. Yet, in considering the issues associated with differential incarceration and juvenile justice processing, we would be remiss in not asking the obvious and worrisome questions that go beyond procedure. It is clear, from

inquiry into the role of the Federal Government must assume a leadership role in creating a pro-economic environment for the next generation of minority youth, if we are to avoid fostering a continued state of dependency and delinquency for them.

The Federal, State, and local governments must join together in a concentrated effort to keep more minority students in school until graduation and to increase their basic academic skills while in school. These efforts will fall short, if they do not have the active involvement and support of business and labor or if they fail to offer realistic rewards to youth who are known to be at risk of remaining outside the mainstream of society. Old patterns of doing business are no longer satisfactory—new configurations are required.

The list of needed actions, if we are to address the problems associated with differential incarceration, is extensive. It ranges from early childhood education and home-based programs, to family life skills, alternative educational programming, child care, permanent substitute parenting, smaller correctional institutions, and major efforts to increase our awareness of our actions in relation to those who are culturally, ethnically, or racially different.

We can continue to pay our taxes for the public sector to develop and build bigger juvenile justice facilities holding more minority youth. Or, we can choose to pay less for public and private sector development of quality education, career development, community development, the revitalization of the inner city, quality child care, and those other support services that represent positive alternatives to incarceration. We do not have the option of not choosing: the question is which alternative will we choose?

The decision is ours.

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**Trying Children
As Adults**



June 6, 1999

DEFUSING THE MYTH: Prosecuting Children as Adults doesn't work to Decrease Juvenile Crime

As the House prepares to discuss juvenile justice legislation, one issue that may be considered is the question of changing juvenile justice laws to streamline prosecuting children as adults. For example, S. 254, the juvenile justice bill that recently passed the Senate, permits prosecutors to charge children as young as 14 as adults without judicial review. H. R. 3, a juvenile justice bill introduced in the last Congress, would have given prosecutors the authority to charge children as young as 13 as adults.

THE RESEARCH PROVES THIS DOES NOT WORK

The most recent research demonstrates that efforts to transfer children from juvenile court to adult criminal court does not decrease recidivism and may, in fact, be counterproductive.

One study, comparing New York and New Jersey juvenile offenders, shows that the rearrest rate for children sentenced in juvenile court was twenty-nine percent lower than the rearrest rate for juveniles sentenced in the adult criminal court. (1)

A recent Florida study compared the recidivism rate of juveniles who were transferred to criminal court versus those who were retained in the juvenile system and concluded that juveniles who were transferred recidivated at a higher rate than the nontransfer group. Furthermore, the rate of reoffending in the transfer group was significantly higher than the nontransfer group as was the likelihood that the transfer group would commit subsequent felony offenses. (2)

THE STATISTICS PROVE THIS DOES NOT WORK

A U.S. Department of Justice study found that juvenile arrests for violent crimes grew from 83,400 in 1983 to 129,600 in 1992, despite a 10% decrease in the number of sixteen and seventeen year olds in the U.S. population and despite a 115% increase in the number of juveniles, between 1989 and 1994, prosecuted in adult court for person-on-person offenses.

DISPROPORTIONATE APPLICATION TO MINORITY YOUTH PROVES THIS DOES NOT WORK

Several studies demonstrate that minority youth are more likely to be transferred to adult court through the use of prosecutorial discretion and judicial waiver. (4)

THE CASUALTIES PROVE THIS DOES NOT WORK

Incarcerating juveniles in adult jails places the juveniles in real danger. Research demonstrates that children in adult institutions are five times more likely to be sexually assaulted, twice as likely to be beaten by staff, and fifty percent more likely to be attacked with a weapon than juveniles confined in a juvenile facility. (5)

On April 25, 1996, six adult prisoners murdered a seventeen year old boy while he was incarcerated in the juvenile cellblock of an adult jail in Ohio. (6)

In Idaho, a seventeen year old boy held in an adult jail was tortured and finally murdered by other prisoners in the cell. (7)

In Ohio, a juvenile court judge put a fifteen year old girl in adult county jail to "teach her a lesson." On the fourth night of her confinement, she was sexually assaulted by a deputy jailer. (8)

THE RESEARCH PROVES ALTERNATIVES DO WORK

A 1996 Connecticut Judicial Branch study found that offenders under the age of twenty-one sentenced to Alternatives to Incarceration Programs (AIP) have a lower rate of rearrest than offenders convicted of similar crimes but sentenced to Department of Corrections Incarceration (DOC). (9)

Young drug offenders rearrested for drug crimes -- three new arrests for those sentenced to AIP versus ten new arrests for DOC. Young drug offenders rearrested for felonies -- less than one new arrest for every two new arrests of those previously in DOC. Young drug offenders rearrested overall -- about one new arrest for AIP compared to two new arrests for those previously in DOC.

**THE FACT IS: PROSECUTING CHILDREN AS ADULTS DOES NOT WORK.
SO DON'T DO IT.**

NOTES:

1. Jeffrey Fagan, The Comparative Advantage of Juvenile Versus Criminal Court Sanctions on Recidivism Among Adolescent Felony Offenders 1, 21, 27 (1996) (unpublished manuscript, on file with the American Civil Liberties Union).

2. Donna M. Bishop et al., The Transfer of Juveniles to Criminal Court: Does it Make a Difference?, 42 Crime and Delinq. 171, 183 (1996).
 3. See Vincent Schiraldi, Treating Kids Like Adults Doesn't Shrink Crime Rate, L.A. Daily News, May 12, 1996 at 1.
 4. See, e.g., Jeffrey Fagan et al., Racial Determinants of the Judicial Transfer Decision: Prosecuting Violent Youths in the Criminal Court, 33 Crime and Delinq. 259 (1987).
 5. See Jeffrey Fagan et al., Youth in Prisons and Training Schools: Perceptions and Consequences of the Treatment-Custody Dichotomy, 40 Juv & Fam. Ct. J. 1 (1989); Eisikovits & Baizerman, Doin' Time; Violent Youth in a Juvenile Facility and in an Adult Prison, 6 J. Offender Counseling, Services & Rehabilitation 5 (1983).
 6. Kristen Delguzzi, Prison Security Went Awry: Youth Killed When Adults Entered Cellblock, Cin. Enquirer, April 30, 1996, at B1.
 7. See Yellen v. Ada County, Civ. Action no. 83-1026 (D. Idaho Feb. 13, 1985) (order of permanent injunction).
 8. See Doe v. Burwell, civ. action no. c-1-81-415(s.d. Ohio June 9, 1982) (consent judgment).
 9. See Longitudinal study: alternatives to incarceration sentencing evaluation year 2, full report, state of Conn. Judicial Branch, at 84, 89-90 (Apr. 1996).
- [Congress Archives] [106th Congress Issues] [Voters' Guide] [Congress Overview] [How to Use this Section]



NATIONAL ASSOCIATION OF CHILD ADVOCATES

Brooks
reid

John Riegman, Chairman
The Conservation Company

Trying Juveniles As Adults -- Sound Public Policy, or Sound-Bite?

Many states have changed their laws recently, to try more children as adults.¹ Congress is now considering legislation to push states towards trying even more children as adults, and to try more children as adults in the federal courts. Does this approach reduce crime? Is it sound public policy? What the Research Says:

- Children tried as adults have a higher recidivism rate than comparable children tried as juveniles (children tried as adults reoffend sooner, commit more serious new offenses and reoffend more often)²;
- states with high rates of transferring children to adult court do not have lower rates of juvenile homicide³;
- the majority of children transferred to adult court were charged with property or drug-related offenses, as opposed to serious, violent offenses or other offenses against persons⁴;
- the court process prior to sentencing in adult court takes longer than in juvenile court⁵, despite the developmental psychology findings that the swiftness of a sanction is crucial to meaningful behavior modification in children, including adolescents⁶;
- the conviction rate in adult courts is lower than that in juvenile courts⁷ (and some research indicates longer sentences in juvenile court than in adult court⁸);
- many juveniles tried and sentenced as adults were released before their 21st birthday⁹; and
- deterrence, including through tough-sounding laws, is particularly ineffective with regard to adolescents¹⁰.

Thus, whatever the public policy goal -- reducing recidivism, or addressing serious violent crime, or swift justice, or "getting tough", or keeping children incarcerated beyond age 21, or deterrence -- trying more children as adults does not achieve any of these public policy goals. And there is increasing evidence that transfer decisions are made in a racially disparate manner, even when offenses and prior records are similar.¹¹ Further, adolescents and adults differ in several psychosocial aspects which affect decision-making¹² -- in other words, children and adults are different, and should be treated differently.

Finally, the placement of children tried as adults in adult jails and prisons is occurring despite the true "horror stories" of what happens to such children. In Ohio, a 15-year-old girl put in the county jail was sexually assaulted by a deputy jailer. In Idaho, a 17-year-old boy held in an adult jail was tortured and finally murdered by other prisoners in the cell. In Kentucky, a 15-year-old boy confined in the adult jail hanged himself.¹³ As recently as April 25, 1996, a 17-year-old was murdered by six adult prisoners while incarcerated in Ohio.¹⁴ Overall, children 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 children in a juvenile facility.¹⁵



AMERICAN BAR ASSOCIATION URGES HOUSE TO PROMOTE FAIRNESS AND PROTECT PUBLIC SAFETY IN JUVENILE JUSTICE BILL

The American Bar Association urges the House of Representatives to include the following principles in juvenile justice legislation:

1. **Trying Children as Adults:** The practice of trying children as adults should be used sparingly; there should be a presumption for retention by the juvenile court of jurisdiction over most persons under eighteen.
 - The juvenile court judge, upon motion of the prosecutor, should decide based upon a hearing whether waiver of juvenile court jurisdiction is appropriate in a particular case. No children aged fifteen or under should be eligible for waiver to adult court.
 - In order for a juvenile to be waived to adult court, the judge must find that (1) probable cause exists to believe that the juvenile committed the alleged offense, and (2) the juvenile is not a proper person to be handled by the juvenile court under a standard of clear and convincing evidence.
 - The decision by the court must be written, setting forth its findings and reasons for waiver. Both the defendant and prosecuting attorney should have the right to an immediate appeal of the decision.
2. **Confidentiality in the Juvenile Courts:** The ABA believes privacy is an important goal within the juvenile courts, in order to promote rehabilitation.
 - Juvenile proceedings should not be open to the public, unless a juvenile has invoked the right to a public trial. When a juvenile has waived that right to public trial, specified members of the public may be permitted to attend at the request of the juvenile, juvenile's attorney or family. Members of the public who are permitted to attend should be prohibited from revealing the identity of the juvenile.
 - Juvenile records should not be public records. The maintenance and dissemination of juvenile records should be carefully controlled to minimize the risk that juvenile records are incomplete, inaccurate, misused or misinterpreted.
3. **Core Requirements of the Juvenile Justice and Delinquency Prevention Act:** The core requirements must not be weakened in any way that compromises the safety of children or the integrity of the juvenile justice system.
 - Sight and Sound Separation: Legislation should not permit children in adult jails and lockups to be routinely exposed to adult inmates, however briefly. Routine exposure creates the risk that children are intimidated and harassed by adult inmates. Only accidental contact should be permitted.
 - Disproportionate Minority Confinement: The extremely disproportionate representation of children of color in the juvenile justice system requires that race remains a specific focus of federal legislation. It is a common misconception that current law requires states to release children from detention or corrections facilities based on race – this simply is not true.
4. **Role of Counsel:** Legislation should strongly emphasize and support a child's right to competent and effective legal counsel. Competent legal counsel ensures that the level of due process provided to a child is commensurate with the punitive sanctions and legal disabilities that a child now faces in juvenile court.
 - All children, at minimum, should have the ability to consult with counsel before waiving their right to counsel, so that they are apprised of all the possible consequences of their decision. Many children do not receive legal counsel because they are pressured to waive their right to counsel or their families cannot afford to retain counsel and do not qualify for a public defender.
 - Funds in grant programs should have specific allocations for the hiring, adequate compensation and training of attorneys who represent children in juvenile court. Many attorneys who represent children are frequently overwhelmed by high caseloads, are paid extremely low rates for their time, and do not receive specialized training on how to represent children.

For more information, contact Wendy Shang at (202) 662-1508 or shangw@staff.abanet.org.

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The Transfer of Juveniles to Criminal Court: Does It Make a Difference?

Donna M. Bishop
Charles E. Frazier
Lonn Lanza-Kaduce
Lawrence Winner

Recidivism of 2,738 juvenile offenders who were transferred to criminal court in Florida in 1987 was compared with that of a matched sample of delinquents who were retained in the juvenile system. Recidivism was examined in terms of rates of reoffending, seriousness of reoffending, and time to failure, with appropriate adjustments made for time at risk. By every measure of recidivism employed, reoffending was greater among transfers than among the matched controls.

INTRODUCTION

Since the late 1970s a large majority of states has amended their juvenile codes to facilitate the transfer of juveniles to criminal courts (Feld 1987, 1988). Florida has been a leader in these efforts, in particular, by pioneering prosecutorial "direct file" policies (Bishop, Frazier, and Henretta 1989; Bishop and Frazier 1991; Thomas and Bilchik 1985). Changes in transfer policies were made with the goal of reducing juvenile crime. However, these changes were not informed by systematic research. The purpose of this study was to use Florida's experience to examine the impact of transfer on recidivism. We compared the recidivism of juveniles who were transferred to criminal court with that of a matched sample of youths who were retained in the juvenile system. Careful comparisons of transferred and nontransferred

DONNA M. BISHOP: Associate Professor, Department of Criminal Justice and Legal Studies, University of Central Florida. **CHARLES E. FRAZIER:** Professor, Department of Sociology, University of Florida. **LONN LANZA-KADUCE:** Associate Professor, Center for Studies in Criminology and Law, University of Florida. **LAWRENCE WINNER:** Lecturer, Department of Statistics, University of Florida.

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offenders may inform us of the wisdom or folly of this "get tough" approach to juvenile crime.

THE EVOLUTION OF TRANSFER

Policymakers have looked on the transfer of juvenile offenders to adult court with increasing favor in recent years. Transfer is neither new nor unusual. Nearly all states established mechanisms to waive juvenile court jurisdiction for selected offenders early in the development of their juvenile justice acts (Flicker 1981, 1983; Hamparian 1981; Stamm 1973; Thomas and Bilchik 1985; Whitebread and Batey 1981; Wizner 1984). Contemporary efforts break with tradition because they provide for easier transfer mechanisms and encourage greater utilization of adult justice processes for juveniles.

Historically, transfer procedures were rarely invoked. The juvenile justice system remained firmly grounded in an orientation to rehabilitate youths through nonpunitive treatments. The seeds of change were planted in a series of Supreme Court decisions in the 1960s and 1970s which, in an effort to ensure fairness, made juvenile proceedings increasingly legalized and adversarial.¹ Almost simultaneous with these procedural changes came changes in philosophy that ushered in the current willingness to transfer juveniles in greater numbers.²

Crime rates soared in the 1960s and 1970s and influential voices proclaimed the vacuousness of rehabilitative methodologies (Lipton, Martinson, and Wilks 1975). Rising juvenile crime encouraged widespread sentiment that the juvenile justice system had failed its mission. Vocal critics of the juvenile justice system maintained that sanction alternatives for juvenile offenders—especially serious and violent offenders—were too lenient as well as ineffectual in either deterring crime or ensuring public safety (Wolfgang 1982; Regnery 1985, 1986). Politicians have responded to public concern and fears by advocating "get tough" policies and supporting legislation incorporating harsher penalties for youthful offenders (Albanese 1993). Bolstered by media accounts of violent youth crime, social conceptions of delinquents have shifted from pastel portraits of wayward, misguided youths to stark and ominous renderings highlighting the maturity and sophistication of young offenders (e.g., see Bernard 1992; Binder and Binder 1982). Unacceptably high rates of juvenile crime, public fear of crime, and changed perceptions of youthful offenders have converged to promote demands for greater accountability.

The response has taken a number of forms.³ Juvenile codes in more than a dozen states have been amended to deemphasize rehabilitation and to include language explicitly acknowledging punishment and protection of public safety as proper juvenile justice goals. Several states have replaced or supplemented indeterminate placements with determinate and mandatory minimum sentencing and parole release guidelines. Most important for the purposes of this article, more than 40 states have recently altered their juvenile codes to facilitate movement of young offenders to the criminal courts (Feld 1987, 1988).

The jurisdiction of the juvenile court has been restricted in a number of ways by lowering the age of criminal court jurisdiction, by expanding legislated criteria for transfer, and by supplementing traditional, cumbersome transfer methods—judicial waiver and grand jury indictment—with expedited methods such as legislative exclusion and direct file/prosecutorial waiver (Fagan and Deschenes 1990; Feld 1987, 1988; Hamparian, Estep, Muntean, Preistino, Swisher, Wallace, and White 1982). The consequence has been a dramatic increase in the number of youths handled in adult courts (Bishop et al. 1989; Champion 1989; Nimick, Szymanski, and Snyder 1986; Schwartz 1989). Ironically, approval of transfer as a method of reducing youth crime survives and grows without support from empirical research. At present, transfer holds intuitive appeal as a commonsense solution, but its efficacy has not been established. *

The Rationale for "Getting Tough"

In public discourse, it is almost taken for granted that getting tougher and harsher will be more effective than traditional modes of response to juvenile crime. Anecdotal accounts are common of juveniles laughing at the juvenile system, accumulating "free" crimes until they reach the age of majority. Some advocates of transfer claim that an experience in criminal court—no matter what the sentencing outcome—gives young offenders a good shaming up (Bishop et al. 1989). From this perspective, transfer sends an important message to youths—a message that they are now in the "big leagues" instead of being coddled by the juvenile justice system. In other words, transfer per se is thought to have symbolic value, quite apart from whatever consequences may follow at sentencing. Closely tied to this idea is the argument that if the criminal court gives young offenders "real" consequences—sanctions that are harsher and more punitive than the sanctions typically provided by the juvenile courts—their motivations to commit future crimes will be further reduced.

Proponents of transfer also point out that if offenders transferred to adult court are sentenced to terms of incarceration that are longer than the sentences they would have received had they been processed in juvenile court, their opportunities to commit subsequent offenses will be reduced accordingly. In addition to its deterrent value, then, transfer may achieve important incapacitative gains. Ardent advocates of punishment often couch their positions in rationales of social defense (Van den Haag 1975, p. 174):

The victim of a fifteen-year-old mugger is as much mugged as the victim of a twenty-year-old mugger, the victim of a fourteen-year-old murderer or rapist is as dead or as raped as the victim of an older one. The need for social defense or protection is the same.

In sum, supporters of transfer view it as a promising means of reducing juvenile crime and increasing public safety. The criminal court alternative is believed to provide more effective deterrence and greater community protection.

PREVIOUS RESEARCH

Because transfer is an option generally intended to be reserved for serious or intractable offenders, or both, much of the scholarly research has focused on whether transfer practices effectively target appropriate offender populations (e.g., see Bishop et al. 1989; Bishop and Frazier 1991; Bortner 1986; Champion 1989; Champion and Mays 1991; Fagan, Piper, and Forst 1986; Fagan and Deschenes 1990; Feld 1987, 1990; Houghtalin and Mays 1991; Lemon, Sontheimer, and Saylor 1991; Nimick et al. 1986; Osburn and Rode 1984; Poulos and Orchowsky 1994).⁴ For the most part, these studies have suggested that many youths selected for transfer do not match target populations. Typical are the results reported by Lemon et al. (1991), who found that most youths transferred to adult court in Pennsylvania were property offenders. Further, many of even these youths could hardly be considered "intractable": The concept of intractability implies that the juvenile justice system has exhausted its resources in trying to effect change. In fact, substantial proportions of transferred Pennsylvania property offenders had no prior juvenile placements.

Whether transferred youths are punished more harshly than they would have been had they been retained in the juvenile system is a second issue that has been frequently addressed (Barnes and Franz 1989; Bishop and Frazier 1991; Bortner 1986; Champion 1989; Fagan 1990; Feld 1987; Fisher and Teichman 1986; Greenwood, Abrahamse, and Zimring 1984; Houghtalin and

Mays 1991; Mays and Houghtalin 1992; Lemon et al. 1991; Rudman, Hartstone, Fagan, and Moore 1986; Sagatun, McCollum, and Edwards 1985; Thomas and Bilchik 1985). These studies have produced mixed results. Some have found that juvenile offenders receive lenient sentences in the criminal courts. For example, Champion (1989), in a study utilizing data from four states, reported that most youths waived to criminal court received sentences of probation. Perhaps because of their youth and inexperience, adolescent offenders may be viewed by judges and juries as less serious than their adult counterparts (Champion 1989; Emerson 1981; Feld 1987).

Contrary findings have also been reported. Fagan, Forst, and Vivona (1987; see also Fagan 1990), in a study of practices in four states, found that violent offenders transferred to adult court received sentences considerably longer than those likely or even possible in the juvenile justice system. Barnes and Franz (1989) analyzed cases from a single jurisdiction in California over a 6-year period and reported that juveniles convicted of violent offenses were sentenced more harshly in adult court than would have been the case in juvenile court. However, the reverse was true for property offenders. Lemon et al. (1991) found that 89% of juveniles convicted in criminal court in Pennsylvania received sentences of incarceration, but approximately two thirds received jail sentences for periods close to the average stay in the state's secure juvenile facilities.

In sum, the extant literature has provided insights into who is transferred and how they are sanctioned, but it has not addressed the impact of transfer on recidivism. We need to investigate how treatment as an adult affects future behavior. More precisely, we need to know whether juveniles who are transferred to criminal court curtail their offending more than do those who are retained in the juvenile system.

THE PRESENT RESEARCH

Our study compared recidivism of youths transferred to criminal court with that of those retained in the juvenile justice system. This sort of research has been hindered in the past by the lack of comparability of transfer and nontransfer populations. To ensure equivalence across the two groups, we sampled the nontransfer population and employed a matching procedure to control for seriousness of the transfer offense, number of charges, number of prior offenses, severity of prior offenses, and sociodemographic characteristics (age, gender, and race).

Data Sources and Matching Procedures

Identification of cases for inclusion in the study was made using the Client Information System (CIS) maintained by Florida's Department of Health and Rehabilitative Services. CIS tracks all referrals to the juvenile justice system from the point of initial intake through final disposition. CIS data were obtained for all cases that entered Florida's juvenile justice system during the period beginning January 1, 1985, and ending December 30, 1987.

From the CIS data, we identified all youths who were transferred to criminal court in 1987 ($n = 3,151$).⁵ We then reconstructed their offense histories from the data for the previous years. Next, we employed a precision matching procedure to draw a match for each transferred youth from the population disposed of in the juvenile justice system during 1987. Matches could not be generated for individuals who were indicted for capital and life felonies, offenses which must be prosecuted in Florida's criminal courts. Eight percent of the 1987 transfer population was lost for this reason. Matches were successfully generated for the remainder, yielding a study sample of 2,887.

Nontransfer matches were generated in terms of each of the following variables:

1. Most serious offense for which the transfer was made (coded in terms of each of 45 offense categories contained in the CIS database). Most of the CIS offense categories are very specific (e.g., armed robbery, carrying a concealed firearm) and leave little room for misclassifying transfers and their nontransfer matches. Other offense categories are quite broad. For example, the CIS includes a catchall category of "other felony" when an offense does not fall into one of the more precise designations. Thus for some offense categories there was less precision in the matches. Part of our analyses broke recidivism out by offense severity to see whether broad offense categories produced different results from severity categories comprised of more precisely measured offenses.
2. Number of counts included in the bill of information (coded 1, 2-3, 4 or more).
3. Number of prior referrals to the juvenile justice system (coded 0, 1-2, 3 or more).
4. Most serious prior offense. Offense histories were reviewed to identify the most serious offense for which each youth previously had been referred to the juvenile justice system. Precision matching was not possible on each of the offense codes contained in the CIS. Therefore, a scale was constructed which ranked prior offenses into eight severity classes ordered to correspond closely to the severity of penalties associated with each class.⁶
5. Age (coded in years).
6. Gender.
7. Race (coded White, non-White).

Matches were generated using a hierarchical procedure, with race being the last variable to enter. Precise matches were achieved for all variables except race. Two thirds of White transfers were matched with a same-race subject from the nontransferred group. Fifty-one percent of non-White transfers were matched with a same-race subject from the nontransfer group. The remaining matches were cross-race. A profile of subjects included in the study is provided in Appendix A.

Measuring Recidivism

We used several outcome measures to tap different dimensions of recidivism. These included individual rearrest and group rates of rearrest, severity of charges at rearrest, and time to failure among those rearrested.

All recidivism measures were derived from data on arrests through December 31, 1988, which were obtained for each of the matched pairs. These data were supplied by officials of the Florida Department of Law Enforcement, who ran national (NCIC) checks on each individual in the data set. The follow-up period ran from the date of case closure in 1987 to the end of 1988. Although this period was relatively short, individuals in the sample were at peak ages for offending. Given the "get tough" rationales, we would expect a short follow-up period to favor transfers over nontransfers in our comparisons. If getting tough merely delays reoffending, we will have missed some recidivism. Such a delay would benefit transfers in a head-to-head comparison with those retained in juvenile justice jurisdiction.

Analyses of time to failure and rearrest rates required adjustments for time at risk.⁷ To make these adjustments, data were obtained from the Florida Department of Corrections, identifying the entry date and release date for each youth who spent time in a state correctional facility during the study period. Approximately 30% of the transferred youths were sentenced to prison, most for periods of 1-5 years. Five percent ($n = 149$) were incarcerated during the entire follow-up period. These offenders were deleted from the analysis, as recidivism was not possible for them during the study period. The analyses were restricted to those 2,738 transferred youths and their 2,738 nontransfer matches who were at risk for reoffending during some portion of the follow-up.⁸

Unfortunately, information was unavailable on county jail time served by transferred youths. For the analyses that follow, we assumed that youths not sentenced to a state correctional facility were on the street with opportunities to reoffend immediately following the date of disposition of the criminal case. The effects of this assumption are twofold. First, it yields inflated estimates

of time to failure for youths in the transfer population.⁹ Second, it reduces the transferred youths' overall rate of recidivism, adjusted for time at risk. In other words, the assumption that all nonimprisoned transfers were at risk immediately after disposition operates to the advantage of the transfer group in comparisons of recidivism with the nontransfer matches.

It was important to adjust for time at risk for the nontransfer group as well. The CIS contained information on whether each youth was sentenced to a residential/institutional program, but dates of entry and release were not provided. Because we had no information on the specific facilities or programs to which each youth was confined, we assigned the average time served across all facilities. Based on information supplied by Florida's new Department of Juvenile Justice, the estimated average time incarcerated was set at 3 months.

Recidivism was examined using different levels of analysis. First, we focused on each matched pair to see whether or not both the transfer and the nontransfer cases recidivated. More specifically, we began by looking at whether or not there was a significant difference in the likelihood of rearrest within each pair. Next, we refined that comparison by looking at the severity of the 1987 offense that resulted in subjects' inclusion in the study. We examined whether transfer/nontransfer differences in rearrest were as likely to occur in cases where the 1987 offense was a felony versus a misdemeanor, and we explored whether differences in rearrest varied across seven categories of severity of the 1987 charge.

Then we turned to the overall rate of recidivism for the transfer population as a group and compared it to that for the aggregated sample of matched nontransfer cases. Analyses were performed to compare proportions rearrested in each group as well as rates of rearrest across groups adjusted for time at risk. Further analyses were conducted to assess differences across groups in the average time to failure (time between release and rearrest), to explore differences across groups in severity of rearrest offenses, and to explore offense transitions from the pretransfer to the posttransfer period.

FINDINGS

Matched Pair Comparisons

We began by taking advantage of the matching procedure to ask whether, within each pair, there were differences in recidivism between transferred and nontransferred subjects. Because these analyses involved dependent samples

of matched pairs, we made use of McNemar's Test (Agresti 1990). Defining P1 as the probability that a transferred youth was rearrested, and P2 as the probability that the nontransferred match was rearrested, we tested the hypothesis of no difference in rearrest probabilities ($H_0: P1 - P2 = 0$). The results can be classified in the following 2 x 2 table:

		Nontransfer	
		No Rearrest	Rearrest
Transfer	No Rearrest	N11	N12
	Rearrest	N21	N22

Because each cell in the table represents numbers of matched pairs, we were interested in the off-diagonal elements, N21 and N12. N21 refers to the number of pairs where the transferred youth was rearrested and the nontransfer match was not. N12 refers to the numbers of pairs where the nontransfer match was rearrested and the transferred youth was not. For large samples, the hypothesis can be tested by computing

$$Z = \frac{N21 - N12}{\sqrt{(N21 + N12)}}$$

which under the null hypothesis is approximately standard normal (Agresti 1990).

This test was conducted for the total sample of matched pairs, as well as for various subsets of the sample. The results are presented in Table 1. For all pairs, the probability of rearrest was not equivalent. N21 was greater than N12, indicating that the transferred member of the pair was more likely to be rearrested (see Table 1, Section (a)). When the analyses were repeated for pairs of subjects for whom the offense that resulted in inclusion in the study was a felony, and for pairs of subjects where the offense that resulted in inclusion in the study was a misdemeanor, we again found a significant difference between pairs (see Table 1, Section (b)).

Finally, to see whether these findings were specific to certain offense categories but not to others, we repeated the analyses for each of seven classes of offense, ranging from the most serious felony person offenses (Class 1) to minor misdemeanor offenses against public order (Class 7)¹⁰ (see Table 1, Section (c)). For six of the seven comparisons, the difference between pairs was significant. The only class in which the difference between pairs was not significant is Class 7 (the lowest level of severity). It should be noted that

TABLE 1: Results of McNemar's Test for Matched Pair Comparisons

	Z	P	N12	N21	N of Cases Out of Congruence
(a) All pairs	8.97	.001	347	627	974
(b) Felony cases	7.93	.001	290	515	805
Misdemeanor cases	3.99	.001	56	107	163
(c) Severity classes (In descending order)					
Class 1	5.77	.001	70	157	227
Class 2	2.30	.021	146	188	334
Class 3	4.80	.001	23	69	92
Class 4	3.93	.001	51	101	152
Class 5	2.02	.044	17	31	48
Class 6	3.15	.001	21	47	68
Class 7	1.60	.108	18	29	47

*Six cases were deleted from these analyses because the nature of the rearrest offense was not specified.

even within this level, we still observed that $N21 > N12$, indicating the same direction of effect.

Odds ratios (measures of association) were estimated, as well as 95% confidence intervals, for all pairs, for felony versus misdemeanor cases, and for each of seven classes of severity of the 1987 offense. For transfers, the odds of being rearrested were computed by dividing the probability of rearrest by the probability of no rearrest. Similarly, these odds were computed for the nontransfer matches. The odds ratios were computed by dividing the odds of rearrest for transfers by the odds of rearrest for nontransfers.

An odds ratio of 1 implies that the likelihood of rearrest was the same for the two groups. A value greater than 1 means that the likelihood of rearrest was higher among transfers, whereas a value less than 1 means that the likelihood of rearrest was higher among the nontransfer matches. Results are reported in Figure 1, where we have plotted each of the odds ratios and their respective confidence intervals. The plots show graphically that over all pairs, and for all levels of severity of the offense for which each pair was included in the sample, the estimated odds ratios were greater than 1, and most of the confidence intervals were entirely above 1. These findings indicate that the probability of rearrest among transfer cases was greater than among matched controls consistently across all levels of offense severity. For all offense categories, the pattern of higher rearrest among the transferred member of the pair was maintained.

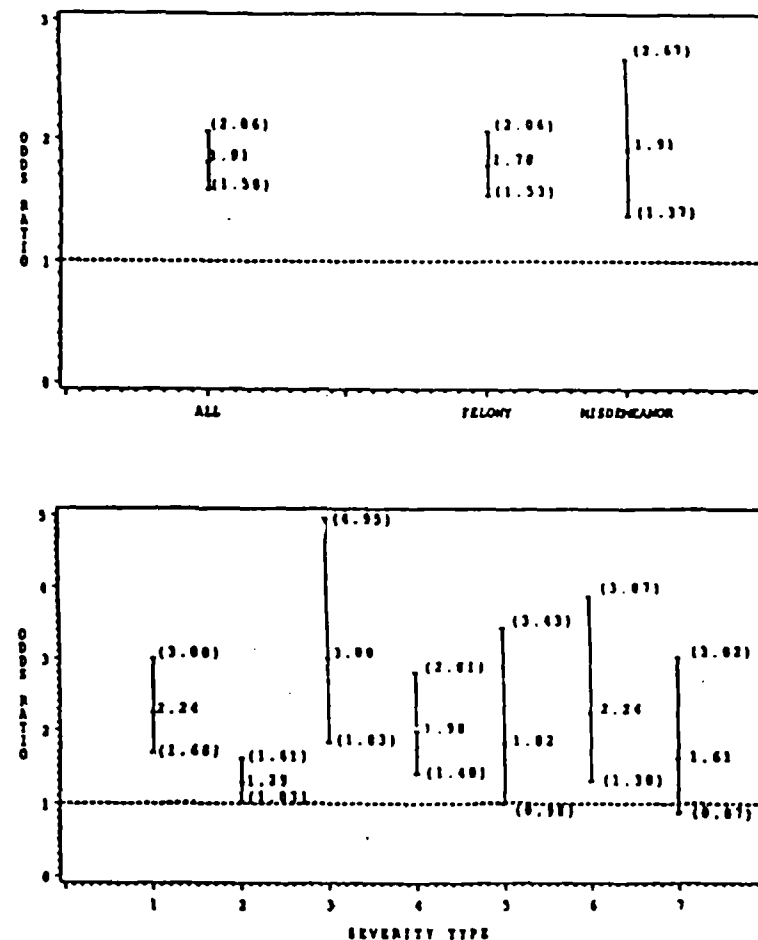


Figure 1: Plot of Odds Ratios and Confidence Intervals for Probabilities of Rearrest

Group Comparisons

We also compared recidivism by contrasting the proportions of persons rearrested and rates of recidivism for transfers in the aggregate compared to the sample of nontransfers. Recidivism was operationalized in three ways: arrest versus no arrest, length of time until rearrest, and relative severity of rearrest charges.

Rearrests. Of the transferred youths, 30% were rearrested during the follow-up period, compared to 19% of the nontransfer matches ($Z = 9.54$, $p < .001$). These findings at the aggregate level confirm what was observed in the matched-pairs analyses; that is, youths in the transfer group were significantly more likely to reoffend during the follow-up period than were their nontransfer matches.

These unadjusted proportions do not take account of differences in time at risk across the two groups. For the transfer group as a whole, the mean number of days of incapacitation was 38, compared to 33 days for the nontransfer group. For those who were incarcerated in the transfer group, the mean number of days of incarceration was 245, compared to 90 days for the nontransfer group.¹¹

Adjusted arrest rates were calculated by computing numbers of rearrests within each group divided by days at risk, then multiplying by 365.25 to produce yearly rates of offending. For the total transfer group ($n = 2,738$), the rearrest rate was .54 offenses per person year of exposure, compared to a rate of .32 for the total nontransfer group ($Z = 13.60$, $p < .001$).¹² Looking only at those who reoffended during the follow-up period (808 transfers, 528 nontransfers), the adjusted rate of rearrest in the transfer group was 1.90 offenses per person year of exposure, compared to a rate of 1.70 for the nontransfer group ($Z = 3.09$, $p = .002$).¹³

Time to failure. The next question we addressed was whether mean time to failure differed across groups. For those 808 subjects who reoffended in the transfer group, mean time to failure adjusted for time at risk was 135 days; that is, the average elapsed time on the street prior to committing a new offense for those who reoffended in the transfer group was 135 days. For the nontransfer group, the average time to failure was 227 days. The difference across groups was significant ($Z = 10.57$, $p < .001$). Thus not only were transfers more likely to reoffend but they were likely to reoffend more quickly than their nontransfer matches. Had we been able to calculate jail time served for transfers, their time to failure would undoubtedly have been shorter, and the differences between groups even greater.

Severity of rearrest. Still another way of exploring similarities and differences in recidivism across the two groups was to examine the severity of rearrest offenses. For this portion of our analyses, we restricted our attention to the first rearrest for each individual who reoffended in the two groups and calculated the proportions who committed felonies versus misdemeanors.¹⁴ Of the transfers who were rearrested, 93% were arrested for felony offenses. Persons rearrested in the nontransfer group, 85% were arrested for felon-

offenses. Although the difference across groups in proportions arrested for felonies was small, it was statistically significant ($Z = 4.075$, $p < .001$).

A second way of comparing severity of reoffending across the two groups involved pre-post comparisons—that is, examining offense transitions for each individual who reoffended to see how the severity of the first rearrest compared to the arrest that put the youth into the study. Among the transfers, 5% of those who reoffended showed some improvement in that, although they were transferred for a felony offense, they were subsequently arrested for a misdemeanor. Among the nontransfer matches, 11% showed improvement, transitioning from a felony arrest in 1987 to a subsequent misdemeanor offense. Again, the difference across groups was statistically significant ($Z = -3.73$, $p = .01$).

DISCUSSION AND CONCLUSIONS

Did the transfer of juveniles to criminal court make a difference? Advocates of transfer clearly think it should, and our research showed that it did. However, the effect was not in the direction its advocates expect. In these data, transfer actually aggravated short-term recidivism.

The transfer group recidivated at a higher rate than the nontransfer group. This was true within all seven classes of offense that resulted in subjects' inclusion in the study. Despite being incarcerated for longer periods of time, transferred youths nonetheless committed more offenses. When time at risk was controlled, the rate of reoffending in the transfer group was significantly higher than in the nontransfer group both in terms of time to failure and in terms of arrest rates. Further group comparisons revealed that transferred offenders were more likely than matched nontransferred youths to commit a subsequent felony offense. Comparing pre- to post-levels of offending among those who reoffended, more of the nontransfer matches improved their behavior over time. Among those rearrested, the offense transitions showed a significantly greater tendency toward rearrest for a lesser offense for the nontransfer group than for the transfer group.

Overall, the results suggest that transfer in Florida has had little deterrent value. Nor has it produced any incapacitative benefits that enhance public safety. Although transferred youths were more likely to be incarcerated and to be incarcerated for longer periods than those retained in the juvenile justice system, they quickly reoffended at a higher rate than the nontransferred controls, thereby negating any incapacitative benefits that might have been achieved in the short run.

Although our matches were designed to reduce the possibility of non-equivalence between transfer and nontransfer cases, some slippage in the offense categories used to generate the matches allowed for the possibility of selection bias. However, when we compared the matched pairs within different classes of offense, some of which have considerably more precision, the general pattern held.¹⁵ Consequently, we do not think the results can be explained away by nonequivalence across groups.

Another possibility is that transfer to the adult system heightens law enforcement vigilance and increases the risk of rearrest more than of reoffending. Perhaps offenders transferred to criminal court are more closely supervised on probation and parole than are youths retained in the juvenile system, making detection of repeat offenses more likely. Or perhaps officials have a lower threshold of tolerance for violations committed by offenders transferred to adult court. To test these hypotheses would require self-reports of offending to supplement official arrest data.

Although we would be the first to recommend replication of our research with better matches and controls and in other jurisdictions, we also would be remiss if we did not state the obvious. There may be no way to "explain away" the results. Transfer to criminal court may indeed increase the likelihood of recidivism. In other words, perhaps the context in which sanctions are administered matters. Certainly the original "Child Savers" would not be surprised by our results.¹⁶ Proponents of the labeling and social reaction perspectives have warned about the negative consequences of criminal sanctions for children. Consequently, we wonder about the messages that the juvenile versus criminal systems communicate to offenders, and how they are received. Certainly, the findings of this study are consistent with the idea that the criminal system sends a more negative message. Braithwaite's (1989) theory of reintegrative shaming cautions about the adverse impact of sanctions that reject and exclude, and the implications these have for future offending. Perhaps transfer from juvenile to criminal court signals to young offenders that they are outcasts. Although stigma is undoubtedly attached to juvenile justice processing, the stigma associated with criminal court conviction and adult sentencing is greater and more enduring than its juvenile counterpart. Social responses in the family, the community, and the workplace to a criminal conviction are condemnatory. In American culture, the sins of youth are more readily forgiven and forgotten than the sins of adults.

From this perspective, transfer denotes more than process and procedure. It is symbolic of status transformation from "redeemable youth" to "unsalvageable adult." Faced with that prospect, youths may surrender self-restraint, accept the negative attributions of the culture that has excluded them, and

seek out the companionship of others who tolerate or support continued deviation from societal norms.

Lanza-Kaduce and Radosevich (1987), Tyler (1990), and Sherman (1993), in their discussions of procedural injustice and rule violations, suggest another possible interpretation for our findings. Lanza-Kaduce and Radosevich (1987) reported that a sense of injustice about formal processing was associated with increased drug use among incarcerated juveniles. Tyler (1990, p. 63) found that adults who had contact with police or the courts and who believed they had been treated unfairly were less compliant with legal norms than those who believed they had been treated fairly. Similarly, Sherman (1993) has argued that punishments increase the likelihood of recidivism when offenders perceive that sanctioning agents are acting unjustly. He suggested that this is especially likely to occur when the offender is alienated from the sanctioning agent or the community the sanctioning agent represents. Under these conditions, the sanction provokes angry pride, which predisposes the offender to repeat the sanctioned conduct. From this perspective, an important question is whether transferred youths attribute procedural and substantive unfairness to criminal justice processing. If so, their higher rates of reoffending may be best understood in terms of anger and defiance.

Certainly, other theoretical perspectives may be employed to interpret differential effects of juvenile and adult processing. Researchers should continue to explore the connections between alternative processing strategies and their behavioral consequences. Especially helpful would be longitudinal studies focused on the experiences and reactions of young offenders in juvenile versus criminal courts, and in juvenile versus criminal correctional systems.

Appendix A: Characteristics of Transfer and Nontransfer Samples

I. Most Serious Transfer Offense by Prior Record				
1987 Offense	Prior Record None	1-2	3 or More	Total
Felonies				
Manslaughter	14	0	8	22
Attempted murder	5	0	10	15
Sex battery	28	21	29	78
Aggravated battery	46	68	147	261
Armed robbery	39	39	83	161
Other sex offense	1	1	3	5
Other robbery	10	19	51	82
Arson	1	0	3	4
Burglary	112	133	369	614
Grand larceny	16	23	40	79
Auto theft	31	26	137	194
Drug, not marijuana	9	14	11	34
Escape	0	0	33	33
Forgery/uttering	37	43	100	180
Concealed firearm	5	8	14	27
Receive stolen property	2	2	7	11
Other felony	65	67	167	299
SUBTOTAL	422	464	1232	2118
Misdemeanors				
Assault	22	15	57	94
Sex offense	1	1	2	4
Trespass	16	11	27	54
Petit larceny	15	17	27	59
Retail theft	22	27	44	93
Vandalism	15	10	17	42
Loitering/prowling	8	18	40	64
Receive stolen property	0	1	0	1
Concealed weapon	5	2	4	11
Disorderly conduct	6	4	17	27
Drug, not marijuana	2	4	4	10
Marijuana	6	5	13	24
Prostitution	0	0	4	4
Alcohol possession	9	4	12	25
Traffic	3	5	5	13
Other misdemeanor	25	14	29	68
Other (ordinance violations)	2	11	14	27
SUBTOTAL	155	149	316	620
TOTAL	577	613	1,548	2,738

II. Class of Most Severe Prior Offense for Those Offenders With Prior Records of Referral

	N	Percentage
Class 1	514	23.8
Class 2	870	40.3
Class 3	32	1.5
Class 4	310	14.3
Class 5	141	6.5
Class 6	162	7.5
Class 7	52	2.4
Class 8	73	3.4
TOTAL	2161	100.0

III. Number of Counts Included in the Bill of Information

One = 86%; Two-Three = 13%; Four or more = 1%

IV. Socio-demographic Characteristics

Gender:	Male, 92%		Female, 8%	
Age at Transfer:	17, 60%	16, 25%	15, 25%	<15, 3%
Race:	Transfer Group		Non-Transfer Group	
	White, 53%		White, 58%	
	Nonwhite, 47%		Nonwhite, 42%	

NOTES

1. See, especially, *In re Gault*, 387 U.S. 1 (1967); *In re Winship*, 397 U.S. 358 (1970); and *Breed v. Jones*, 421 U.S. 519 (1975).

2. For further discussion of the interaction between increased procedural formality and the shift toward more punitive orientations, see Gardner (1987), Forst and Blomquist (1991), and Feld (1984, 1988).

3. See Feld (1993) for a detailed discussion of these changes in juvenile justice philosophy and practice.

4. The manner in which transfer decisions are made has also been the subject of research. Concerns have been raised about arbitrariness in the selection of youth for transfer, and about the role of extralegal factors in transfer decision making (Barnes and Franz 1989; Bishop et al. 1989; Bishop and Prazler 1991; Fagan et al. 1987; Fagan and Deschenes 1990; Singer 1993).

5. More than 80% of the cases were transferred through prosecutorial waiver (direct file). The balance involved judicial waivers and a small number of grand jury indictments.

6. The most severe class (Class 1) consisted of felony offenses against persons that would generally be considered felonies of the first degree. (2 consisted of major property felonies.

Class 3 included felony drug offenses. Class 4 included an "other felony" category, as well as concealed firearms and receiving stolen property. Class 5 included misdemeanor offenses against persons and trespass/breaking and entering. Class 6 contained multiple midrange misdemeanors (petit larceny, retail theft, loitering and prowling). Class 7 included minor drug and alcohol offenses, and offenses against public order. Class 8 included status offenses.

7. For example, if a transferred youth was sentenced to prison for some period of time and was subsequently released while his or her nontransfer match was sentenced to probation, we wanted to adjust for differences in the time each was on the street with opportunities to commit further crimes.

8. The fact that such a large proportion of transferred youths was back on the street by the end of 1988 may be surprising to some. Recall, however, that some prior research suggests that adult sanctions received by transferred youth are lenient. Of the 2,887 youths transferred for other than life or capital felonies, approximately 30% received sentences of incarceration, most for periods of 1 to 5 years. During the time period covered by the study, "good time" and "administrative gain time" provisions in Florida were exceedingly generous, largely due to pressures related to prison overcrowding. Consequently, offenders were serving on average only 30% of their sentences.

9. That is, some of the transfers took longer to reoffend because they were in jail.

10. An offense severity scale was constructed using the same categories discussed in Note 6 to classify prior offenses. Class 8 was omitted because no youths were transferred for status offenses.

11. Recall that the incarceration estimates for the transfer group are underestimates because we were unable to obtain information on jail time served for this group.

12. Although these are reported as rates of rearrest, tests were conducted by treating the number of days of exposure as the number of trials, and the number of rearrest dates as the number of occurrences (or "successes"). We then used a Z test to determine whether the two proportions (number of rearrest dates divided by number of days of exposure) were equal.

13. See Note 11.

14. There was some loss of data for this portion of our analyses. Of the 808 transfers who were rearrested, the nature of the first offense following the transfer was not recorded in 146 cases (12%). Among the nontransfers, data were missing on the nature of the first rearrest offense in 51 of 528 cases (10%).

15. Of course it could also be that our transfers differed from our nontransfer matches along other dimensions that we did not measure that would have predicted recidivism. Perhaps judges and prosecutors select youths for transfer based on considerations independent of offense seriousness or chronicity, such as whether youths come from homes and neighborhoods that are especially dysfunctional or unstable. But if practitioners use economic, social, and family variables to treat some juveniles more harshly than others, questions of unequal justice would be raised.

16. This does not mean that we would advocate returning to the "good ol' days" of informal juvenile justice processing to "treat" the child. One does not have to accept a treatment philosophy or some form of diversion to find a theoretical rationale for our results.

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Federalizing Crime

A TASK FORCE of the American Bar Association section on criminal justice has issued a report on the federalization of traditionally state crimes that deserves serious consideration before Congress contemplates any new crime measures. The basic contention of the report, which was produced by a bipartisan group headed by former attorney general Edwin Meese III, is that Congress's tendency in recent decades to make federal crimes out of offenses that have historically been state matters has dangerous implications both for the fair administration of justice and for the principle that states are something more than mere administrative districts of a nation governed mainly from Washington. The report argues rightly that the trend gives federal prosecutors too much power over citizens in areas outside the traditional law enforcement interests and expertise of the federal government.

Particularly striking is the task force's data on both the scope of federalization and its ineffectiveness as a law enforcement strategy. More than 40 percent of all federal criminal statutes enacted since the Civil War date from after 1970. Moreover, many federal criminal laws that Congress passed in response to the public clamor surrounding high profile crimes are hardly ever used. The much-vaunted anti-car-jacking statute has been the basis for only 164 prosecutions. The laws against drive-by shootings and interstate domestic violence

have not been the basis for a single federal case.

These statutes do less to fight crime than to "present a possible opportunity for both selective prosecution with its inherent disparity and for shifting prosecutorial priorities that, without open political debate, can alter the traditionally limited federal presence in local matters."

Few would argue with this critique. The problem is that federalism is almost nobody's paramount policy concern—including ours. While everyone can agree that the tendency to federalize crime is dangerous, few are willing to give up cherished public policy goals in order to protect the rather diffuse and already eroded principle of federalism.

But this does not mean the concern is without merit. When Congress considers crime legislation, it certainly should pay careful attention to the real law enforcement purpose—not merely the short-term political gains to be had by appearing tough on crime. It should also consider seriously in all federalizations whether the proposed statutes merely duplicate existing state authorities or actually add something new and useful to the anti-crime arsenal. Finally, it is worth considering, if the task force is right that many federal criminal statutes are worthless and irrational, whether to begin repealing them.

NEWS RELEASE

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Contact: Diane Carr
Phone: 202/662-1094
Email: carrd@staff.abanet.org

CREATING TOO MANY FEDERAL CRIMES IS DANGEROUS AND COUNTERPRODUCTIVE, ABA TASK FORCE WARNS

WASHINGTON, D.C., Feb.16, 1999 -- Tracing dramatic growth in the number and variety of federal crimes, an American Bar Association task force today warned of the dangers in subjecting local crimes to potential federal control, rather than leaving such crimes to state law.

In a report released today, the panel expressed concern about the increasing tendency of Congress to create federal crimes out of local conduct already covered by state criminal laws, such as drive-by shootings and street crime.

"It is a recognized constitutional principle, deeply rooted in the American criminal justice system, that the general police power resides in the states, not the federal government," said the Task Force's chairman, former Attorney General Edwin Meese. "This current phenomenon is capable of altering the careful decentralization of criminal law authority that has worked well in America."

750 N. Lake Shore Drive
Chicago, Illinois 60611
312/988-5000 312/988-5865 (Fax)

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FEDERALIZATION, Add One

The panel of highly respected professionals assembled by the ABA's Criminal Justice Section examined the consequences of this federalization trend and called upon Congress to exercise greater caution in enacting federal laws that overlap state criminal law, and to focus federal resources on dealing with the important problems of distinctly federal crime.

"One of the most striking things about the panel's work was the consistency between the data and the observations of the criminal justice professionals. Many of the organizations we talked with indicated that federal crimes are created without a demand for them by law enforcement, and for no other reason than that the conduct is serious," said panel member William Taylor, a defense attorney and former chair of the section. "The panel found no persuasive evidence that federalizing crime makes the streets safer."

In fact, the panel concluded that "increased federalization is rarely, if ever, likely to have any appreciable effect on the categories of violent crime that most concern Americans, because in practice federal law enforcement can only reach a small percent of such activity." Only five percent or less of all crime is prosecuted by the federal government. The states prosecute the other 95 percent.

The study found that more than 40 percent of the federal provisions enacted since the Civil War have been enacted since 1970. The panel cautioned that "the expanding coverage of federal criminal law, much of it enacted in the absence of a demonstrated and distinctive federal justification, is moving the nation rapidly toward two broadly overlapping, parallel, and essentially redundant sets of criminal prohibitions, each filled with differing consequences for the same conduct."

FEDERALIZATION, Add Two

According to Temple University law professor James Strazzella, a panel member who served as reporter for the group, "The report frankly recognizes the pressures on Congress to create new crimes, but it urges Congress to consider carefully the important and practical consequences that follow from inappropriate federalization."

The panel's report identifies a sizeable list of adverse consequences that potentially flow from inappropriate federalization, in addition to generally undermining the state-federal fabric and disrupting the important constitutional balance between the federal and state systems.

Among those adverse consequences are:

- an unwise allocation of scarce resources needed to meet the genuine issues of crime
- an unhealthy concentration of policing power at the federal level
- an adverse impact on the federal judicial system
- inappropriately disparate results for similarly situated defendants, depending on whether their essentially similar conduct is selected for federal or state prosecution
- a diversion of congressional attention from a needed focus on certain criminal activity which only federal prosecutions can address

The ABA task force, which is made up of a broad cross-section of prosecutors, defense attorneys, judges and law professors, has been examining the federalization issue over the last two years. The panel also sought input from the National District Attorneys Association, the State Attorneys General Association, the National Governors Association, the Association of State Legislators and the Conference of Chief Justices.

FEDERALIZATION, Add Three

The report has not been considered by the ABA's House of Delegates and so does not represent policy of the association.

To request a copy of the report contact the ABA Service Center at 800/285-2221 or 312/988-5522 (cite "The Federalization of Criminal Law," Product Code PC-3500001). The cost is \$10, plus shipping and handling. Or you may access the report online at www.abanet.org/crimjust/fedreport.html.

The American Bar Association is the largest voluntary professional association in the world. With more than 400,000 members, the ABA provides law school accreditation, continuing legal education, information about the law, programs to assist lawyers and judges in their work, and initiatives to improve the legal system for the public.

The Task Force on Federalization of Criminal Law

Chairman: Edwin Meese III, (former Attorney General), Heritage Foundation Fellow

MEMBERS:

John S. Baker, Jr., Louisiana State University law professor (former Assistant District Attorney, New Orleans);

Sara Beale, Duke law professor (former Assistant Solicitor General, Attorney Adv., DOJ Office of Legal Counsel);

Susan Ehrlich, Judge, Arizona Court of Appeals (former Assistant U.S. Attorney, Arizona; formerly Department of Justice Civil Rights Division.);

Reuben Greenberg, Chief Charleston Police Department, Charleston, S.C.;

Howell Heflin, former U.S. Senator, Alabama;

Philip Heymann, Harvard law Professor (former Deputy Attorney General for Attorney General Janet Reno; former Assistant Attorney General, Criminal Division);

Vincent Johnson III, District Attorney General, Nashville, Tenn.;

Robert W. Kastenmeier, former Congressman, Wisconsin;

Robert Litt, Principal Associate Deputy Attorney General, Department of Justice, Washington, D.C.;

James Neal, attorney in private practice, Nashville, Tenn. (former Department of Justice prosecutor and U.S. Attorney, Tennessee);

Jon O. Newman, federal appeals court, Connecticut;

Otto G. Obermaier, attorney in private practice, New York City (former U.S. Attorney, S.D.N.Y.);

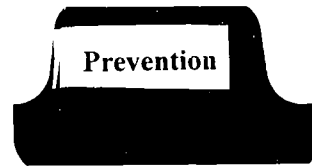
Donald Santarelli, attorney in private practice, Washington, D.C. (former head of LEAA);

James Strazzella, Temple University law professor, Reporter (former Assistant U.S. Attorney, Washington, D.C.);

William W. Taylor, III, attorney in private practice, Washington, D.C. (former chair, ABA Section of Criminal Justice);

John K. Van de Kamp (former Attorney General of the State of California.)

Dr. Barbara Melerhoefer, Washington, DC, served as statistical consultant.



Comparison of Mental Health Provisions Included in Juvenile Justice Crime Bills

Mental Health Provisions: Principles of the Mental Health Juvenile Justice (MHJJ) Act: HR 337, S. 464, S. 465	House-passed Bill: Consequences for Juvenile Offenders Act of 1999 HR 1501	Senate-passed Bill: The Violent and Repeat Juvenile Offender Accountability Act of 1999, S. 254	National Mental Health Association's (NMHA's) Recommendations for the Juvenile Justice Conference Committee Bill
a.) Juvenile Delinquency Prevention Grants a.) Initial intake screening	Allows funds to be used for projects that provide for initial intake screening of all youth entering the system, <i>which applies to mental health and other services</i> . Projects should determine the likelihood that such juvenile will commit a similar offense, and provide appropriate interventions.	Allows funds to be used for projects that provide for initial intake screening of all youth entering the system, <i>which may include drug testing</i> . Projects should determine the likelihood that such juvenile will commit a similar offense, and provide appropriate interventions.	Support House Language: Allows funds to be used for projects that provide for initial intake screening of all youth entering the system, <i>which applies to mental health, substance abuse and other services</i> .
b.) Provide services to juveniles in need of mental health services	Allows funds to be used for juveniles with serious mental and emotional disturbances (SED), including (1.) assessments of incarcerated juveniles; (2.) development of individualized treatment plans; (3.) discharge plans for incarcerated juveniles; (4.) requirements that all juveniles receiving psychotropic medication be under the care of a licensed mental health professional.	Allows funds to be used for juveniles with serious mental and emotional disturbances (SED), including (1.) assessments of incarcerated juveniles; (2.) development of individualized treatment plans; (3.) discharge plans for incarcerated juveniles; (4.) requirements that all juveniles receiving psychotropic medication be under the care of a licensed mental health professional. <u>Note:</u> S. 254 stipulates that not less than 80% of Juvenile Delinquency Prevention Block Grant funds shall be used for prevention purposes, which includes projects that provide mental health treatment; not less than 20% of the funds shall be devoted to intervention purposes.	Support House Language: Allows funds to be used for juveniles with serious mental and emotional disturbances (SED), including (1.) assessments of incarcerated juveniles; (2.) development of individualized treatment plans; (3.) discharge plans for incarcerated juveniles; (4.) requirements that all juveniles receiving psychotropic medication be under the care of a licensed mental health professional. <u>Note:</u> Any earmarks for prevention purposes shall include projects that provide mental health treatment.
c.) Coordinated mental health service delivery	Allows funds to be used for comprehensive juvenile justice and delinquency prevention projects that collaborate with many local service systems, juveniles encounter, including schools, courts, law enforcement agencies, child protection, mental health and child welfare services.	Allows funds to be used for projects to coordinate juvenile service grants administered by DOJ and SAMHSA, to establish mental health treatment programs for at-risk children.	Support Senate Language: Allows funds to be used for projects to coordinate juvenile service grants administered by DOJ and SAMHSA, to establish mental health treatment programs for at-risk children.

	H.R. 1501	S. 254	NMHA's Recommendation for Conference Committee Bill
d) Victims of child abuse	Allows funds to be used for projects to provide treatment, including mental health problems, to juvenile offenders who are victims of child abuse or neglect, or have experienced violence in their homes, school or in the community.	Allows funds to be used for projects that provide support and treatment to juveniles who are at-risk of delinquency because they are victims of child abuse and neglect; and juvenile offenders who are victims of child abuse or neglect and to their families, in order to reduce the likelihood that such juvenile offenders will commit subsequent violations of law.	Support House Language: Allows funds to be used for projects to provide treatment, including mental health problems, to juvenile offenders who are victims of child abuse or neglect, or have experienced violence in their homes, school or in the community.
2. Juvenile Accountability Block Grants a) Mental health & substance abuse treatment	Allows funds to be used for programs that establish and maintain appropriate mental health and substance abuse treatment programs.	No comparable provision.	Support House Language: Allows funds to be used for programs that establish and maintain appropriate mental health and substance abuse treatment programs.
b) Cross-training justice system personnel	No comparable provision.	Allows funds to be used to cross-train justice system personnel, jointly with public mental health system personnel on appropriate use of community-based programs, as alternatives to juvenile justice placements.	Support Senate Language: Allows funds to be used to cross-train justice system personnel, jointly with public mental health system personnel on appropriate use of community-based programs, as alternatives to juvenile justice placements.
c) Training probation officers	No comparable provision.	Allows funds to be used to train State juvenile probation officers and community mental health and substance abuse program representatives on appropriate linkages between probation programs that can make effective treatment interventions.	Support Senate Language: Allows funds to be used to train State juvenile probation officers and community mental health and substance abuse program representatives on appropriate linkages between probation programs that can make effective treatment interventions.
3. State Plans a) Mental health services plans	As a requirement of Formula Grant funds, states shall also provide a plan for providing needed mental health services to juveniles in the justice system, <u>AND</u> include information on how services will be targeted to those juveniles in greatest need.	As a requirement of Formula Grant funds, states must contain a plan for providing needed mental health services to juveniles in the justice system.	Support House Language: As a requirement of Formula Grant funds, states shall also provide a plan for providing needed mental health services to juveniles in the justice system, <u>AND</u> include information on how services will be targeted to those juveniles in greatest need.
b) Detaining juveniles for psychiatric evaluation (not a principle of the MHJJ Act)	No comparable provision.	As a requirement of receiving Formula Grant funds, states shall have a policy in place that requires state or local law enforcement to detain a juvenile who possesses a firearm in school for not less than 24 hours, to conduct an "appropriate evaluation" by a judicial officer to determine if the juvenile may be a danger to himself or others.	Support New Language: All psychiatric evaluations should be administered by licensed mental health professionals or physicians. If screenings indicate presence of a mental or emotional disorder, an individualized treatment plan should be implemented within 5 days.

	H.R. 1501	S. 254	NMHA's Recommendation for Conference Committee Bill
4. Research & Evaluation a) Evaluating mental health services administered by states	OJJDP must conduct research in juvenile justice matters, for the purpose of providing research and evaluation, that will include the appropriate mental health services for juveniles at-risk of participating in delinquent activities.	No comparable mental health provision.	Support House Language: OJJDP must conduct research in juvenile justice matters, for the purpose of providing research and evaluation, that will include the appropriate mental health services for juveniles at-risk of participating in delinquent activities.
5) Training and Technical Assistance a) Promoting model programs	OJJDP shall provide training and technical assistance to mental health professionals and law enforcement personnel (including public defenders, police officers, probation officers, judges, parole officials and correctional officers) that address the needs of adjudicated delinquents in secure detention or confinement, or in non-secure residential placements.	No comparable mental health provision.	Support House Language: OJJDP shall provide training and technical assistance to mental health professional and law enforcement personnel (including public defenders, police officers, probation officers, judges, parole officials and correctional officers) that address the needs of adjudicated delinquents in secure detention
6) Study of mental health service needs of juveniles	OJJDP in collaboration with NIMH shall conduct a comprehensive mental health study not later than 18 months after enactment of this Act, of juveniles in secure or non-secure placements (including those on probation). The study shall contain : (1) a comprehensive survey of the types of mental health services that are currently being provided to juveniles; (2) identification of governmental entities that have developed or implemented model or promising screening, assessment or treatment programs or innovative mental health delivery or coordination systems, that address and meet the mental health needs of such juveniles; and (3) review of the literature that analyzes the mental health problems and needs of juveniles in the juvenile system. OJJDP shall submit the study to Congress, and broadly disseminate to individuals and entities engaged in fields that provide services and make policies relating to such juveniles.	No comparable mental health provision.	Support House Language, include CMHS: OJJDP in collaboration with NIMH and the Center for Mental Health Services (CMHS) shall conduct a comprehensive mental health study not later than 18 months after enactment of this Act, of juveniles in secure or non-secure placements (including those on probation). The study shall contain : (1) a comprehensive survey of the types of mental health services that are currently being provided to juveniles; (2) identification of governmental entities that have developed or implemented model or promising screening, assessment or treatment programs or innovative mental health delivery or coordination systems, that address and meet the mental health needs of such juveniles; and (3) review of the literature that analyzes the mental health problems and needs of juveniles in the juvenile system. OJJDP shall submit the study to Congress, and broadly disseminate to individuals and entities engaged in fields that provide services and make policies relating to such juveniles.

	H.R. 1501	S. 254	NMHA's Recommendation for Conference Committee Bill
School Safety & Violence Prevention Provisions (a) Amends IDEA	Amends the Individuals with Disabilities Education Act (IDEA) to allow school personnel to discipline (including expel or suspend) a child with a disability who carries or possesses <i>a weapon</i> to or at school, in the same manner in which such personnel may discipline a child without a disability. Allows local educational agency (LEA) to choose to continue to provide educational services to such child, <u>AND</u> removes a parent's right to "impartial due process" for cases involving weapons.	Amends IDEA to allow school personnel to discipline (including expel or suspend) a child with a disability who carries or possesses <i>a gun or firearm</i> to at school, in the same manner in which such personnel may discipline a child without a disability. Allows local educational agency (LEA) to choose to continue to provide educational services to such child. Clarifies language in IDEA '97, to state that schools can and should remove a student for any act of violence, and <u>ALSO</u> provide the student with immediate, appropriate intervention and services, including mental health services in order to maximize the likelihood that such behavior does not reoccur.	Support Senate Clarifying Language: Clarifies language in IDEA '97, to state that schools can and should remove a student for any act of violence, and <u>ALSO</u> provide the student with immediate, appropriate intervention and services, including mental health services in order to maximize the likelihood that such behavior does not reoccur.
(b) Violence Prevention Training Program	No comparable provision.	Authorizes a demonstration program to enable undergraduate institutions to include violence prevention training for individuals pursuing careers in early childhood education, to identify and prevent violent, aggressive and defiant behavior.	Support Senate Language: Authorizes a demonstration program to enable undergraduate institutions to include violence prevention training for individuals pursuing careers in early childhood education, to identify and prevent violent, aggressive and defiant behavior.
(c) Increasing School Counselors	No comparable provision.	Authorizes an elementary and secondary education School Counseling Demonstration grant Program to address personal, social, emotional and educational needs of all students. Grants can be used to expand the services of qualified school counselors, school psychologists and school social workers.	Support Senate Language: Authorizes an elementary and secondary education School Counseling Demonstration grant Program to address personal, social, emotional and educational needs of all students. Grants can be used to expand the services of qualified school counselors, school psychologists and school social workers.
(d) National Youth Violence Commission	No comparable provision.	Authorizes the appointment of a 16-member commission to determine the root causes of youth violence; a representative from the field of child and adolescent psychiatry should be appointed.	Support Senate Language: Authorizes the appointment of a 16-member commission to determine the root causes of youth violence; a representative from the field of child and adolescent psychiatry should be appointed.
(e) Safe Students Act	No comparable provision.	Authorizes the Department of Justice (DOJ) to fund school violence prevention programs. [Activities are under the jurisdiction of the Safe Schools/Healthy Student program].	Support Senate Language, Add CMHS & DOE: Authorize the DOJ, CMHS and DOE to fund school violence prevention program activities under their jurisdiction of the Safe Schools/Healthy Student program.

	H.R. 1501	S. 254	NMHA's Recommendation for Conference Committee Bill
(f) Youth Violence Research	Authorizes a \$5 million study (over five years) for the Office of Behavioral and Social Research within NIH, to conduct a multi-year study of behavioral and social science research with respect to youth violence.	Authorizes a \$5 million study (over five years) for the Office of Behavioral and Social Research within NIH, to conduct a multi-year study of behavioral and social science research with respect to youth violence.	Not Conferenceable: Authorizes a \$5 million study (over five years) for the Office of Behavioral and Social Research within NIH, to conduct a multi-year study of behavioral and social science research with respect to youth violence.

Prepared by Andrea R. Price, National Mental Health Association, July 12, 1999.

Comparison of Mental Health Provisions Included in Juvenile Justice Crime Bills

Mental Health Provisions: Principles of the Mental Health Juvenile Justice (MHJJ) Act, H.R. 337, S. 464, S. 465	House-passed Bill: Consequences for Juvenile Offenders Act of 1999 H.R. 1501	Senate-passed Bill: The Violent and Repeat Juvenile Offender Accountability Act of 1999, S. 254	National Mental Health Association's (NMHA's) Recommendations for the Juvenile Justice Conference Committee Bill
1. Juvenile Delinquency Prevention Grants a.) Initial intake screening.	Allows funds to be used for projects that provide for initial intake screening of all youth entering the system, <i>which applies to mental health and other services</i> . Projects should determine the likelihood that such juvenile will commit a similar offense, and provide appropriate interventions.	Allows funds to be used for projects that provide for initial intake screening of all youth entering the system, <i>which may include drug testing</i> . Projects should determine the likelihood that such juvenile will commit a similar offense, and provide appropriate interventions.	Support House Language: Allows funds to be used for projects that provide for initial intake screening of all youth entering the system, <i>which applies to mental health, substance abuse and other services</i> .
b.) Provide services to juveniles in need of mental health services	Allows funds to be used for juveniles with serious mental and emotional disturbances (SED), including (1.) assessments of incarcerated juveniles; (2.) development of individualized treatment plans; (3.) discharge plans for incarcerated juveniles; (4.) requirements that all juveniles receiving psychotropic medication be under the care of a licensed mental health professional.	Allows funds to be used for juveniles with serious mental and emotional disturbances (SED), including (1.) assessments of incarcerated juveniles; (2.) development of individualized treatment plans; (3.) discharge plans for incarcerated juveniles; (4.) requirements that all juveniles receiving psychotropic medication be under the care of a licensed mental health professional. <u>Note:</u> S. 254 stipulates that not less than 80% of Juvenile Delinquency Prevention Block Grant funds shall be used for prevention purposes, which includes projects that provide mental health treatment; not less than 20% of the funds shall be devoted to intervention purposes.	Support House Language: Allows funds to be used for juveniles with serious mental and emotional disturbances (SED), including (1.) assessments of incarcerated juveniles; (2.) development of individualized treatment plans; (3.) discharge plans for incarcerated juveniles; (4.) requirements that all juveniles receiving psychotropic medication be under the care of a licensed mental health professional. <u>Note:</u> Any earmarks for prevention purposes shall include projects that provide mental health treatment.
c.) Coordinated mental health service delivery	Allows funds to be used for comprehensive juvenile justice and delinquency prevention projects that collaborate with many local service systems, juveniles encounter, including schools, courts, law enforcement agencies, child protection, mental health and child welfare services.	Allows funds to be used for projects to coordinate juvenile service grants administered by DOJ and SAMHSA, to establish mental health treatment programs for at-risk children.	Support Senate Language: Allows funds to be used for projects to coordinate juvenile service grants administered by DOJ and SAMHSA, to establish mental health treatment programs for at-risk children.

	H.R. 1501	S. 254	NMHA's Recommendation for Conference Committee Bill
d) Victims of child abuse	Allows funds to be used for projects to provide treatment, including mental health problems, to juvenile offenders who are victims of child abuse or neglect, or have experienced violence in their homes, school or in the community.	Allows funds to be used for projects that provide support and treatment to juveniles who are at-risk of delinquency because they are victims of child abuse and neglect; and juvenile offenders who are victims of child abuse or neglect and to their families, in order to reduce the likelihood that such juvenile offenders will commit subsequent violations of law.	Support House Language: Allows funds to be used for projects to provide treatment, including mental health problems, to juvenile offenders who are victims of child abuse or neglect, or have experienced violence in their homes, school or in the community.
2. Juvenile Accountability Block Grants a) Mental health & substance abuse treatment	Allows funds to be used for programs that establish and maintain appropriate mental health and substance abuse treatment programs.	No comparable provision.	Support House Language: Allows funds to be used for programs that establish and maintain appropriate mental health and substance abuse treatment programs.
b) Cross-training justice system personnel	No comparable provision.	Allows funds to be used to cross-train justice system personnel, jointly with public mental health system personnel on appropriate use of community-based programs, as alternatives to juvenile justice placements.	Support Senate Language: Allows funds to be used to cross-train justice system personnel, jointly with public mental health system personnel on appropriate use of community-based programs, as alternatives to juvenile justice placements.
c) Training probation officers	No comparable provision.	Allows funds to be used to train State juvenile probation officers and community mental health and substance abuse program representatives on appropriate linkages between probation programs that can make effective treatment interventions.	Support Senate Language: Allows funds to be used to train State juvenile probation officers and community mental health and substance abuse program representatives on appropriate linkages between probation programs that can make effective treatment interventions.
3. State Plans a) Mental health services plans	As a requirement of Formula Grant funds, states shall also provide a plan for providing needed mental health services to juveniles in the justice system, <u>AND</u> include information on how services will be targeted to those juveniles in greatest need.	As a requirement of Formula Grant funds, states must contain a plan for providing needed mental health services to juveniles in the justice system.	Support House Language: As a requirement of Formula Grant funds, states shall also provide a plan for providing needed mental health services to juveniles in the justice system, <u>AND</u> include information on how services will be targeted to those juveniles in greatest need.
b) Detaining juveniles for psychiatric evaluation (not a principle of the MHEA Act)	No comparable provision.	As a requirement of receiving Formula Grant funds, states shall have a policy in place that requires state or local law enforcement to detain a juvenile who possesses a firearm in school for not less than 24 hours, to conduct an "appropriate evaluation" by a judicial officer to determine if the juvenile may be a danger to himself or others.	Support New Language: All psychiatric evaluations should be administered by licensed mental health professionals or physicians. If screenings indicate presence of a mental or emotional disorder, an individualized treatment plan should be implemented within 5 days.

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4. Research & Evaluation a) Evaluating mental health services administered by states	OJJDP must conduct research in juvenile justice matters, for the purpose of providing research and evaluation, that will include the appropriate mental health services for juveniles at-risk of participating in delinquent activities.	No comparable mental health provision.	Support House Language: OJJDP must conduct research in juvenile justice matters, for the purpose of providing research and evaluation, that will include the appropriate mental health services for juveniles at-risk of participating in delinquent activities.
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69. Study of mental health service needs of juveniles	OJJDP in collaboration with NIMH shall conduct a comprehensive mental health study not later than 18 months after enactment of this Act, of juveniles in secure or non-secure placements (including those on probation). The study shall contain : (1) a comprehensive survey of the types of mental health services that are currently being provided to juveniles; (2) identification of governmental entities that have developed or implemented model or promising screening, assessment or treatment programs or innovative mental health delivery or coordination systems, that address and meet the mental health needs of such juveniles; and (3) review of the literature that analyzes the mental health problems and needs of juveniles in the juvenile system. OJJDP shall submit the study to Congress, and broadly disseminate to individuals and entities engaged in fields that provide services and make policies relating to such juveniles.	No comparable mental health provision.	Support House Language, include CMHS: OJJDP in collaboration with NIMH <i>and the Center for Mental Health Services (CMHS)</i> shall conduct a comprehensive mental health study not later than 18 months after enactment of this Act, of juveniles in secure or non-secure placements (including those on probation). The study shall contain : (1) a comprehensive survey of the types of mental health services that are currently being provided to juveniles; (2) identification of governmental entities that have developed or implemented model or promising screening, assessment or treatment programs or innovative mental health delivery or coordination systems, that address and meet the mental health needs of such juveniles; and (3) review of the literature that analyzes the mental health problems and needs of juveniles in the juvenile system. OJJDP shall submit the study to Congress, and broadly disseminate to individuals and entities engaged in fields that provide services and make policies relating to such juveniles.

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(c) Increasing School Counselors	No comparable provision.	Authorizes an elementary and secondary education School Counseling Demonstration grant Program to address personal, social, emotional and educational needs of all students. Grants can be used to expand the services of qualified school counselors, school psychologists and school social workers.	Support Senate Language: Authorizes an elementary and secondary education School Counseling Demonstration grant Program to address personal, social, emotional and educational needs of all students. Grants can be used to expand the services of qualified school counselors, school psychologists and school social workers.
(d) National Youth Violence Commission	No comparable provision.	Authorizes the appointment of a 16-member commission to determine the root causes of youth violence; a representative from the field of child and adolescent psychiatry should be appointed.	Support Senate Language: Authorizes the appointment of a 16-member commission to determine the root causes of youth violence; a representative from the field of child and adolescent psychiatry should be appointed.
(e) Safe Students Act	No comparable provision.	Authorizes the Department of Justice (DOJ) to fund school violence prevention programs. [Activities are under the jurisdiction of the Safe Schools/Healthy Student program].	Support Senate Language, Add CMHS & DOE: Authorize the DOJ, <i>CMHS</i> and <i>DOE</i> to fund school violence prevention program activities under their jurisdiction of the Safe Schools/Healthy Student program.

	H.R. 1501	S. 254	NMHA's Recommendation for Conference Committee Bill
(f) Youth Violence Research	Authorizes a \$5 million study (over five years) for the Office of Behavioral and Social Research within NIH, to conduct a multi-year study of behavioral and social science research with respect to youth violence.	Authorizes a \$5 million study (over five years) for the Office of Behavioral and Social Research within NIH, to conduct a multi-year study of behavioral and social science research with respect to youth violence.	Not Conferenceable: Authorizes a \$5 million study (over five years) for the Office of Behavioral and Social Research within NIH, to conduct a multi-year study of behavioral and social science research with respect to youth violence.

Prepared by Andrea R. Price, National Mental Health Association, July 12, 1999.

July 29, 1999

U.S. House of Representatives

Washington, D.C. 20515

Dear Representative:

Protecting the well being of our nation's citizens is of concern to all of us. Yet in the effort to increase public safety and limit easy accessibility to guns, we should not lose sight of what both local law enforcement agencies and community groups know to be true: No legislation that is serious about solving the problem of juvenile crime and delinquency can do so without including a meaningful investment in prevention programs.

As you and your Congressional colleagues seek to reconcile differences between House and Senate versions of comprehensive juvenile justice legislation, we strongly urge you to support the following key provisions:

- Add further prevention activities as allowable uses under the Juvenile Accountability Block Grant (JABG) and set aside at least 25 percent of the JABG for Prevention, School Counseling, and Drug and Alcohol Treatment. This provision, sponsored by Senators Hatch and Biden, was adopted by a vote of 96-3 during Senate consideration of S. 254 and would help ensure that prevention programs actually receive some level of appropriations. Such programs could include after-school and youth mentoring programs.
- Include a "Parenting as Prevention" provision modeled after the Senate's Stevens-Kennedy amendment. This provision recognizes that many parents are ill equipped to meet the challenges associated with raising their children. It would support parents by providing funding for family counseling and other services. This provision was adopted unanimously during Senate consideration of S. 254. In addition, this provision would provide much needed resources to help victims of abuse and neglect, sexual abuse, violence, and other traumas that, if left untreated, can sharply increase the risk that a child grows up to be violent.

There is clear evidence that programs to prevent crime work. For example:

- Young people who worked with a Big Brothers/Big Sisters mentor were half as likely to begin illegal drug use or to hit someone compared to a control group.
- Students randomly assigned to participate in a prevention program were only one-fourth as likely as their classmates to be convicted of a crime during their high school years. (The Quantum Opportunities program blends in-school and after-school counseling, academic and life skills support, community service and financial incentives.)

- In Buchanan County, Missouri, Project Payoff - a collaborative effort between the schools, a conservation corps, a youth center, community-based organizations, community volunteers, outdoor sporting clubs, and a transit company to transform an in-school suspension program into a year-round comprehensive program for at-risk youth - has succeeded in reducing school discipline notices by 31 percent and juvenile crime and vandalism by 33 percent. Similar success was realized in a Montana program, where, during the first year of a school-based violence and substance abuse prevention program, violent school incidents dropped from 64 to 37; absenteeism decreased from 14 percent to 11 percent; and volunteerism by school students increased from 476 volunteer hours to 828 volunteer hours.

Without a guarantee of funding specifically for prevention, it is highly unlikely that successful programs like these would be supported. History has proven that when given a choice between investing limited crime-related funds in prevention programs or in punitive sanctions, states and local jurisdictions too often shortchange prevention in an effort to appear tough on crime. For example, under the Byrne Grants and the Local Law Enforcement Block Grant, both of which include prevention as one of a host of allowable uses of the funds, prevention received less than 9% of the funds.

Opponents of a substantial targeted federal investment in youth crime prevention programs often cite a GAO report that claims the federal government already invests \$4 billion in these programs. However, 37 of the 131 "youth crime prevention" programs identified in the report could not specify any amount spent on youth during the year in question; and 43 of the programs were small research, demonstration or pilot programs, not programs that serve any significant number of youth around the country. More than half of the funding referenced in the GAO report goes to the Job Training Partnership Act (\$2.1 billion), which does not offer flexible funding for youth development programs. Additionally, other programs such as Safe and Drug Free Schools (\$556 million) and Child Welfare Services (\$328 million) offer solid efforts to address at-risk populations but are not directed towards addressing youth crime prevention needs during the peak hours for juvenile crime, the after-school hours.

The evidence is clear that prevention programs are effective in reducing crime. The evidence is also clear that we need to dedicate funds specifically for prevention programs if we are to see real dollars going toward the programs that can keep kids from becoming criminals. As John Dilulio of Princeton University said in a speech to the National District Attorneys Association, "the key to preventing youth crime and substance abuse among our country's expanding juvenile population is to improve the real, live, day-to-day connections between responsible adults and young people - period."

We know what works! It's now time to invest in the multitude of model delinquency prevention efforts and spread their success throughout the country. Professor Dilulio says it best: "It is all well and good to acknowledge both the multivariate character of social problems, and the myriad legal, political, administrative, financial and other difficulties of replicating what works. But it is also all too easy to let such intellectually de rigueur acknowledgments of social complexity become convenient covers for academic excuse-mongering, inaction and, of course, calls for more grants for more basic research, more research symposia, more conferences - more of everything save more human and

financial support of people and existing programs that actually put responsible adults into the daily lives of the at-risk kids of the inner city.”

We hope that you will take a leadership role in support of prevention on this important issue. If any of our organizations can assist you or your staff as you consider juvenile justice legislation, please contact us.

Thank you for your consideration.

Sincerely,

Academy for Educational Development / Center for Youth Development
and Policy Research (District of Columbia)
Albertina Kerr Centers (Oregon)
American Academy of Child and Adolescent Psychiatry (District of Columbia)
American Academy of Pediatrics (Illinois)
American Association for Marriage and Family Therapy (District of Columbia)
American Counseling Association (Virginia)
American Humane Association (District of Columbia)
American Protestant Health Alliance (District of Columbia)
American Psychiatric Association (District of Columbia)
American Psychological Association (District of Columbia)
Arizona's Children Association (Arizona)
Arkansas Commission on Child Abuse, Rape, and Domestic Violence (Arkansas)
The Baby Fold (Illinois)
Bethany Christian Services (Michigan)
Black Administrators in Child Welfare (District of Columbia)
Bonnie Brae School (New Jersey)
Campaign for Equity-Restorative Justice (Vermont)
Camp Fire Boys and Girls (Missouri)
Capital District YMCA (New York)
Catawba County Social Services (North Carolina)
Center for Family and Child Enrichment, Inc. (Florida)
Center for Women Policy Studies (District of Columbia)
Centers For New Horizons, Inc. (Illinois)
Central Baptist Children's Home (Illinois)
Central Juvenile Hall (California)
Child and Family Services (New York)
Child and Family Services Agency (District of Columbia)
Child Care Association of Illinois (Illinois)
Child Care Council of Nassau (New York)
Child Care Law Center (California)
Child Development Programs of Cape Ann, Inc. (Massachusetts)
Child Welfare League of America (District of Columbia)
Children At Risk (Texas)
Children, Youth & Family Services, Inc. (Virginia)
Children's Charter of the Courts of Michigan, Inc. (Michigan)

Children's Defense Fund (District of Columbia)
Children's Home and Aid Society (Illinois)
Children's Home Society of Florida, Southeastern Division (Florida)
Children's Service, Inc. (Pennsylvania)
Children's Action Alliance (Arizona)
Coalition on Human Needs (District of Columbia)
Coalition for Juvenile Justice (District of Columbia)
Coalition to Stop Gun Violence (District of Columbia)
Cocoon House (Washington)
Colorado Association of Family and Children's Agencies (Colorado)
Committee for Hispanic Children and Families (New York)
Connecticut Association of Nonprofits (Connecticut)
Connecticut Youth Services Association (Connecticut)
Covenant House (New York)
Covenant House New York (New York)
The Creativity Center (South Carolina)
Crossroad (Indiana)
Daniel Memorial Institute (Florida)
Devereux Texas Treatment Network (Texas)
Episcopal Center for Children (District of Columbia)
Episcopal Community Services (Pennsylvania)
Evergreen Children Services (Michigan)
Family and Children's Association (New York)
Family Builders by Adoption (California)
Family Central, Inc. (Florida)
Family Support Services, Inc. (Pennsylvania)
Family Teamwork (Virginia)
Family Watch (Virginia)
Fellowship of Lights Youth and Community Services (Maryland)
The Florence Crittenton Agency, Inc. (Tennessee)
Fontana Native American Indian Center, Inc. (California)
Foster Care Review, Inc. (Florida)
Friends Association for Children (Virginia)
Friends of the Family, Inc. (Maryland)
Friends of Youth (Washington)
General Board of Church and Society of the United Methodist Church
(District of Columbia)
Generations United (District of Columbia)
Georgia Association of Homes and Services for Children (Georgia)
Girl Scouts of the USA (District of Columbia)
Girls, Inc. (District of Columbia)
Good Shepherd Services (New York)
Guardian Angel Home of Joliet (Illinois)
The Harbor, Inc. (Illinois)
Hillsborough CARES (Florida)
Huckleberry House, Inc. (Ohio)

Hudelson Baptist Children's Home (Illinois)
Imani Temple (Louisiana)
Innovative Youth Services of Racine (Wisconsin)
Jane Adams Hull House Association (Illinois)
Jewish Board of Family & Children's Services (New York)
Jewish Council for Public Affairs (District of Columbia)
Jewish Labor Committee (New York)
Justice Policy Institute (District of Columbia)
Kansas Children's Service League (Kansas)
La Crosse County Human Services Department (Wisconsin)
Lake County Boys Ranch (Florida)
Los Angeles Youth Network (California)
Lutheran Child & Family Service of Michigan (Michigan)
Lutheran Family and Children's Services of Missouri (Missouri)
Lutheran Office of Governmental Affairs, ELCA (District of Columbia)
Lutheran Social Services of Minnesota (Minnesota)
Massachusetts Society for the Prevention of Cruelty to Children (Massachusetts)
Memorial Child Guidance Clinic (Virginia)
Michigan Federation of Private Child & Family Agencies (Michigan)
Michigan Network for Youth and Families (Michigan)
Minorities in Law Enforcement (California)
Missouri Child Care Association (Missouri)
Montgomery County Office of Children and Youth (Pennsylvania)
National Adoption Center (Pennsylvania)
National Association for the Advancement of Colored People (Maryland)
National Association of Counsel for Children (District of Columbia)
National Association of School Psychologists (Virginia)
National Association of Service and Conservation Corps (District of Columbia)
National Association of WIC Directors (District of Columbia)
National Council for Community Behavioral Healthcare (District of Columbia)
National Council on Alcoholism and Drug Dependence, Inc. (District of Columbia)
National Education Association (District of Columbia)
National Family Preservation Network (Maryland)
National Network for Youth (District of Columbia)
National Partnership for Women & Families (District of Columbia)
National PTA (District of Columbia)
National Recreation and Park Association (Virginia)
New Beginnings Inc. (Maine)
New York Foundling Hospital (New York)
Niles Home for Children (Missouri)
Northern Rhode Island Community Mental Health Center (Rhode Island)
Office for Church in Society/United Church of Christ (District of Columbia)
Ohio Association of Child Caring Agencies (Ohio)
Ohio Youth Advocate Program, Inc. (Ohio)
Parents Anonymous, Inc. (California)
Philadelphia Society for Services to Children (Pennsylvania)

Porter-Leath Children's Center (Tennessee)
Presbyterian Child Welfare Agency (Tennessee)
Prevent Child Abuse America (Illinois)
Provident Counseling, Inc. (Missouri)
Redwood Community Action Agency (California)
San Francisco Bay View (California)
Southern Indian Health Council (California)
Spectrum Human Services (Michigan)
Spring Lake Park Community Education (Minnesota)
St. Joseph's Villa (New York)
Stillmeadow-Benchmark Associates, Inc. (Virginia)
Suffolk Coalition to Prevent Alcohol and Drug Dependencies, Inc. (New York)
Summit County Children Services (Ohio)
Texas Network of Youth Services (Texas)
Uhlich Children's Home (Illinois)
Union of American Hebrew Congregations (District of Columbia)
Unitarian Universalist Association of Congregations,
Washington Office for Faith in Action (District of Columbia)
United Church of Christ/Office for Church in Society (District of Columbia)
Valley of the Sun YMCA (Arizona)
Volunteers of America (Virginia)
Walden Family Services (California)
Washington Ethical Action Office of the American Ethical Union (Maryland)
Wayzata Home Base (Minnesota)
Women of Reform Judaism, The Federation of Temple Sisterhoods (New York)
Women's Association for Women's Alternatives (Pennsylvania)
Work, Incorporated (North Carolina)
YMCA of Central Maryland (Maryland)
YMCA of Central Ohio (Ohio)
YMCA of Greater Indianapolis (Indiana)
YMCA of Greater Louisville (Kentucky)
YMCA of Greater Seattle (Washington)
YMCA of Greater Winston-Salem (North Carolina)
YMCA of Metropolitan Chicago (Illinois)
YMCA of Pittsburgh (Pennsylvania)
YMCA of San Francisco (California)
YMCA of Tampa (Florida)
YMCA of the USA (District of Columbia)
YMCA Youth and Family Services (California)
Youth Alternatives, Inc. (Maine)
Youth and Shelter Services, Inc. (Iowa)
Youth Law Center (District of Columbia)
Youth Service Bureau (California)
Youth Services Consortium (Oregon)
Youth Services for Oklahoma County, Inc. (Oklahoma)

April 19, 1999

The Honorable
United States Senate
329 Dirksen Senate Office Building
Washington, DC 20510-2203

Dear Senator

Protecting the well being of our nation's citizens is a concern to all of us. Yet in the effort to increase public safety, we should not lose sight of what both local law enforcement agencies and community groups know to be true: no legislation that is serious about solving the problem of juvenile crime and delinquency can deny the merits of crime prevention programs.

With that in mind, and as you and your Senate colleagues consider juvenile justice legislation, including the Violent and Repeat Juvenile Offender Accountability and Rehabilitation Act of 1999 (S. 254), we strongly urge you to support a guarantee that at least 50% of any juvenile justice authorization and appropriation be invested in delinquency prevention programs for at-risk youth.

There is clear evidence that programs to prevent crime and get troubled youth back on track work. For example:

- Young people who received a Big Brothers/Big Sisters mentor were half as likely to begin illegal drug use or to hit someone compared to a control group.
- Students randomly assigned to participate in a prevention program were only one-fourth as likely as their classmates to be convicted of a crime during their high school years. (The Quantum Opportunities program blends in-school and after-school counseling, academic and life skills support, community service and financial incentives).
- The New Bedford, Massachusetts Police Department, Recreation and Parks Department, Education Department, and the Housing Authority launched a Community Policing Coalition to develop programming and public safety strategies to combat crime, drug trafficking and gang activity. On a city-wide basis, violent crime decreased 28% from 1995 to 1996; crime in public housing areas decreased 36% between 1994 to 1996; and drug arrests in public housing declined 36% in both 1995 and 1996.

Without a guarantee of funding specifically for prevention, it is highly unlikely that successful programs like these would receive much-needed help. History has proven that when given a choice between investing limited juvenile justice funds in prevention programs or in punitive sanctions, states and local jurisdictions too often shortchange

prevention in an effort to appear tough on crime. For example, under the Byrne Grants and the Local Law Enforcement Block Grant, both of which include prevention as one of a host of allowable uses of the funds, prevention benefits from less than 9% of the funds.

While authorizing a stand-alone prevention block grant as part of a larger juvenile crime control, accountability, and delinquency prevention initiative appears encouraging on the surface, it is not the approach we would prefer. Instead, we seek for at least 50% of any juvenile accountability block grant be dedicated to prevention programs. In so doing, the federal government would demonstrate to states the importance of supporting a comprehensive, balanced approach to preventing and reducing juvenile delinquency and crime.

Opponents of a substantial targeted federal investment in youth crime prevention programs often cite a GAO report that claims the federal government already invests \$4 billion in these programs. However, 37 of the 131 "youth crime prevention" programs identified in the report could not specify any amount spent on youth during the year in question; and 43 of the programs were small research, demonstration or pilot programs, not programs that serve any significant number of youth around the country. More than half of the funding referenced in the GAO report goes to the Job Training Partnership Act (\$2.1 billion), which is not crime prevention. Additionally, other programs such as Safe and Drug Free Schools (\$556 million) and Child Welfare Services (\$328 million) offer solid efforts to address at-risk populations but are not sufficient to address youth crime prevention needs during the peak hours for juvenile crime, the afterschool hours.

The evidence is clear that prevention programs are effective in reducing crime. The evidence is also clear that we need to dedicate funds specifically for prevention programs if we are to see real dollars going toward the programs that can keep kids from becoming criminals and put troubled kids back on track. As David Broder said in a recent column that appeared in *The Washington Post* describing efforts that achieved dramatic reductions in violence by mobilizing resources to prevent crime, this is "the kind of good news that rarely rates headlines- and an important signal to Congress as it resumes work on juvenile justice bills."

We hope that you will take a leadership role in support of prevention on this important issue. If any of our organizations can assist you or your staff as you consider juvenile justice legislation, please contact us.

Thank you for your consideration.

Sincerely,

Alliance for Children and Families
American Academy of Child and Adolescent Psychiatry

American Academy of Pediatrics
American Counseling Association
American Dance Therapy Association
American Ethical Union
American Federation of Teachers
American Friends Service Committee
American Humane Association, Children's Division
American Music Therapy Association
American Occupational Therapy Association
American Probation and Parole Association
American Professional Society on the Abuse of Children
American Psychiatric Association
American Psychological Association
American Speech-Language-Hearing Association
Attorney General Christine Gregoire (Washington)
Bedford Youth and Family Services
California Child, Youth & Family Coalition
Center on Juvenile and Criminal Justice
Child Welfare League of America
Children at Risk
Children's Defense Fund
Coalition on Human Needs
Cocoon House
Common Ground Sanctuary
Common Sense for Drug Policy
Community Works
Covenant House California
Evangelical Lutheran Church in America
Exchange Club Center for the Prevention of Child Abuse
Exchange Club Family Center
Family & Children's Council of Black Hawk County, Inc.
Family Watch
Federation of Families for Children's Mental Health
Fellowship of Lights, Inc.
Friends Committee on National Legislation
Garden State Coalition for Youth and Family Concerns, Inc.
General Federation of Women's Clubs
Girl Scouts of the USA
Girls Incorporated
Illinois Collaboration on Youth
International Association of Pupil Personnel Workers, Inc.
League of United Latin American Citizens
Learning Disabilities Association
Mennonite Central Committee U.S., Washington Office
Metropolitan Sarasota Family YMCA

Middle Earth
National Association of Counsel for Children
National Association of Criminal Defense Lawyers
National Association of Pupil Service Administrators
National Association of School Psychologists
National Association of Social Workers
National Council of Jewish Women
National Education Association
National Family Preservation Network
National Mental Health Association
National Network for Youth
National PTA
National Recreation and Park Association
New England Network for Child, Youth & Family Services
Ozone House
Parents Anonymous of the Big Country, Inc.
People Against Child Abuse, Inc.
Presbyterian Church (USA)
Prevent Child Abuse America
Prevent Child Abuse Kentucky
Prevent Child Abuse Ohio
Prevent Child Abuse, Inc.
Redwood Community Action Agency
School Social Work Association of America
Somerset Home for Temporarily Displaced Children
Support, Care and Networking for Families [SCAN]
Texas Network of Youth Services
Union of American Hebrew Congregations
Unitarian Universalist Association of Congregations
Unitarian Universalist Association Washington Office for Faith in Action
United Church of Christ/Office for Church in Society
Volunteers of America
Western States Youth Services Network
Women of Reform Judaism
YMCA of the USA
Youth Alternatives, Inc.
Youth Law Center

Prevention Works

Children's Defense Fund • Issue Basics • May 1999

In an effort to be "tough on crime" we should not lose sight of what both local law enforcement agencies and community groups know to be true. Prevention works. No legislation that is serious about reducing crime and delinquency can deny the merits of crime prevention programs.

Police chiefs recognize the value of prevention programs. A 1996 survey conducted by the Northeastern University's Center for Criminal Justice Policy Research, of 780 police chiefs, including all chiefs from cities with populations over 100,000, found:

- That when Police chiefs were asked to rank the long-term effectiveness of a number of possible crime fighting approaches, "increasing investments in programs that help children and youth get a good start" was picked *as most effective* nearly four times as often as either "trying more juveniles as adults" or even "hiring additional police officers."
- More than nine out of ten police chiefs (92%) agreed with the statement, "America could sharply reduce crime if government invested more in programs to help children and youth get a good start" by "fully funding Head Start for infants and toddlers, preventing child abuse, providing parenting training for high-risk families, improving schools and providing after school programs and mentoring."
- Nine out of ten also agreed that "if America does not pay for greater investments in programs to help children and youth now, we will all pay far more later in crime, welfare, and other costs."

There is clear evidence that programs to prevent delinquency before it starts, as well as programs to get troubled youth back on track work. In every state there are programs that are making a difference in keeping children and communities safe.

- In Salt Lake County, Utah, assigning delinquent youths and their families to eight hours of family systems counseling cut in half both the delinquent's chances and their siblings' chances of future delinquency compared to control groups.
- A study compared juvenile arrests in a public housing project starting an after-school skills development program with those in another housing project providing only minimal recreational services. The number of juvenile arrests declined by 75% after the start of the after-school program, while they were increasing by 67% in the comparison project. In the first year after the Baltimore Police Department opened an after-school program in a high-crime area, crime in that neighborhood dropped 42%.
- A Public/Private Ventures study of Big Brothers/Big Sisters' carefully-designed mentoring program showed that young people randomly assigned to received a

trained mentor were only about half as likely to begin illegal drug use or to hit someone as those randomly assigned to the control group.

Not only are prevention programs common sense, they make fiscal sense as well.

- In the summertime, when Phoenix basketball courts and other recreational facilities are kept open until 2:00 am, police calls reporting juvenile crime drops by as much as 55%. This program is a bargain, with 170,000 participants in Phoenix, the cost is only sixty cents per youth.
- It costs over \$100,000 to build a new prison cell, but only about \$1,700 to provide a summer job for a youth and \$3,000 to provide urgently needed after-school care for a child.
- A RAND study found that crime prevention efforts were three times more cost-effective than increased punishment.
- Economist Steven Barnett found that the High/Scope Foundation's Perry Preschool study saved \$150,000 per participant in crime costs alone. Even after subtracting the interest that could have been earned by investing the program's funding in financial markets, the project produced a net savings of \$7.16 - including more than six dollars in crime savings - for every dollar invested.
- A Vanderbilt University study estimates that each high-risk youth prevented from adopting a life of crime could save the country from \$1.7 million to \$2.3 million.

Prevention Programs can only work if they are funded.

The evidence is clear that prevention programs are effective in reducing crime. The evidence is also clear that we need to dedicate funds specifically for prevention programs if we are to see real dollars going toward the programs that can keep youth from becoming criminals and put troubled children back on track. History has proven that when given a choice between investing limited juvenile justice funds in prevention programs or in punitive sanctions, states and local jurisdictions too often shortchange prevention in an effort to appear tough on crime. For example, under the Byrne Grants and the Local Law Enforcement Block Grant, both of which include prevention as one of a host of allowable uses of the funds, prevention benefits from less than 9% of the funds.

For further information, please contact:

Grace Reef at (202) 662-3558; Liz Ryan at (202) 662-3586

DEAR LORD
BE GOOD TO ME
THE SEAL IS SO
WIDE AND SO
MY BOAT IS
SO SMALL

Children's Defense Fund

Fact Sheet: Youth Crime Prevention Programs

The National Network for Youth urges Congress to invest significant amounts of funding (50% of any juvenile crime-related expenditures) in prevention programs which deter youth from committing crimes, and which increase the likelihood that these youth will be productive members of society.

Prevention programs have been proven to be successful and cost-effective in reducing crime.¹ Collaboration among community organizations and simultaneous investments in communities, families, and schools are the keys to developing and implementing successful prevention initiatives.² Moreover, because youth crime typically peaks between 3:00 and 7:00 p.m., after-school programs during these hours keep children safe from crime and out of trouble.³

Following are some examples of effective prevention initiatives:

◆ A recent RAND study indicates that graduation incentive programs would result in a reduction of 250 crimes for every million dollars invested. In addition to being the most cost-effective approach investigated by RAND (the other approaches investigated were home visits and day care, parent training, delinquent supervision, and three-strikes laws), the graduation incentives program was extremely successful in reducing crime: arrests for participating students were 70% lower than that of control students.⁴

◆ In the summertime, when Phoenix basketball courts and other recreation facilities are kept open until 2:00 a.m., police calls reporting juvenile crime drops by as much as 55%.⁵ While such programs are needed year-round, funding is not yet available. Yet, these programs are a bargain: with 170,000 participants in Phoenix, the cost is only sixty cents per youth.

◆ Increases in youth violence in Yakima, Washington led to the creation of the Yakima Gang Prevention/Intervention Coalition to provide positive opportunities for youth through community centers. In the neighborhood sites where the Coalition is active, youth violence has decreased by 80% in a three-year period.⁶

¹Mendel, R. Prevention or Pork? A Hard-headed Look at Youth-Oriented Anti-Crime Programs. Washington, D.C.: American Youth Policy Forum (1995), pp 26-28; and Hurley, J. Delinquency Prevention Works, Office of Juvenile Justice and Delinquency Prevention, U.S. Department of Justice (November, 1995), pp 4-5.

²Preventing Crime: What Works, What Doesn't, What's Promising. p. vi. University of Maryland, and Office of Justice Programs. National Institute of Justice, Washington, DC, 1997.

³Juvenile Offenders and Victims: 1997 Update on Violence. p. 26. A report of the Office of Juvenile Justice and Delinquency Prevention. National Center for Juvenile Justice, Pittsburgh, 1997.

⁴Greenwood, Peter, et al. Diverting Children from a Life of Crime, Measuring Costs and Benefits, Santa Monica: RAND Corporation, 1996.

⁵Healing American's Cities, Why We Must Invest in Urban Parks. The Trust for Public Land (1994), pp 4-5.

⁶Hurley, J. Delinquency Prevention Works, Office of Juvenile Justice and Delinquency Prevention, U.S. Department of Justice (November, 1995), pp A-13, A-29.

Flawed GAO Report "Youth Crime Prevention"

Fiction vs. Fact

FICTION: A 1997 GAO study found \$4 billion in youth crime prevention programs.

Earlier this year, House Judiciary Subcommittee on Crime Chairman Bill McCollum stated at a congressional hearing that the U.S. government spends billions of dollars on juvenile crime prevention programs (referring implicitly to the GAO study).

FACT: While it's true that the 1997 GAO study reported \$4 billion allocated for youth crime prevention, the GAO study was seriously flawed. There are NOT 127 federal youth crime prevention programs totaling \$4 billion. When the programs cited by GAO are examined more closely:

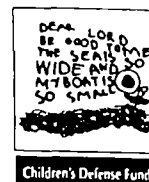
- 47 of the 127 programs identified in the GAO report could not specify any amount spent on youth.
- The vast majority of funding in the GAO report consists of funding for solid efforts to address at-risk populations, but not targeted crime prevention.
 - Safe and Drug Free Schools \$556 million (not operating during peak crime hours)
 - Job Training Partnership Act \$2.1 billion (not crime prevention)
 - Child Welfare Services \$328 million (not crime prevention)

Sampling of Programs NOT primarily aimed at Crime Prevention (from GAO report)

Foster Grandparent Program	Family Preservation and Support Services
Retired & Senior Volunteer Program	Health Care for the Homeless Program
Food Stamp Employment and Training Program	Health Services for Residents of Public Housing
Education for Homeless Children & Youth	Independent Living
Talent Search	Indian Child and Adolescent Mental Health
Title I	Indian Child Protection and Child Abuse
Upward Bound	Indian Health Service
Vocational Education	Injury Prevention and Control Research
Adolescent Family Life Demonstration	Job Opportunities and Basics Skills - repealed
Child Abuse and Neglect State Grants	Maternal and Child Health Block Grant
Child Abuse Discretionary Program	Migrant Health Centers
Child and Adolescent Service System Program	Social Services Block Grant (Title XX)
Child Welfare Services	Indian Child Welfare Act
Community Health Centers	Indian Child Welfare Foster Care
Community Services Block Grant	Urban Indian Health Program
National Institute of Alcohol Abuse and	National Institute of Drug Abuse - Research
Alcoholism National Institute of Mental Health	Programs
- Research Programs	
Missing and Exploited Children's Programs	

The remaining 40 programs and \$550 million cover all the expenses of the Office of Juvenile Justice and Delinquency Prevention and 39 small research, demonstration, or pilot programs - hardly a nationwide crime prevention effort.

Intervention Works



Intervention can reduce gun violence. Common-sense initiatives in many communities where child gun deaths once surged have been instrumental in saving the lives of children who might have become victims of gun violence.

Cities such as Boston and Los Angeles have shown that intensive efforts to reduce gun violence can save children's lives. In Boston, collaborative efforts among the clergy, law enforcement, and school officials reduced the number of juveniles killed by guns from 10 a year to *zero* over an 18-month period. The city of Los Angeles' comprehensive efforts to reduce gun violence resulted in the number of homicides dropping by 29.3 percent in the first six months of 1998 compared to the first half of 1997. By contrast, homicide rates in the surrounding area of Los Angeles County – where no comparable anti-violence initiative existed – decreased only 1.6 percent in the same period.

The city of Los Angeles has pioneered a wide range of gun control initiatives designed to protect children and communities from gun violence. In January 1999, with strong backing from police, the city council voted to make Los Angeles the first city in California to prohibit the sale of more than one handgun per month to anyone, a measure aimed at stopping "straw" purchases by individuals who buy large numbers of guns and then resell them to criminals, minors, and others who are not legally qualified to own a gun. This action followed earlier steps by the Los Angeles City Council to ban the sale of assault weapons, "Saturday night specials" (inexpensive handguns), and large-capacity ammunition magazines, to require thumbprints from people who buy ammunition, and to mandate child safety locks be sold with every gun. In debating its most recent gun control initiative, the city council noted that one-sixth of those killed by gunfire in Los Angeles were children.

In the East Bay communities of Northern California, gun violence once had a particularly devastating impact as the leading cause of death for children and youth between the ages of five and 23, according to Mariatheresa Viramontes, executive director of the East Bay Public Safety Corridor Partnership. The Partnership, an alliance of 23 law enforcement agencies and 18 school districts in 26 communities, launched a multifaceted anti-violence campaign in 1994 that included:

- A model project of gun abatement in Richmond, California, with a hotline which allows people to report if they see someone selling guns on the street or carrying guns in an unusual setting;
- Passage of local gun ordinances in 26 communities (16 cities and 10 unincorporated areas) and 2 counties, ranging from bans on "Saturday Night Specials" and selling guns from private homes to stricter requirements for commercial sellers;
- Safe routes home for school children;
- Extended day activities at schools;
- Youth leadership opportunities;
- Youth academies to develop positive relationships between young people and the police;
- A comprehensive truancy-prevention program; and
- Conflict resolution- and mediation-training programs.

The Partnership's efforts have had remarkable results. In Richmond, the number of homicides dropped 75 percent between 1992 and 1998. Oakland neighborhoods that participated in the gun abatement program reduced the number of homicides by 50 percent over a five-year period between 1993 and 1998.

Campaign *for an* Effective Crime Policy



Beth Carter, National Coordinator
Jenni Gainsborough, Communications Director

Critical Choices: New Options in Juvenile Crime Policy **Executive Summary**

Several bills before this Congress are based on erroneous “findings” about the current state of juvenile crime. In fact, juvenile crime rates are continuing to fall, giving policymakers a valuable opportunity to reconsider legislative strategies and funding priorities to support young people and their families **and** to increase public safety. Recent research has identified many programs that have proven successful and cost-effective in decreasing juvenile offending and reducing victimization. Analysis of the latest information and studies shows that:

- Dire predictions that the nation is about to be overwhelmed by a new breed of predatory and violent juveniles have no basis in fact.
- Juveniles are far more likely to be the victims of violence than its perpetrators.
- Prevention and rehabilitation are the proven, cost-effective ways to reduce juvenile crime.

Juvenile Crime in Perspective

- Juvenile violent crime arrests have declined every year since 1994. Only a small proportion of the juvenile population engages in crime and those that do are far more likely to commit property crime than violent crime.
- Trends in juvenile crime provide no evidence that young people have become more crime prone or dangerous than in past years. The juvenile proportion of all arrests for serious violent crime in 1996 was about average for the preceding twenty-five years, while the percentage of property-crime arrests involving juveniles has actually declined throughout most of this period.
- An increase in the juvenile population does not inevitably mean an increase in violent crime. The rate of youth violence increased in the late 1980s even as the youth population declined, and youth violence is currently decreasing although the population is growing. Demographics are not necessarily destiny.
- While the homicide rate remains unacceptably high, the percentage of juveniles involved is small. At the peak in 1993, there were about 3,800 juvenile arrests for murder. By 1997, this was down to 2,500 out of a population of more than 30 **million** juveniles between the ages of 10 and 17.

Successful Programs for Reducing Juvenile Crime

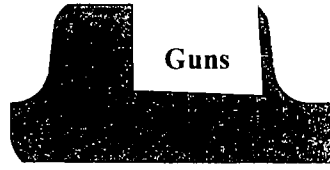
- Many programs that improve the quality of life for children **and** increase public safety have been implemented and systematically evaluated for their effectiveness.
- The extensive recent research shows that the most successful programs are those which focus on children and young people within their social environment – family, school, community, peers. They are designed to strengthen families, encourage good parenting and strengthen community support systems, as well as, and as a means to, helping young people deal with their individual problem behaviors.
- Most violent behavior is learned behavior and all too often it is learned in the family. Children who are abused or neglected are far more likely than other children to engage in crime. Successful interventions need to begin early and involve families.
- Children who are already in trouble can be deterred from further delinquent behavior through programs that focus on supervision, rehabilitation and treatment in the community rather than incarceration – a more effective and cost-effective approach to crime control.
- Restorative justice programs seek to heal the harm done to victims and communities and hold the juvenile accountable for his or her behavior while offering the opportunity to make reparation for it.
- In the words of John DiIulio, a long-time proponent of tough federal policies to deal with juvenile crime, “ ... it is a profound mistake to think that violent crimes by and against juveniles can be prevented or controlled simply or mainly by increasing the punitiveness of the juvenile justice system....”

Copies of the full report *Critical Choices: New Options in Juvenile Crime Policy* can be obtained from the Campaign for an Effective Crime Policy – (202) 628 1903

PREVENTION : The first line of defense against juvenile crime.

Protecting the well-being of our nation's citizens is a concern to all of us. Yet in the effort to increase public safety, we should not lose sight of what both community groups and local law enforcement agencies know to be true: No legislation that is serious about solving the problem of juvenile crime and delinquency can deny the merits of crime prevention programs. Indeed, strategies to reduce juvenile crime and delinquency should not be one-sided in favor of punitive initiatives.

- “Despite the seriousness of the (crime) problem, most of the money and effort devoted to solving it are restricted to a narrow range of solutions, chief among them, incarceration of persons who have already committed crimes. Much less attention has been paid to diverting youths who have not yet committed crimes from doing so.” (RAND, 1996) **The most effective method for reducing juvenile crime must involve comprehensive efforts. Punishment alone is not an effective means of prevention.**
- A recent GAO report on Existing Federal “Youth Crime Prevention” Programs actually reveals minimal federal funding for prevention of juvenile crime. The majority of such funds are spent on interventions such as child abuse prevention, drug abuse prevention and treatment, and job training. These are *good programs* and are *very important*, *but they are not youth crime prevention*. The programs that actually ARE related to youth crime are either relatively small, or oriented toward dealing with offenders AFTER they have committed an offense. **Effective youth crime prevention programs must work within the schools AND the community, reach youth in non-school hours and meet the diverse needs of at-risk youth.**
- According to a study conducted by Vanderbilt University, high-risk youths who are kept out of trouble through **intervention programs** could save society as much as **\$2 million per youth over a lifetime** (*Wall Street Journal*, March 21, 1996). The interventions that take place within the juvenile justice system are vital to reducing crime and future criminal involvement. However, if we really want to **REDUCE AND PREVENT** crime, there must be a substantial and proportionate investment made to diverting youth from crime **BEFORE** they commit it.
- **Graduated sanctions as a means of prevention.** Again, this intervention takes place after the fact - after a juvenile has become involved in delinquent activity. While graduated sanctions should be part of any comprehensive strategy to reduce future delinquent activity, primary prevention efforts are paramount to providing the guidance and support a juvenile needs to avoid such activity.
- **After-school programs as a means of prevention.** Just as graduated sanctions are not in and of themselves effective prevention, neither are after-school programs alone. After-school programs can only be effective in reducing juvenile crime if they provide direct supervision when it would otherwise be lacking. The whole premise of after-school programs is to provide structured, supervised activities for youth during the non-school hours when they are most likely to commit crime. Caring, committed and trained adults who can provide direct supervision and positive role models are key elements of a successful prevention program.
- **A guarantee that at least 50 percent of any Juvenile Justice authorization and appropriation is invested in delinquency prevention programs.**



MEMORANDUM

TO: House Juvenile Crime Legislative Assistants

FROM: Liz Ryan, Children's Defense Fund

DATE: June 18, 1999

RE: Child gun deaths

Last night on the House floor, several comments were made regarding the figure, ***an average of nearly 13 children die every day due to gunfire***. This figure is based on the National Center for Health Statistics reports which found that gunfire killed 4,613 children (0-19) in 1996:

Under age 1: 11 Children died

This is one child death every 33 days, approximately one child death per month, and 2 infant day care groups per year.

Age 1-4: 77 Children died

This is one child death every 5 days, approximately 6 per month, and 10 preschool day care groups per year.

Under 5: 88 Children died

This is one child death every 4 days, approximately 7 per month, and 12 day care groups per year.

Age 5-9: 95 Children died

This is one child death every 4 days, approximately 8 every month, and 4 school classes per year.

Age 10-14: 510 Children died

This is 4 child deaths every 3 days, approximately 10 per week, 43 per month, more than 20 middle school classes per year, and one entire middle school per year.

Age 15-19: 3,921 Children died

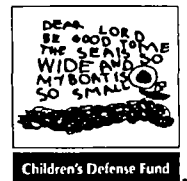
This is almost 11 child deaths per day, 75 per week, 327 per month, more than 5 average secondary schools per year, and more than twice the total enrollment at Columbine High School per year.

For your information, I've also provided the attached briefing materials on Children and guns fact sheet, Child deaths by state, and CDF's statement on children and guns. If you have questions or need additional information, please feel free to contact me at 662-3586 or by email at: Lryan@childrensdefense.org.

FOR IMMEDIATE RELEASE

Contact: Charles Fulwood 202-662-3613
Grace Reef 202-662-3558

JUNE 18, 1999



CHILDREN'S DEFENSE FUND URGES OPPOSITION TO HOUSE GUN BILL

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"Nearly 13 children die every day in America as a result of gun violence. That is a classroom full of children every two days. Polls show that parents throughout America are concerned about gun violence in America and urge mandatory background checks for purchases at gun shows. Yet, the House of Representatives this week chose to protect guns, not children."

"The leadership bill, H.R. 2122, is not only weaker than the Senate passed gun safety bill, but it is weaker than current law. The Dingell amendment adopted last night would even further weaken current law. Most Americans are talking about closing loopholes, and the House is creating more of them," said Edelman.

Under current law, interstate sales of handguns to private individuals are prohibited. Under H.R. 2122, gun show sellers could ship firearms purchased at a gun show to private individuals in any state. To the extent current law covers gun shows, the Brady check includes a waiting period of up to three business days. The Senate bill retains that waiting period. Under H.R. 2122, the waiting period is shortened to 72 hours (far shorter than three business days). Under the Dingell amendment, the waiting period would be further shortened to 24 hours. Under the Senate bill, a vendor is described as a person who offers guns for sale at a gun show. Under H.R. 2122, a vendor is described as a person who sells guns at a fixed location at a gun show. The difference is that H.R. 2122 would allow a vendor to show a gun to a potential purchaser and sell it in the parking lot to the same person with no background check required.

"It is incredible that the House would adopt the Dingell amendment to undermine the Brady background check. Since 95% of all gun buyers have their background check completed within 2 hours, reducing the time for law enforcement to conduct a background check will only serve to make it easier for the 5% of individuals whose check doesn't immediately clear. And, it's those individuals who would be more likely to pose a problem."

"This is the gun show loophole bill. The House of Representatives has voted to protect guns and felons, not children," said Edelman. "We are deeply disappointed. We had hoped that at a minimum the Senate gun safety provisions would be retained. We hope that the American people will let their Representatives know that this bill needs to be vastly improved in conference. Anything less would be a sham."

Children and Guns

Children's Defense Fund • Issue Basics • June 1999

Nearly 13 children die each day from gunfire in America, approximately one every 100 minutes. That is the equivalent of a classroom of children every two days.

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- Of all the children killed by gunfire, nearly two-thirds were victims of homicide and about one-third died from suicide. Guns remain the most common method of suicide for children. Accidental shootings accounted for most of the balance of the gun deaths of children.
- Gunfire not only kills children – children kill children with guns. Seventy-nine percent of the victims of juvenile homicide offenders were killed with a firearm. Ten percent of the victims were family members, 54 percent were acquaintances, and 36 percent were strangers.

Our nation has focused on the killing in Kosovo; it is also time to focus on the killing within our own borders. Gunfire in our homes, our communities, and in our schools continues to steal young lives and destroy families.

- Between 1979 and 1996, more than 75,000 American children and teens were killed by firearms. That is almost 20,000 more than died in combat in Vietnam.
- Between 1979 and 1996, another 375,000 children and teens were wounded by firearms. By comparison, about 150,000 American soldiers were wounded in combat in Vietnam.
- Between 1979 and 1996, 505 American soldiers were killed in action. During that same period, 1,875 children younger than 5 were killed by firearms, more than three times as many.
- In 1996, 55 law enforcement officers were killed in the line of duty. In that same year, more than 4,600 children and teens were killed by firearms, 1 American soldier was killed in action, and 20 soldiers were killed by terrorists.

TABLE B19

**Firearm Deaths Among Children and Teens,
Ages 0-19, by Manner, 1996**

	Total*	Homicide*	Suicide	Accident	Unknown Intent
Alabama	104	59	25	14	6
Alaska	22	6	12	4	0
Arizona	120	64	47	4	5
Arkansas	63	27	26	9	1
California	672	508	108	52	4
Colorado	43	15	23	4	1
Connecticut	36	29	6	1	0
Delaware	5	4	1	0	0
District of Columbia	62	59	1	0	2
Florida	190	116	57	12	5
Georgia	160	79	51	24	6
Hawaii	3	2	1	0	0
Idaho	27	11	11	4	1
Illinois	308	263	33	7	5
Indiana	98	55	30	8	5
Iowa	22	8	13	0	1
Kansas	53	24	22	7	0
Kentucky	52	23	20	9	0
Louisiana	192	133	43	15	1
Maine	5	1	4	0	0
Maryland	106	88	13	3	2
Massachusetts	32	26	5	0	1
Michigan	157	96	42	13	6
Minnesota	56	25	21	6	4
Mississippi	77	38	19	18	2
Missouri	101	63	33	5	0
Montana	20	4	12	3	1
Nebraska	28	8	17	3	0
Nevada	36	25	8	3	0
New Hampshire	7	1	6	0	0
New Jersey	66	55	6	4	1
New Mexico	43	22	17	2	2
New York	199	150	43	6	0
North Carolina	135	70	49	15	1
North Dakota	9	0	8	1	0
Ohio	126	75	31	17	3
Oklahoma	61	30	25	5	1
Oregon	39	9	24	6	0
Pennsylvania	181	113	59	4	5
Rhode Island	6	5	1	0	0
South Carolina	78	39	27	9	3
South Dakota	10	1	9	0	0
Tennessee	123	66	32	23	2
Texas	359	202	121	27	9
Utah	37	11	24	0	2
Vermont	5	1	2	1	1
Virginia	109	54	43	12	0
Washington	67	31	31	4	1
West Virginia	16	6	8	2	0
Wisconsin	76	35	32	8	1
Wyoming	11	1	7	2	1
United States	4,613	2,836	1,309	376	92

*Total firearm death and homicide figures do not include firearm deaths by legal (police) intervention or child deaths by air rifles.

Source: U.S. Department of Health and Human Services, National Center for Health Statistics, Division of Vital Statistics, unpublished mortality tabulations. Calculations by Children's Defense Fund.

FOR IMMEDIATE RELEASE

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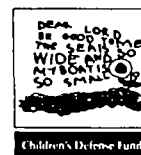
"The leadership bill, H.R. 2122, is not only weaker than the Senate passed gun safety bill, but it is weaker than current law. The Dingell amendment adopted last night would even further weaken current law. Most Americans are talking about closing loopholes, and the House is creating more of them," said Edelman.

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House Gun Amendments



Today, the House is scheduled to consider amendments to H.R. 2122, the Mandatory Gun Show Background Check Act of 1999. Nearly 13 children die each day from gunfire in this country. The Children's Defense Fund supports amendments that would reduce the gun violence that destroys the lives of so many young Americans, closes current loopholes in our gun safety laws, and opposes amendments that would weaken current law gun protections.

CDF SUPPORTS:

McCarthy/Roukema/Blagojevich Amendment (#104):

This amendment would close the gun show loophole. The definition of a gun show would require 50 (or more) guns to be sold by 2 or more vendors (in lieu of H.R. 2122's definition, which includes only those events at which there are 50 or more firearms offered for sale and 10 or more vendors). Background checks would be required for all gun show transactions. Closing the gun show loophole is important in order to keep guns out of the hands of prohibited purchasers.

Hyde/Lofgren/Meehan/DeGette Amendment (#143):

This amendment would ban the importation of large capacity ammunition clips, magazines, and other devices that hold more than 10 rounds of ammunition. The definition of such devices is expanded to any large feeding device, not just devices manufactured after 1994. These high capacity clips have no sporting or hunting value.

Hyde Amendment (#144):

This amendment would prohibit anyone under 21 from purchasing a handgun. Under current law, it is illegal for anyone under 18 to purchase or possess a handgun. Individuals under 21 are prohibited from purchasing a handgun from licensed dealers. This amendment would close the current loophole, which enables individuals under 21 to purchase handguns legally from unlicensed individuals. (It would not, however, prohibit individuals between 18 and 21 from possessing a gun).

Hyde/McCollum Amendment (#163):

This amendment would prohibit the sale, transfer, or possession of semi-automatic assault weapons by juveniles under the age of 18. Children have no need for AK-47's or Uzi's.

Davis Amendment (#164):

This amendment to require secure gun storage or safety devices to be sold with handguns was approved by the Senate in its juvenile crime bill approved on May 10. With current industry safety devices needing improvement, it's a step in the right direction, but alone is not a guarantee that children won't be harmed by firearms or use firearms without supervision.

Conyers Amendment (#180):

This amendment includes the Senate passed gun show definition (50 guns sold and not less than 20% of the exhibitors are firearm exhibitors), requires gun show promoters to register and obtain identification from gun show vendors, requires criminal background checks for gun show transactions, prohibits the sale of semi-automatic guns to juveniles, prohibits the importation of large capacity feeding devices, requires secure gun storage and safety devices for handguns, grants immunity from civil liability under limited circumstances, and imposes Juvenile Brady provisions.

For additional information, please contact Liz Ryan of the Children's Defense Fund at 202-662-3576 or email lryan@childrensdefense.org

House Gun Amendments Continued

CDF OPPOSES:

Dingell/Oberstar/Stenholm/Tanner/Cramer/John Amendment (#168):

This amendment further weakens current law. The underlying bill, H.R. 2122, would completely undermine the 30 year old ban on interstate sales of handguns (like mail order sales between states, the way that Lee Harvey Oswald purchased his gun) by allowing dealers to send firearms purchased at a gun show to buyers in any state. This amendment would further weaken current law by allowing two dealers to conduct business in a state where neither one is licensed. Equally as troubling, the amendment would reduce the waiting period to 24 hours (from 3 days under current law and 72 hours under H.R. 2122). The FBI estimates that more than 15,000 people who have been stopped over the last six months by the current Brady law system would have received their guns under this amendment's 24 hour rule.

Sessions/Frost Amendment (#52):

This amendment re-instates the "pawnshop loophole." Under current law, no one can redeem their own gun from a pawnshop without undergoing a background check. This amendment would restore an individual's ability to pawn his gun and get it back without a background check within one year of pawning it.

Goode Amendment (#166):

This amendment repeals D.C. Law 1-85, which prohibits D.C. residents from possessing a firearm. In addition, the amendment repeals numerous sections of the D.C. Code, including: the ban on sawed-off shotguns, machine guns, and short-barreled rifles; the qualifications for licensed gun dealers; the requirement for gun dealers to maintain records; the requirement for gun dealers to keep their firearms locked up; and, most shocking -- it repeals criminal penalties for selling a firearm to a person under 18 and for possession of an unregistered firearm.

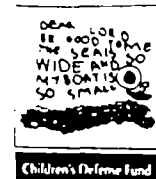
Hunter Amendment (#147):

This amendment allows D.C. residents to possess a loaded handgun in their home. Congress should not override local efforts to reduce gun violence in their community.

GUN AMENDMENTS TO H.R. 2122

Amendment No. and Title	Sponsors	Description of Amendment	CDF's Position on Amendment
Amend. #168	Rep. Dingell, (D-MI) et. al.	Requires background checks at gunshows to be performed in 24 hours; Adds penalties for use of a large ammunition clip in a crime of violence, but excludes large ammunition clips manufactured before 1994 from penalties.	Oppose
Amend. # 143	Rep. Hyde (R-IL)	Prohibits the importation of a large capacity ammunition feeding devices; amends the definition of large capacity ammunition feeding device to mean any device not just devices manufactured after 1994.	Support
Amend #104	Rep. McCarthy (D-NY)	Amends definition of gun show to require 50 guns to be sold <u>and</u> 2 or more vendors; requires gun show promoters to register and obtain identification from gun show vendors; requires criminal background checks for gunshow transactions;	Support
Amend. #144	Rep. Hyde (R-IL)	Prohibits any person under 21 to purchase a handgun or handgun ammunition.	Support
Amend # 164 Safe Hand gun Storage and Child Handgun Safety Act of 1999	Rep. Davis (R-VA)	Requires secure gun storage or safety device to be sold, delivered or transferred with any handgun (with exceptions for law enforcement, relics); amends the definition of secure gun storage or safety device to include devices that if removed, will prevent discharge of the firearm; grants immunity from civil liability under certain circumstances.	Support
Amend. # 163	Rep. Hyde (R-IL); et al.	Prohibits the sale, transfer or possession of semi-automatic assault weapons and large capacity ammunition feeding devices to persons under 18.	Support
Amend. # 47	Rep. Cunningham (R-CA); et al.	Exempts qualified law enforcement and retired law enforcement officers from state laws that prohibits the carrying of concealed firearms.	No position
Amend # 52	Rep. Sessions (R-TX et al.	Exempts pawn shops from conducting background checks for firearms they receive as collateral for a loan over the past year.	Oppose
Amend # 166	Rep. Goode (D-VA)	Repeals provisions of District of Columbia law that prohibit the sale and possession of handguns.	Oppose
Amend # 147	Rep. Hunter (R-CA)	Permits adult D.C. residents, who have not been imprisoned nor been convicted of battery, assault, or other violent crimes, to possess a handgun in their home.	Oppose
Amend #111	Rep. Rogan (R-CA)	Prohibits the sale or disposal of any firearm or ammunition to any person who, as a juvenile has a adjudicated delinquent of a violent act; Prohibits any person who has been adjudicated delinquent of a violent act as a juvenile to ship or transport, or receive any firearm or ammunition. <i>Juvenile Brady</i>	No position
Amendment # 180	Rep. Conyers (D-MI)	Amends definition of gunshow to require 50 guns (at least 1 gun has been shipped or transported interstate) be sold <u>and</u> not less than 20% of the exhibitors are firearm exhibitors; there are not less than 10 firearms exhibitors	Support

		or 50 or more firearms are offered for sale; requires gun show promoters to register and obtain identification from gun show vendors; requires criminal background checks for gunshow transactions; Juvenile Brady provisions; prohibits the sale, transfer or possession of semi-automatic assault weapons and large capacity ammunition feeding devices to persons under 18; prohibits the importation of a large capacity ammunition feeding devices; amends the definition of large capacity ammunition feeding device to mean any device not just devices manufactured after 1994; requires secure gun storage or safety device to be sold, delivered or transferred with any handgun (with exceptions for law enforcement, relics); grants immunity from civil liability under certain circumstances.	
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Children and Guns

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Mental Health



CHILDREN WITH EMOTIONAL DISORDERS IN THE JUVENILE JUSTICE SYSTEM

Each year over one million children come into contact in some way with the juvenile justice system. Over 100,000 of these youth are detained in a correctional facility.

Studies have consistently found the rate of mental disorders to be higher among the juvenile justice population than among youths in the general population. In fact, federal studies suggest that as many as 60 percent of incarcerated youth have a mental health disorder and 20 percent have a severe disorder. As many as half have substance abuse problems.¹

What disorders are most common?

Along with substance abuse, the most common disorders among youth in the justice system are conduct disorder, depression, attention deficit/hyperactivity disorder, learning disabilities, post traumatic stress disorder, and developmental disabilities.² Many youth in the justice system have co-existing disorders, which compounds the challenges in diagnosing and treating these youth.

Why are children with emotional disorders in the justice system?

While some of these children have committed serious crimes, many of them got in trouble because local communities failed to provide services to address their emotional and behavioral problems. These children are disproportionately poor and children of color. Along with their underlying mental disorder, many have histories of other problems that have not been addressed, including: physical and/or sexual abuse; parental drug or alcohol use; poor school performance or truancy; family discord, and learning disabilities.

What can be done to help children with emotional disorders in the justice system?

Mental health services can both prevent children from committing delinquent offenses and from re-offending. These services include prevention, early identification and intervention, assessment, outpatient treatment, home-based services, wrap-around services, family support groups, day treatment, residential treatment, crisis services and inpatient hospitalization. These services are most effective when integrated at the local level with other services provided by schools, child welfare agencies, and community organizations. In addition, intensive work with families at the early stages of their child's problems can strengthen the families' ability to care for their children at home.

Children whose offenses are minor or non-violent should, whenever possible, be diverted away from incarceration and towards treatment, services and supervision in their local community. Because it is not possible to divert all children with emotional disorders, the juvenile justice system and the mental health system should work together to develop programs and services within juvenile systems for these children. These services should be treatment-oriented, appropriate for the child's age, gender and culture, individualized, and family-focused.

For more information about children with disorders in the juvenile justice system visit our webpage at www.nmha.org or contact NMHA's senior community mental health consultant Chris Siegfried in Texas (817) 572-2033 or through the NMHA office in Alexandria at (703) 838-7537 or e-mail Chris at csiegfried@nmha.org.

¹ Cocozza, J.J. (ed.) *Responding to Youth With Mental Disorders in the Juvenile Justice System*. Seattle, WA, The National Coalition for the Mentally Ill in the Criminal Justice System, 1992.

² Garfinkel, Lili F., *Unique Challenges, Hopeful Responses: A Handbook for Professionals Working with Youth With Disabilities in the Juvenile Justice System*, ACER Center, 1997.



National Mental Health Association

Juvenile Justice Initiative



Go!

Justice For Juveniles: How Communities Respond To Mental Health And Substance Abuse Needs Of Youth In The Juvenile Justice System (Executive Summary)

Sponsored by the National GAINS Center and the National Mental Health Association

There is growing recognition of the high numbers of youth involved with the juvenile justice system with co-occurring mental health and substance abuse problems. More than two million youth under the age of 18 are arrested each year, and more than 100,000 of these youth will be placed in juvenile detention and correction facilities on any day. Available research indicates that approximately twenty percent of all youths who enter the juvenile justice system experience serious mental disorders, with a much higher percentage experiencing some level of mental health problems. Studies have consistently found the rate of mental disorders to be higher among juvenile justice population than among youths in the general population. There is also a growing recognition that many of these youths nearly 50 to 75 percent, have serious substance abuse problems. The growing awareness of the unmet needs of these youth had led to a joint effort by the National Mental Health Association and the GAINS Center, known as the Justice for Juveniles Initiative.

The GAINS Center, which is federally supported by the Center for Mental Health Services, the Center for Substance Abuse Treatment, and the National Institute of Corrections, provides information and practical assistance to communities, to promote systemic change and improve service delivery for individuals with both substance abuse and mental disorders in contact with the justice system. The National Mental Health Association, with its 340 affiliates nationwide, is dedicated to improving care and treatment for children and adults with mental health problems. NMHA's mission includes advocacy, public education, research and community aid for people with mental illnesses and their families.

The goal of the JFJ initiative is to highlight, at both the local and national levels, the issues and service needs of youth with co-occurring mental health and substance abuse disorders in contact with the juvenile justice system. The JFJ represents an important first step to identify these youth, their needs, the services available in communities around the country, and ways to improve how systems respond to treatment needs of youth.

Information for the JFJ assessment was collected in communities through a series of interviews with key stakeholders at both the state and local level, including: directors of mental health, substance abuse, and juvenile justice agencies; family members; police; key service providers; judges; and advocacy groups. These interviews were conducted by self-selected Mental Health Association and Federation of Families affiliates who volunteered to collect data in their community. The community assessment asked respondents about the policies and programs in place to address the treatment needs of youth in the juvenile justice system in their respective communities, and their perspective on how well services are provided to youth. The final sample of communities included 15 counties and 9 states. A list of communities that participated in the JFJ initiative is attached.

The report represents a summary of the cross-site findings from the community assessments. Due to issues surrounding the collection of data, and the nature of the information collected, there are a number of limitations to the information in this report. The limitations include:

- while we had hoped to have both state and local data for all communities participating in the initiative, information for both levels was not collected in all sites;
- while we had hoped to have consistency in the types of individuals interviewed across the sites, the respondents in communities are not consistent;
- there are differences in the depth and quality of responses between sites;
- the information gathered is based on respondents' perceptions.

The discrepancies between sites and limitations of the data make it difficult to make comparisons between sites regarding the systems and types of services. Therefore, the report does not make any conclusions or generalizations about individual sites; comparisons or generalizations by state or county; or comparisons by the type of respondent. The report is a general cross-site summary of all 111 interviews completed by the 24 sites participating in the initiative. While this report cannot give a complete picture of the how communities respond to the mental health and substance abuse needs of youth involved in the juvenile justice system, it does provide a critical first step in an area where little or no information exists.

Some of the main findings concerning the mental health and substance abuse services provided to youth involved in the juvenile justice system include:

- **There is a general absence of information on the prevalence of youth with mental health and/or substance abuse problems involved in the juvenile justice system.**

Few communities are aware of the number of youth with mental health and/or substance abuse problems involved in their juvenile justice system. Less than half of the sites collect some data on youth, only a third of the sites can estimate the number of youth, and in only four sites is there a formal analysis of juvenile justice data. The little to no information provided by sites indicates that few communities actually identify youth with mental health and/or substance abuse problems.

- **Across sites there is a failure to provide routine standardized screening and assessments.**

For the majority of communities participating in the initiative, there are no routine screening or assessments for youth involved in the justice system. Respondents indicated that identification is provided in a hit or miss fashion and youth are not generally identified until the problems result in a crisis and can no longer be ignored.

- **There are inadequate and fragmented services for youth with mental health and substance abuse problems involved with the juvenile justice system.**

There are few specific services or programs in place for youth with mental health and/or substance abuse problems involved with the juvenile justice system. Further, in communities where services for youth are available, these are often provided in a piecemeal fashion. In some communities there are programs that target youth in the juvenile justice system, however these programs generally address only a piece of the system. Additionally, there are few programs specifically targeting the needs of juvenile justice youth, and even fewer communities have programming for co-occurring mental health and substance abuse disorders.

- **There is a general lack of communication and coordination across the involved systems.**

Across the sites, it is clear that there is a lack of communication and coordination between the involved systems. In a few sites there are joint endeavors in the form of collaboratively funded programs and interagency committees, however, for most

communities this is clearly lacking. The absence of good communication means restricted access to services and programs, duplication of services, missed identification of youth, and philosophical barriers.

The community assessments illustrate that there are many steps that need to be taken by communities to better meet the treatment needs of youth involved in the juvenile justice system. The strategies to improve services that were most frequently identified in the community assessments, include:

- **Communities need to formalize screening and assessment for mental health and substance abuse disorders for youth at all points of contact of the juvenile justice system.**

A critical piece in any community that seeks to respond to the mental health and substance abuse needs of youth in the juvenile justice system is a routine, formalized screen and assessment. Sites identified this as a critical gap in serving youth and recognized the necessity of this piece in any system that hopes to respond to the treatment needs of youth.

- **Communities need to provide the full range of services to youth.**

In order to meet the treatment needs of youth involved in the juvenile justice system, targeted mental health and substance services must be available at all phases of involvement with the juvenile justice system. Respondents indicated that communities cannot continue to provide services to youth in the piece meal, stop gap approach that currently exists. Sites felt that communities need to develop and implement new services that target this population of youth, from early intervention and prevention programs, diversion programs, services in detention, to aftercare treatment.

- **Communities need to establish a coordinating body or task force that focuses on this population of youth.**

It is clear from the community assessments that agencies need to collaborate and integrate services in order to better meet the needs of these multi-system youth. Respondents identified the development of a task force or coordinating body as a strategy to involve all relevant systems and agencies, and jointly address the needs of youth with mental health and substance abuse problems involved in the juvenile justice system.

Justice for Juveniles Initiative Participating Communities:

Jefferson County, Colorado; Colorado State; Metro Atlanta, Georgia; Georgia State; Marion County, Indiana; Jefferson County, Kentucky; Kentucky State; Jefferson Parish, Louisiana; New Orleans Parish, Louisiana; Louisiana State; Maryland State; Orange County, New York; Albany County, New York; Niagara County, New York; New York State; Charleston, South Carolina; Lexington, South Carolina; Oconee, South Carolina; South Carolina State; Houston/Harris County, Texas; Tarrant County, Texas; Texas State; Central Virginia; Washington State.



National Mental Health Association

Juvenile Justice

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Why are children with emotional disorders in the justice system?

While some of these children have committed serious crimes, many of them got in trouble because local communities failed to provide services to address their emotional and behavioral problems. These children are disproportionately poor and children of color. Along with their underlying mental disorder, many have histories of other problems that have not been addressed, including: physical and/or sexual abuse; parental drug or alcohol use; poor school performance or truancy; family discord, and learning disabilities.

What can be done to help children with emotional disorders in the justice system?

Mental health services can both prevent children from committing delinquent offenses and from re-offending. These services include prevention, early identification and intervention, assessment, outpatient treatment, home-based services, wrap-around services, family support groups, day treatment, residential treatment, crisis services and inpatient hospitalization. These services are most effective when integrated at the local level with other services provided by schools, child welfare agencies, and community organizations. In addition, intensive work with families at the early stages of their child's problems can strengthen the families' ability to care for their children at home.

Children whose offenses are minor or non-violent should, whenever possible, be diverted away from incarceration and towards treatment, services and supervision in their local community. Because it is not possible to divert all children with emotional disorders, the juvenile justice system and the mental health system should work together to develop programs and services within juvenile systems for these children. These services should be treatment-oriented, appropriate for the child's age, gender and culture, individualized, and family-focused.

¹ Coccozza, J.J. (ed.) *Responding to Youth With Mental Disorders in the Juvenile Justice System*. Seattle, WA, The National Coalition for the Mentally Ill in the Criminal Justice System, 1992.

² Garfinkel, Lili F., *Unique Challenges, Hopeful Responses: A Handbook for Professionals Working with*

Garfinkel, Lili F., *Unique Challenges, Hopeful Responses: A Handbook for Professionals Working with Youth With Disabilities in the Juvenile Justice System*, PACER Center, 1997. -



JUVENILE JUSTICE

May 1999

ISSUE: Should Congress enact punitive legislation to further restrict the federal juvenile justice system? Or, will Congress provide for identification and treatment of children with mental illness who are in the juvenile justice system?

BACKGROUND: Children and adolescents who have mental illness that are undiagnosed or untreated are at a higher risk for illegal behaviors. The Department of Education indicates that 20 percent of students with severe emotional disturbances are arrested at least once before they leave school and 58 percent are arrested within five years of leaving school. The vast majority of the offenses committed by youth with mental disorders are non-violent.

With growing attention to issues of youth crime, the 105th Congress moved dangerously close to enacting legislation (S. 10) that would have removed four core protections for children in the justice system. These protections include keeping children from being in sight or sound contact with adult criminals, reducing the disproportionate rates of minority confinement, and keeping children who commit status offenses such as truancy from being detained for long periods of time. The legislation would also have allowed federal prosecutors to try and imprison 14 year olds as adults. Such action often leads juveniles to more serious anti-social behavior upon release from incarceration and increases rates of recidivism.

In the 106th Congress, Senators Hatch (R-UT) and Sessions (R-AL) have reintroduced similar legislation to S. 10 which will strengthen punishment of juveniles but does not address issues of crime prevention, juvenile gun violence or community crime control.

However, with the support of the APA, legislation has been introduced by Senator Wellstone (D-MN) which addresses the mental health needs of the two-thirds of juvenile offenders who have a mental disorder. Senator Wellstone's bill seeks to divert non-violent offenders with mental health problems into community-based treatment and keep them out of jail cells. This legislation will:

- provide for training of juvenile justice personnel to help identify children in need of mental health services,
- provide funding to states that implement effective screening and assessment and diversion programs for youth who come in contact with the juvenile justice system,
- provide technical assistance to states about appropriate services for children with mental disorders,
- and, allow for the use of prison construction funds for the establishment of mental health treatment of adult and juvenile prisoners.

APA POSITION: APA is deeply concerned about the astounding number of children with mental illness that remain undiagnosed and untreated. APA continues to seek resolution to this issue through the fight for insurance parity for mental health. Specifically, the APA is concerned about the growing number of children and adolescents with mental illness entering the juvenile justice system because of gaps in community resources to identify and treat these children in need.

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JUVENILE JUSTICE

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The answer to youth crime in the U.S. is not to lock up children with mental illness and throw away the key. Such approaches by Congress only seek to punish youth in need and deepen the stigma applied to mental illness. To effectively address this issue, investments must be made in reaching children with mental disorders before they are arrested and providing treatment for those incarcerated youth in need. Such steps will help break the pattern of youth incarcerations and relieve the prolonged suffering of mentally ill children.



February 24, 1999

**Statement of the Steering Committee of the Campaign for an Effective Crime Policy
on the federal role in improving mental health care for
juveniles in the criminal justice system**

Findings:

There is an urgent and compelling need for nationwide improvements in the care and treatment of youth with mental illnesses in the juvenile justice system. Many incarcerated juveniles have severe developmental and emotional problems and substance abuse disorders, and it is estimated that as many as 20% have a serious mental illness. Most of these juveniles are incarcerated for non-violent offenses and could be more effectively, cheaply and humanely cared for in community-based programs.

Adequate funding is needed for mental health services in the community to treat mentally ill and substance abusing juveniles. Funding is also required to train police, state judges and others to recognize the needs of mentally ill juveniles and where appropriate divert them from courts and confinement into community-based alternatives. Identifying and treating the underlying problems which bring so many children into the criminal justice system would reduce both the economic and social costs of incarceration and lead to a reduction in future criminal and anti-social activity.

Mentally ill children who are confined in juvenile or adult facilities often receive inadequate treatment and may be victimized by other inmates or staff who find their behavior threatening or disruptive. Allowing the states to use federal prison construction funds to implement mental health screening and treatment programs would improve the likelihood of both adults and juveniles receiving appropriate and effective treatment, benefitting both the mentally ill and corrections staff. Providing treatment in prison and ensuring that adequate community care will be available on release would reduce reoffending rates and increase public safety.

Conclusion:

The Steering Committee of the Campaign for an Effective Crime Policy supports federal funding for the training of justice system personnel, appropriate diversion of youth from incarceration, the provision of community-based alternatives, and improvements in services in all corrections facilities. Addressing children's and juveniles' mental health and developmental problems, providing them with adequate and coordinated treatment services in community settings, is the humane and cost-effective way to improve both our children's health and the security and safety of our neighborhoods.

(see over page for list of Steering Committee Members)

Campaign Steering Committee

Catherine A. Abate

Former State Senator, New York State Senate

Former Commissioner, New York City Department of Corrections

Former Commissioner, New York State Crime Victims Board

Walter J. Dickey, Professor of Law

University of Wisconsin School of Law

Former Secretary, Wisconsin Department of Corrections

Norman S. Early

Former District Attorney, Denver

Former Senior Vice President, Criminal Justice Services, Lockheed IMS

Daniel L. Feldman

Former Chair, Committee on Correction, New York State Assembly

Former Chair, Committee on Law and Justice, National Conference of State Legislatures

Edward A. Flynn, Chief of Police

Arlington County, Virginia

Ellen Halbert, Director, Victim Witness Division

Office of the District Attorney, Austin, Texas

Editor, The Crime Victims Report

Oliver J. Keller, Past President, National Association of State Juvenile Delinquency Administrators

Past President, American Correctional Association

Former Director, Florida Division of Youth Services

Former Secretary, Florida Department of Health and Rehabilitative Services

Michael Lawlor, Chairman, Judiciary Committee, Connecticut General Assembly

Chairman, Corrections Committee, The Council of State Governments

Patrick V. Murphy, Former Police Commissioner

New York, Detroit and Washington, D.C.

Chase Riveland, Former Secretary, Washington State Department of Corrections

Former Executive Director, Colorado State Department of Corrections

Hon. Andrew L. Sonner, Judge, Maryland Court of Special Appeals

Former State's Attorney, Montgomery County, Maryland

Former Chair, American Bar Association Criminal Justice Section



National Mental Health Association

Position Statement Index

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Children With Emotional Disorders In The Juvenile Justice System

The National Mental Health Association accords a high priority to the care of all children, especially those with emotional and behavioral problems.

Increasing numbers of children with emotional disorders are entering the juvenile justice system. This growing trend is the result of multiple systemic problems including inadequate local mental health services for children and more punitive state laws about juvenile crime. Because these children are disproportionately poor and children of color, they and their families are in special need of advocacy.

While very little data is presently available about children with emotional disorders in the justice system, it has been estimated that **up to 60% of youth who are involved in the system suffer with such disorders**. Many children with emotional disorders in the justice system have committed minor, non-violent offenses or status offenses. NMHA believes that these children do not need to be incarcerated. Whenever possible, these children should be diverted away from the juvenile justice system and towards community-based services including treatment as needed. Education, advocacy, and support should also be offered to the families of these children.

Mental health services can both prevent children from committing delinquent offenses and from re-offending. Intensive work with families at the early stages of their child's behavioral problems can strengthen their ability to care for their children at home.

NMHA believes the needs of children and families are best met through a system of collaborative community-based mental health services. These services include prevention, early identification and intervention, assessment, outpatient treatment, home-based services, wrap-around services, family support groups, day treatment, residential treatment, crisis services and inpatient hospitalization. NMHA further believes that these services are most effective when planned and integrated at the local level with other services provided by schools, child welfare agencies, and community organizations.

Because some children with emotional disorders commit serious and violent offenses, it is not always possible to divert them from incarceration. Nevertheless, these children need treatment for their disorders. The juvenile justice system and the mental health system should work together to develop programs and services within juvenile systems for these children. These services should be treatment-oriented, appropriate for the child's age, gender, and culture, individualized, and family-focused.

Incarceration Of Children

Placing children with mental and emotional disorders in institutions, especially correctional facilities, poses special risks and obligations. Institutions have the duty to provide adequate medical services, including mental health services, protection from harm, and adequate education. These services are a right of the incarcerated child.

Children with mental and emotional disorders are especially vulnerable to the difficult and sometimes deplorable conditions that prevail in detention centers and youth prisons. Severe overcrowding often contributes to the inadequacy of mental health services and can exacerbate the emotional problems of children.

Adequate delivery of mental health services to children and their families in secure facilities is the responsibility of all professionals at a facility, including psychiatrists, psychologists, social workers, nurses, correctional counselors, correctional officers, and facility administrators. NMHA believes that secure facilities must be sufficiently staffed with mental health professionals, and that such professionals have special obligations to:

- advocate to correct conditions which interfere with or are inconsistent with basic human rights;
- advocate to improve mental health services;
- train all personnel about the signs of mental and emotional problems in children and basic mental health principles; and
- oppose discriminatory treatment based on race, religion, gender, ethnic background, mental health condition, or sexual orientation.

NMHA commits itself to protecting the civil rights of children with mental and emotional disorders who are incarcerated in the juvenile justice system. This includes their rights under the US Constitution to adequate medical and mental health care, to protection from harm including staff abuse, and to adequate education and rehabilitative services and treatment. NMHA will work to inform members of law enforcement and correctional groups, judges and attorneys, residential care personnel, mental health professionals and advocates, parents, the community and the media about the rights of incarcerated children with serious mental and emotional disorders.

NMHA also commits itself to identifying and addressing the forces that contribute to the disproportionately high involvement of youth from ethnic and racial minority communities in the juvenile justice system.

Treatment During Confinement

When children with mental and emotional disorders must be confined in correctional settings, certain principles should be observed:

1. All youths should be screened upon admission by trained personnel for mental health and substance abuse problems. When the screening detects possible mental health problems, children should be referred for further evaluation, assessment and treatment by mental health professionals. Children and their families who are already receiving treatment before they enter should be assisted in continuing treatment. All juveniles who are not released within one week should have behavioral, mental health and/or substance abuse evaluations done by qualified mental health staff with expertise in children and adolescents.
2. Juveniles who suffer from acute mental disorders or who are actively suicidal should be placed in or transferred to an appropriate medical or mental health facility and returned to confinement only with medical clearance. Correctional facilities should have written arrangements with local medical or mental health facilities for providing emergency medical and mental health care.
3. Mental health services should be available to incarcerated children 24 hours per day, seven days per week. Treatment should be provided in an atmosphere of empathy and respect for the dignity of the child. Different types of mental health interventions should be available, including the full range of medications. The type of intervention should be tailored to meet the child and family's needs and developmental status, and should be delivered by qualified mental health staff with expertise in children and adolescents. When medications are used, they should be consistent with the treatment plan and well monitored by a qualified mental health professional with expertise in children and adolescents.

4. Special treatment should be available to children who are sexually abused, who have substance abuse problems, health problems, educational problems, histories of family abuse or violence, and who are sex offenders. Programming in facilities should be appropriate to the child's age, gender and culture. Linguistically and culturally appropriate therapy with the child's family should be encouraged. Under no circumstances should a child be penalized for seeking or receiving mental health treatment.
5. Facilities should train staff to use behavior management techniques that minimize the use of intrusive, restrictive, and punitive control measures. Facilities should have written guidelines for the use of seclusion, room confinement, and restraints. These guidelines should be made clear to children in custody. Distinctions should be made between the use of seclusion and restraints for custodial-administrative purposes and those made for therapeutic purposes. When restraint must be used to prevent injury to self or others, there should be stringent procedural safeguards, limitations on time, periodic reviews and documentation. Generally these techniques should be used only in response to extreme threats to life or safety and after other less restrictive control techniques have been tried and failed.
6. Under no circumstances, should incarcerated children be the subjects for medical research without proper ethical review and informed consent.
7. Incarcerated children should have a discharge plan prepared when they enter the correctional facility in order to integrate them back into the family and the community. This plan should be updated in consultation with the child's family or guardian before the child leaves. It should include the continuation of treatment, therapy and services begun in the facility. Confinement facilities should take an active role in promoting continuity of treatment for those released.
8. Facilities should take extra precautions to assure against suicide by emotionally disturbed children who are confined. Facilities should have a suicide prevention plan that includes appropriate admission screening, staff training and certification, assessment by qualified mental health professionals, adequate monitoring, referral to appropriate mental health providers or facilities, and procedures for notification of the child's parents or guardian. Suicidal youth should never be isolated.

Specific Rights

NMHA affirms the specific rights identified below because they have the most potential to be abridged in correctional settings:

- The right to informed consent to treatment. The child and the child's family or guardian should participate, to the extent possible, in decisions about evaluation and treatment. Staff should discuss with the children and family the nature, purpose, risks, and benefits of types of mental health related services including treatment.
- The right to refuse treatment, including psychotropic medications, according to protocol allowed by the jurisdiction in which the facility is located.
- The right to the least restrictive environment and/or the least intrusive response to an apparent need for mental health services.
- The right to be confined in a place that can provide the treatment needed.
- The right to confidentiality in the delivery of mental health services and in mental health records.

- The right to a safe, sanitary and humane environment.
- The right to have regular and timely access to medical and mental health staff who are culturally competent and qualified to provide adequate treatment and supervision.
- The right to be transferred to an appropriate medical or mental health facility when conditions warrant.
- The right to receive educational services that are tailored to the child's educational level, needs, and abilities, including special education services and supports.
- The right to be free from corporal punishment, chemical restraints, and sexual abuse or coercion.
- The right to assert grievances, to have grievances considered in a fair, timely and impartial manner, and the right to exercise rights without reprisal.
- The right to an individualized written treatment plan, to the treatment specified in the plan, to periodic review and revision of the plan based on the child's needs. The child and the child's family or guardian should participate in the development, review, reassessment and revision of both the treatment plan and the discharge plan.

Approved by the NMHA Board of Directors June 6, 1998

CHILDREN WITH EMOTIONAL DISORDERS IN THE JUVENILE JUSTICE SYSTEM

Each year over one million children come into contact in some way with the juvenile justice system. Over 100,000 of these youth are detained in a correctional facility.

Studies have consistently found the rate of mental disorders to be higher among the juvenile justice population than among youths in the general population. In fact, federal studies suggest that as many as 60 percent of incarcerated youth have a mental health disorder and 20 percent have a severe disorder. As many as half have substance abuse problems.¹

What disorders are most common?

Along with substance abuse, the most common disorders among youth in the justice system are conduct disorder, depression, attention deficit/hyperactivity disorder, learning disabilities, post traumatic stress disorder, and developmental disabilities.² Many youth in the justice system have co-existing disorders, which compounds the challenges in diagnosing and treating these youth.

Why are children with emotional disorders in the justice system?

While some of these children have committed serious crimes, many of them got in trouble because local communities failed to provide services to address their emotional and behavioral problems. These children are disproportionately poor and children of color. Along with their underlying mental disorder, many have histories of other problems that have not been addressed, including: physical and/or sexual abuse; parental drug or alcohol use; poor school performance or truancy; family discord, and learning disabilities.

What can be done to help children with emotional disorders in the justice system?

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Children whose offenses are minor or non-violent should, whenever possible, be diverted away from incarceration and towards treatment, services and supervision in their local community. Because it is not possible to divert all children with emotional disorders, the juvenile justice system and the mental health system should work together to develop programs and services within juvenile systems for these children. These services should be treatment-oriented, appropriate for the child's age, gender and culture, individualized, and family-focused.

For more information about children with disorders in the juvenile justice system visit our webpage at www.nmha.org or contact NMHA's senior community mental health consultant Chris Siegfried in Texas (817) 572-2033 or through the NMHA office in Alexandria at (703) 838-7537 or e-mail Chris at csiegfried@nmha.org.

¹ Cocozza, J.J. (ed.) *Responding to Youth With Mental Disorders in the Juvenile Justice System*. Seattle, WA, The National Coalition for the Mentally Ill in the Criminal Justice System, 1992.

² Garfinkel, Lili F., *Unique Challenges, Hopeful Responses: A Handbook for Professionals Working with Youth With Disabilities in the Juvenile Justice System*, ACER Center, 1997.