

1-1-1984

Persons in need of supervision : a study of the origins of and controversies surrounding the status offender jurisdiction in New York State.

Frederick D. Bedell

University of Massachusetts Amherst

Follow this and additional works at: https://scholarworks.umass.edu/dissertations_1

Recommended Citation

Bedell, Frederick D., "Persons in need of supervision : a study of the origins of and controversies surrounding the status offender jurisdiction in New York State." (1984). *Doctoral Dissertations 1896 - February 2014*. 3933.
https://scholarworks.umass.edu/dissertations_1/3933

This Open Access Dissertation is brought to you for free and open access by ScholarWorks@UMass Amherst. It has been accepted for inclusion in Doctoral Dissertations 1896 - February 2014 by an authorized administrator of ScholarWorks@UMass Amherst. For more information, please contact scholarworks@library.umass.edu.



PERSONS IN NEED OF SUPERVISION--A STUDY OF THE
ORIGINS OF AND CONTROVERSIES SURROUNDING
THE STATUS OFFENDER JURISDICTION IN
NEW YORK STATE

A Dissertation Presented

By

FREDERICK D. BEDELL

Submitted to the Graduate School of the
University of Massachusetts in partial fulfillment
of the requirements for the degree of

DOCTOR OF EDUCATION

February 1984

Education



Frederick D. Bedell

1984

All Rights Reserved

PERSONS IN NEED OF SUPERVISION - A STUDY OF THE
ORIGINS OF AND CONTROVERSIES SURROUNDING
THE STATUS OFFENDER JURISDICTION IN
NEW YORK STATE

A Dissertation Presented

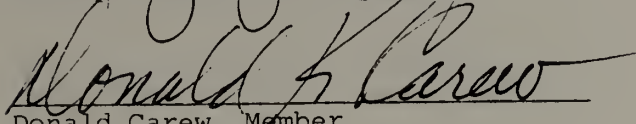
By

FREDERICK D. BEDELL

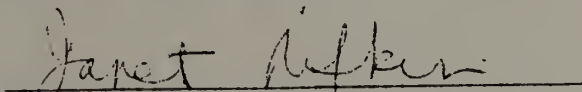
Approved as to style and content by:



Bailey Jackson, Chairperson



Donald Carew, Member



Janet Rifkin, Member



Mario Fantini, Dean
School of Education

PREFACE

During my tenure with the State of New York as a public policy executive in the field of Juvenile Justice, I have been fortunate to have worked with professional associates who believe in helping troubled children at all levels of prevention and rehabilitation. I thank them all for their assistance in the preparation of this document. It is to these people and the children that we work for in the State of New York that this study is dedicated.

In the words of the poet, Henry David Thoreau:

If a man does not keep pace with his companions,
Perhaps it is because he hears a different drummer.
Let him step to the music which he hears,
However measured or far away.

ISSUES SURROUNDING THE STATUS OFFENDER JURISDICTION

The issues that presently surround the Status Offender Jurisdiction in New York State as well as the nation today appear to fall into two distinct categories: legal and social. How to handle youth classified as status offenders within a legal and social context is one of the major concerns of public policy makers in the State of New York.

Social Dimension

Alvin Tofler (1981) has painted a picture of the development of civilization in his book The Third Wave in which he argues that civilization has evolved through two distinct eras and is presently moving into a third. This country had its beginnings in an agricultural era, and it is within that framework the family functioned as the main stabilizing force for its young. When the country progressed from an agrarian economy to an economy based on industrialization, the family structure was changed drastically. Reports of the National Juvenile Justice Assessment Center (1980) indicate that it was during this period that the state began to assume the role of becoming the socializing agent for the young through its institutions, such as the public school system.

Within the context of the state's assumption of the role previously limited to parents, the issues surrounding Juvenile Justice and Child Care concerns find its beginnings. The status offense category is neither fish nor fowl as it lies between the inability of parents to handle their young and the child's inclination for delinquent behavior.

While delinquency places an emphasis on the child-state relationship very similar to the adult system, the parent-child relationship is at the forefront in the majority of status offenses. Thus emerged the concept of Parens Patriae (The Good and Wisely Kind Judge) as the state's surrogate parent for the wayward youth.

Legal Dimension

In 1980, the U. S. Department of Justice's Office of Juvenile Justice and Delinquency Prevention issued a report, entitled A Preliminary National Assessment of the Status Offender and the Juvenile Justice System: Role Conflicts, Constraints and Information Gaps, which cites grounds for constitutional challenge of the status offender laws. Among the arguments cited are the status offender laws are vague; they do not provide equal protection; a youth who loses his liberty is afforded the right to treatment but whether or not treatment is afforded is at issue; and the act engenders cruel and unusual punishment for offenses that are not criminal (1980).

The past twenty-five years have witnessed the restoration of due process rights denied juveniles through numerous court proceedings. In light of the issues surrounding both Juvenile Justice and Child Care, one side cannot be understood without focusing on the other. The erosion of parental responsibility for the acts of their children has eroded over the past eighty years as the state has intruded in this area (reports of the National Juvenile Assessment Center, 1980).

The issues presented are of such concern that the New York State Legislature appointed a temporary commission in 1981 to review and/or

codify the New York State Family Court Act which is the statutory authority for handling cases of youthful criminal and non-criminal offenders. This study is an attempt to present a picture of the origins of and controversies surrounding the Status Offender Jurisdiction in the State of New York and hopefully its findings will contribute to the legislative review of the State's policy for the legal processing of status offenders that come under the Court's jurisdiction.

ABSTRACT

Persons in Need of Supervision--A Study of the
Origins of and Controversies Surrounding
the Status Offender Jurisdiction in
New York State

(February 1984)

Frederick D. Bedell, B.S., New York University

M.A., New York University

Professional Diploma, State University at New Paltz

Ed.D., University of Massachusetts

Directed by: Professor Bailey Jackson

The study encompassed an historical review of the events that preceded the enactment of the Family Court Act in New York State; a legislative Analysis of the Section of the Family Court Act which puts forth New York State's policy on the legal processing of youthful criminal and non-criminal offenders that come under the Court's jurisdiction. The purpose of the study was to analyze the State's policy for the handling of status offenders to determine legislative intent and to find out if the intent was being followed in practice and was what was being practiced serving the intent of the legislation.

A review of the literature encompassed child labor and education laws, legislature and gubernatorial documents that presented a picture of events that preceded the enactment of the Family Court Act. A content analysis technique was used to analyze the part of the Family Court Act that spelled out the State's policy for the handling of youthful

criminal and non-criminal offenders that come before the Court. To determine legislative intent (policy) and to assess what was happening in practice, a four-year trend analysis of the youth population of the New York State Division for Youth (state agency which has a mandate to provide services for youthful criminal and non-criminal offenders) was conducted. The data collected and analyzed indicated that the legislature treated differently within a legal framework; it also wanted to see that both groups were afforded a due process of law in any legal processing and also to protect the community from the acts of youthful criminal offenders. There are difficulties which have produced controversies that occur in the implementation of the policy. Inconsistencies and inequities pervade the implementation of the policy in the areas of sex, ethnicity and geographic regions within the state. To conclude the study, policy recommendations were made for public policy makers.

TABLE OF CONTENTS

PREFACE	iv
ISSUES SURROUNDING THE STATUS OFFENDER JURISDICTION	v
ABSTRACT OF DISSERTATION	viii
LIST OF TABLES	xiv
LIST OF TABLES IN THE VERA STUDY	xv
LIST OF FIGURES	xvi
Chapter	
I. INTRODUCTION	1
Background of the Problem Situation	1
Nature of the Problem	2
Family Court Act of 1962	2
Origins of the Concept of Parens Patriae	5
Social and Legal Dimensions of the Issue	7
Purpose of the Study	12
Significance of the Study	13
Scope and Delimitation of the Study	13
Organization of the Remainder of the Study	13
II. LITERATURE REVIEW--THE JUVENILE COURT SYSTEM	15
Historical Perspective	15
The Period of Juvenile Rights	16
The Policy Debate Regarding Status Offense Jurisdiction	19
Argument(s) for Abolishing the Jurisdiction of Status Offender	20
The Case for Retaining the Jurisdiction Within the Court Structure	23
Overview of How States Treat the Status Offender Jurisdiction	25
Colorado	26
Washington	26
Iowa	26
Pennsylvania	27
Arizona	27
Utah	27

Chapter

II. LITERATURE REVIEW--THE JUVENILE COURT SYSTEM

Virginia	28
Massachusetts	28
Louisiana	28
California	29
Illinois	29
The Vera Study	32
Description of Study	32
The PINS Sample of the Family Court	
Dispositional Study	33
Characteristics of Juveniles--The Aggregate	
PINS Sample	33
Case Processing	40
Highlights of Themes That Emerged From	
the PINS Sample	40
III. DESIGN OF THE STUDY	43
Purpose of the Study	43
Background of the Court Jurisdiction Prior to	
the Enactment of the Family Court Act and the	
Research Questions That Form the Basis of the	
Study	44
The Issue and the Research Questions That	
Form the Basis of the Study	44
Setting of the Study	45
Methodology and Data Collection	46
Data Collection	46
Research Design	46
IV. LEGISLATIVE REVIEW AND ANALYSIS OF THE FAMILY COURT	
ACT OF 1962 AND ARTICLE 7 OF THE ACT AND THE EVENTS	
THAT LED UP TO ITS ENACTMENT	53
Antecedent Legislation in the Areas of Child	
Labor and Education	55
Social Antecedents	58
Economic Antecedents	58
Events Leading Up to the Enactment of the	
Family Court Act in New York	60
The Essential Elements of the Family Court Act	
as Adopted in 1962	64
Revision of Law of Neglected Children	66
Intent of the Act	69
Research Method Used for Article 7 of the	
Family Court Act of New York State 1962	72

Chapter

IV. LEGISLATIVE REVIEW AND ANALYSIS OF THE FAMILY COURT ACT OF 1962 AND ARTICLE 7 OF THE ACT AND THE EVENTS THAT LED UP TO ITS ENACTMENT

Analysis of Article 7 of the Family Court Act 74
Part I--Jurisdiction 75
Part II--Custody and Detention 76
Part IV--Hearings 76
Part V--Orders 76
Part VI--New Hearing and Reconsideration
of Orders 77
Part VII--Compliance With Orders 77
Part VIII--Effect of Proceeding 77
Statement of Questions Deduced From the
Analysis of Article 7 of the Family Court Act 79

V. TRENDS IN THE PROCESSING OF PINS YOUNGSTERS WITHIN THE NEW YORK STATE DIVISION OF YOUTH 81

Trends of Adjudication Status 83
Implications for Processing of PINS 93
Findings of the Out of Home Study 100

VI. SUMMARY AND CONCLUSION 106

Findings of the Out of Home Study 111
Conclusions 115
Current Trends in the Processing of
Juvenile Crime 115

VII. POLICY RECOMMENDATIONS 120

The Context 120
A Fragmented Youth Service System 121
Community Programs for Status Offenders 124
The Children's Hearing Project 124
The PINS Diversion Services System 125
Recommendations 129
Toward a Framework for Policy Development 129
Policy Recommendation(s) 131
Recommendations for Further Research 133
Summation 133

.

REFERENCES 134

SELECTED BIBLIOGRAPHY 142

APPENDICES	148
A. GLOSSARY	149
B. CHRONOLOGY OF CHILD LABOR, COMPULSORY ATTENDANCE AND EDUCATION LEGISLATION IN NEW YORK STATE	156
C. FAMILY COURT CASE PROCESSING FORMAT	159
D. QUESTIONNAIRE--OUT OF HOME PROJECT, SURVEY OF CHILDREN IN PLACEMENT	163
E. FAMILY COURT ACT OF THE STATE OF NEW YORK, LAWS OF 1962, CH. 686 - ARTICLE 7	191
F. RELATIVE SECTIONS OF EDUCATION LAW PERTAINING TO INSTRUCTION AND ATTENDANCE	231
G. CONTENT ANALYSIS--CATEGORIZATION CODING SHEET FOR ARTICLE 7--FAMILY COURT ACT--CH. 686--1962, AMENDED 19 AUGUST 1978	237
H. EVOLUTION OF THE NEW YORK STATE DIVISION FOR YOUTH AS THE STATE'S JUVENILE JUSTICE AND CHILD CARE AGENCY	243
I. JUVENILE CONTACT SYSTEM	254
J. DRAFT STATUTE FOR FAMILY IN NEED OF COURT ASSISTANCE	274

LIST OF TABLES

1. Total Admissions: Adjudication Status by Year of Admission (1978-1981)	84
2. Adjudication Status of Total Admissions: Percent Change (1978-1981)	87
3. Adjudication Status by Ethnicity (1978-1981)	88
4. Adjudication Status by Sex (1978-1981)	91
5. Adjudication Status by Age (1978-1981)	94
6. Current Legal Status by Child's Sex	101
7. Current Legal Status by Ethnicity	102
8. Current Legal Status of Behavioral Problems	103

LIST OF TABLES IN THE VERA STUDY

2.	PINS: Age of Juveniles	34
3.	PINS: Ethnic Origin	34
4.	PINS Frequencies: Sex of Juveniles	35
5.	PINS: Household Status	35
6.	PINS: Public Assistance Status	36
9.	PINS: Existence of Prior Charges in PINS Sample	36
10.	PINS: Neglect/Abuse History for PINS Juveniles	37
11.	PINS: Number of Prior PINS Charges	37
12.	PINS: Allegations to Prior PINS	38
13.	PINS: Number of Prior Delinquencies	38
14.	PINS: Past Court History of Juveniles	39

LIST OF FIGURES

1.	Admissions by Adjudication (1978-1981)	85
2.1	First Admissions, Adjudication Status by Ethnicity (1978-1979)	89
2.2	Total Admissions, Adjudication Status by Ethnicity (1980-1981)	90
3.	Adjudication Status by Sex, Compared by Year (1978-1981)	92
4.1	Adjudication Status by Age (1978)	95
4.2	Adjudication Status by Age (1979)	96
4.3	Adjudication Status by Age (1980)	97
4.4	Adjudication Status by Age (1981)	98

CHAPTER I

INTRODUCTION

Background of the Problem Situation

At issue in the nation today is how to handle that group of youth who have committed no criminal acts but are behavior problems and, as such, are classified as Status Offenders or Persons in Need of Supervision (PINS). This is a particular problem in the State of New York, so much so that the Legislature has established a Temporary Commission to review the Family Court Act, and, in particular, the Status Offender jurisdiction (1980).

Status offender jurisdiction encompasses a broad range of concerns that not only focuses on juvenile behavior but reaches into the conflicts between children and parents. One of the major arguments in the debate over the reforms of the status offender jurisdiction (PINS) is what is the appropriateness of state intervention in non-criminal/anti-social activities and in the enforcement of parental authority (State-Wide Youth Advocacy, Inc., 1982). With this brief background that paints a confused picture as to conflicts surrounding the PINS jurisdiction in New York, this study will attempt to place the major issues into a framework for policy review in this area. Therefore, with this goal in mind, the purpose of this study is to analyze the legislative intent of New York's policy for handling youthful non-criminal offenders, to find out if the intent is being followed in practice and is what is being practiced serve the intent of the legislation.

Nature of the Problem

Prior to the enactment of the PINS statutes within the Family Court Act (1962), the majority of youth who were adjudicated were classified as juvenile delinquents. A juvenile delinquent is defined as a person over seven and less than sixteen years of age who commits any act which, if committed by an adult, would constitute a crime, and who requires supervision, treatment or confinement (New York Family Court Act, 1962). A person in need of supervision (PINS), by contrast, is defined as a male less than sixteen years of age and a female less than eighteen years of age who is incorrigible, ungovernable or habitually disobedient and beyond the lawful control of parent or other lawful authority, and requires supervision or treatment (New York Family Court Act, 1962).

The PINS statutes provide for three basic categories for status offense cases (non-criminal): (1) incorrigibility; (2) runaway; and (3) habitual truancy. This classification was enacted into law to provide the legal system with the authority to provide services to youngsters deemed to require state intervention, even when no criminal act had occurred.

Family Court Act of 1962

Heated debate over the juvenile justice system in New York (family courts, probation intake, providers of community services) has thus far produced no reform so states a study produced by the New York Senate Research Service (1977). One of the questions this study structured

within its framework for analysis was, "Is the practice of depriving children of liberty for offenses not punishable if committed by an adult in itself an unjustified intrusion of their constitutional rights?" (New York Senate Research Service, 1977, p. 1). In juvenile delinquency proceedings, parents often assist their children in defending against the allegations of delinquency. The youth is afforded, in this proceeding, his/her due process rights; e.g., he/she is entitled legal counsel, to know the charges being brought against him/her, he/she is able to bring witnesses to speak on his/her behalf, and he/she is entitled to have an appropriate hearing or trial--whatever the case may be. In the case of PINS, the parent is often looking to the court to rescue him/her from the youth. Specifically in the case of truants, the school and the parent are often cooperating with the court "against" the youngster (Vera Institute, 1980).

More often than not, youth who are placed as PINS stay longer in institutional placements and in detention than their juvenile delinquent counterparts. A survey conducted by the Citizens' Committee of New York City (1979) showed that out of 1,850 youth adjudicated as delinquents (JDs), 528 (28.5%) were placed or committed; whereas in contrast, of the 583 found to be PINS, 263 (45.1%) were placed. In addition, the report cited that 26% of JDs were detained between petition and disposition for periods of seven days to six months; whereas 31% of PINS were detained for the longest periods (over three months).

Legislative research reveals that the legislative intent of the PINS Statute was to eliminate the stigma placed on youths who were

classified as delinquents regardless of whether or not they committed criminal acts or status offenses (non-criminal acts), and to provide differential treatment for the status offenders (McKenney's Session Laws of New York, 1962).

Data derived from a report of the Administrative Board of the Office of Court Administration in New York City regarding initial disposition of original petitions in Juvenile Delinquency and Persons in Need of Supervision (PINS) Proceedings in New York City, January 1, 1976 to December 31, 1976, show that approximately 25% of cases filed in both categories--PINS and JD--were adjudicated. The analysis of detention prior to initial disposition of original petition revealed the following:

- 1% of JDs were detained prior to petition;
- 2% of PINS were detained prior to petition;
- 26% of JDs were detained between petition and disposition for periods of 7 days to 6 months; whereas, 31% of PINS were detained within the aforementioned time periods and girls represented the larger category of PINS detainees for the longest periods (over 3 months). The fact that PINS youth were detained for longer periods of time than their delinquent counterparts is a significant statistic (Citizen's Committee of New York, 1979, p. 54).

In 1980, the U. S. Department of Justice's Office of Juvenile Justice and Delinquency Prevention issued a report, entitled A Preliminary National Assessment of Status Offenders and the Juvenile Justice System: Role Conflicts, Constraints and Information Gaps (1980), which cites grounds for constitutional challenge of the status offender laws. Among the arguments cited are that status offender laws are vague; they do not provide equal protection; a youth who loses his liberty is afforded the right to treatment but whether or not treatment

is afforded is at issue; and the act engenders cruel and unusual punishment for offenders that are not criminal.

By way of summarizing the main issues surrounding the status offender debate, the following questions emerge: Does adjudication as a PINS ensure treatment, which purportedly was the original intent of the law? Is there a gap in the legislative framework for PINS that has resulted in inappropriate placements, avoidance of responsibility for those who should be responsible? What then was the idea or the basis for setting up different jurisdictional authorities and processes for children and in particular youthful criminal and non-criminal offenders?

Origins of the Concept of Parens Patriae

The child law reformers of the nineteenth century were concerned about the effects on children being treated like adults and being jailed with adult criminals. They felt that children should receive special treatment and that special courts should be established to act in the best interests of the child as, at that time, children of all ages were sent to courts and jails with adults. As a result of this philosophy, the first Juvenile Court in the United States was established in Illinois in 1899 (Rothman, 1972).

The Parens Patriae was the centerpiece of the juvenile court which doctrines held that in order to guard the state's interests, it has the right to intervene in a benevolent fashion to oversee the case and custody of the state youth (Reports of the National Juvenile Justice Assessment Act, 1980).

The reformers believed that the object of the court proceedings would be to investigate, determine and design a course of action for the child and workers who deal with juveniles and are expected to be understanding and provide guidance and protection rather than punish on the basis of responsibility (Rothman, 1972). This philosophy has prevailed and can be substantiated in the legal reforms in the Child Welfare System that addressed the interests of the child over the next 70 years. Several critical occasions began the reform of the original Child Welfare System.

In 1964, Gerald Gault, a fifteen year old boy, was arrested by a County Sheriff and imprisoned without due process (Rothman, 1972). The point made in this case was that if Gerald had been an adult, he would have been entitled to the process of safeguards--notice of charges, right to counsel, right to confrontation and cross-examination of witnesses and privileges against self-incrimination. Gerald's case was litigated and taken through the court system all the way to the Supreme Court. The case resulted in a landmark decision. The ruling in this case gave children some of the protections of the Bill of Rights which had been suspended in the child care approach, which was supported by the wise and kindly judge working in the best interests of the child (Rothman, 1972).

Through a series of federal court decisions during the 1960s and 1970s, many rights have been developed for children. Kent assured the youngster of a hearing before transfer to an adult system. Winship established the concept of "evidence beyond a reasonable doubt." There

were also other decisions which had impact on the juvenile justice field. These decisions have led to a more legalistic juvenile system (Rothman, 1972).

In direct contrast to the movement for more child care oriented programs, there has been a recent movement nationally towards the concept of punishment which had led to more punitive legislation in many states (Sobie, 1981). In New York State, a strong public reaction to a few much publicized horrendous juvenile crimes led to the development of the 1978 Juvenile Offender legislation. The juvenile offender legislation signifies a change in direction in the juvenile court movement to treat children separately as the act calls for criminal sanction that was rejected in philosophy and practice in the juvenile court system as early as 1960 (Sobie, 1981).

The recent shift to stricter laws for juvenile offenders and concomitantly the placement and court processing of PINS youth within the Juvenile Justice/Child Care System by the courts has created a dilemma as to the implementation of programs for youthful criminal offenders and non-criminal offenders. It is this issue that makes up the core of this research document--the handling of non-criminal offenders within the Juvenile Justice System (Bedell, 1980).

Social and Legal Dimensions of the Issue

In order to place this issue into the proper perspective for policy analysis, we must look at it in two dimensions: the social dimension and the legal dimension. A large number of PINS youth (status offenders)

are referred to the Family Court each year. The largest percentage of referrals in the status offense categories are usually truancy cases. A recent study of the dispositions of JD and PINS, entitled "The Family Court Disposition Study," conducted by the Vera Institute in New York City, tracked a cohort of 893 youth who were petitioned as PINS in the Family Court in New York City. The study showed that 585 (66%) of the petitions were sent to court, and that out of these, 8% were placed on probation and 13% were placed in private and public agencies outside of the home (1980). In addition, 53% of the cohort had truancy allegations.

The Persons in Need of Supervision (PINS) Statutes in New York State are described as follows in a study prepared by the Children's Aid Society (Pivin, 1978, p. 5):

Official public policy for dealing with a large group of troublesome children in New York State who are classified as educationally truant, or incorrigible, ungovernable, or habitually disobedient and beyond lawful parental control is reflected in the PINS Statutes. These are youngsters up to the age of 16 who, though considered to have violated no criminal law, are subject to many of the same Family Court processes and sanctions as juvenile delinquents.

Was the original intent of the PINS Statutes to help youth in this category and not to punish them? In a position paper, entitled Court Jurisdiction Over Status Offenses, written by the New York State Council of Voluntary Child Care Agencies (1978), an inference is drawn from case studies that the establishment of the status offense category, although laudably intended as a helping system, frequently functioned as a system to try to socialize children by punitive means.

To decriminalize, to emphasize de-adjudication or to eliminate the status offense classification from the judicial domain is one of the issues that strikes at the heart of juvenile justice reform. The advocates of juvenile justice reform are faced with the dilemma of how to treat the status offender--those youth who commit offenses that are not classified as crimes (State-Wide Youth Advocacy, Inc., 1982).

In the legal area, the decriminalization of status offenses is one issue, and the repeal of the status offense jurisdiction is another (Rubin, 1979). Decriminalization of status offenses means that truancy, for example, would not be a basis for commitments or placements outside the home in residential facilities that are privately or publicly operated. Youth engaged in truancy would be handled outside the court system.

The information gleaned from the above data prompts the following questions: Should there be coercive intervention by a judicial authority into the life of a child for deviant social behavior? Should Family Courts/Juvenile Courts be involved in processing cases of status offenders which speaks to the statutory legitimacy of the statutes? Is the time and cost involved in the handling of these cases legitimate? It is the opinion of many that if PINS cases were removed from Family Court docket, more time and resources can be devoted to processing cases of youth who commit crimes and needed services can be provided to those youth who are abused, dependent and/or neglected (New York Senate Research Service, 1977).

Truancy is not merely a school problem. It is a community problem. So states the State-Wide Youth Advocacy Group in a report, entitled

Failing Students--Failing Schools (1978). The report argues that truancy is a community problem because most dropouts were truant before they were able to officially withdraw, or were asked to withdraw, from school. Truancy is a community problem because most juvenile delinquents have been brought to the attention of the school and the courts through truancy.

In this same report, a Family Court judge is quoted as saying that good schools and good programs are the best protection against truancy. The judge states, "It is apparent that the compulsory school act (is) not going to cure the truancy problem. The problem is not a legal one or judicial problem; it is a school problem." The judge indicates from his perspective that it is the responsibility of the school system to offer courses so that all students can succeed and grow towards responsibility (State-Wide Youth Advocacy Project, New York, 1978, p. 95). The judge further states in the same report that the courts have the responsibility to reinforce the parental role and role of institutions charged with providing necessary sources (e.g., education) for a youth's well-being and when the authority of the parent or school is violated, court intervention is not only necessary, but required.

The paradox in the statute (Chase, 1974), as mentioned earlier, is the PINS children often suffer more at the hands of the law than their delinquent counterparts. Interestingly, the Family Court proceeding often places the child and parent in adversarial positions; while the parent of the PINS youth is often looking for the court to rescue him/her, the parent of a delinquent is often attempting to rescue the youth from the court (Vera Institute, 1980).

A related question has to do with whether the present system facilitates against the twin purposes of rehabilitation and the protection of society. Federal Court Judge Frank Johnson of Alabama, in an interview on the Bill Moyer's Journal television show (1980), speaking to a decision he rendered regarding incarcerating mentally ill persons who were deprived of their liberty for the purpose of giving them treatment, stated that in this case he held "that people are committed through a state civil proceeding and deprived of their liberty under the altruistic theory of giving them treatment for mental illness, and then warehousing them, and not giving them any treatment at all, strikes at the very core of deprivation of due process."

By way of summary, within the context of the state's assumption of the role previously limited to parents, the issues surrounding Juvenile Justice and Child Care concerns find its beginnings. Delinquency places an emphasis on the child-state relationship very similar to the adult system, whereas the parent-child relationship is at the forefront in the majority of status offenses. Thus emerged the concept of Parens Patriae (The Good and Wisely Kind Judge) as the state's surrogate parent for the wayward youth.

The Family Court was originally envisioned as the means to socialize wayward youth within a legal framework. The question then arises: Is the court the best means to accomplish this end?

The Family Court is usually presented with a dilemma in its dealings with youthful offenders, both criminal and non-criminal. On the one hand, the court must consider the protection of the community--the

juvenile justice issue--and on the other hand, it must consider what is best for the youth--the child care issue--which are the legal and social dimensions respectively.

In light of the issues that have been cited which surround both the Juvenile Justice and Child Care System, one side cannot be understood without focusing on the other.

In effect, the overriding public policy issue remains as to what is the best process for providing services to non-delinquent children within a legal or social framework or a combination of the two.

Purpose of the Study

In light of the issues surrounding the status offender (PINS) jurisdiction in the nation and in the State of New York, the purpose of this study is to analyze the legislative intent of New York's policy for handling youthful non-criminal offenders, to find out is the intent being followed in practice and is what is being practiced serve the intent of the legislation. The issues which their study addresses can be summarized into the following research questions:

1. What is the legislative intent of New York's policy for the handling of youthful non-criminal offenders who come under the court's jurisdiction?
2. Is the legislative intent being followed in practice?
3. Is what is being practiced serving the legislative intent?

Significance of the Study

This study can be used as information to assist public policy makers in making public policy decisions as to how services can be delivered to youthful non-criminal offenders and where those services should be located.

Scope and Delimitation of the Study

This study will involve a review of legislative documents pertaining to the Family Court Act, the Family Court Act itself, and analysis of Article 7 of the Family Court Act which addresses the State's policy for handling status offenders, in order to determine legislative intent. In addition, a four-year trend analysis of the PINS population assigned to the New York State Division for Youth will be presented to determine what happens to these youth in practice.

Organization of the Remainder of the Study

Chapter II, "Review of the Related Literature," provides an overview of the Family Court Acts of various states and how they handle status offense populations. In addition, a review of the Vera Institute of Justice's study which discusses the handling of juvenile delinquency and status offense cases in New York City will be presented. Chapter III, "Methodology" (Design of the Study), describes the procedures to carry out the study. A review of legislative data and the Family Court Act and an analysis of the specific sections of the Act that deal with the State's policy on the legal processing of PINS youth who come under

the court's jurisdiction will be analyzed to determine policy intent and presented in Chapter IV. Chapter V will focus on a four-year trend analysis depicting how the PINS population is treated within the New York State Division for Youth (the State Child Care Agency which has a mandate to serve this population) to determine what is happening to this population in practice. Chapter VI, "Summary and Conclusion," provides a summary of the study and the conclusions inferred from the research questions. Chapter VII will present recommendations for public policy makers.

CHAPTER II

LITERATURE REVIEW: THE JUVENILE COURT SYSTEM

This chapter will be organized into six sections. The first section will provide the reader with an historical overview of the Juvenile Court System. The second section will present the current policy debate regarding the status offense jurisdiction. The third section will present arguments for the abolition of the status offense jurisdiction from the courts, while the fourth section will advance the case for retention of the jurisdiction within the court structure. The fifth section will review status offender jurisdictions in several states, and the sixth and final section will discuss how the Family Court in New York City handles the juvenile delinquency and status offense cases.

Historical Perspective

The Juvenile Justice movements date back from the early nineteenth century. Prior to the establishment of juvenile courts in America, all youth cases were handled in the adult court with no distinction made between criminal and non-criminal offenses. The first juvenile court in the United States was set up in Illinois in 1899. The reformers at that time felt that children should not be jailed with adults and pressed for reform (Rothman, 1972). The juvenile court thus established based its jurisdictional intervention for juvenile social control upon the doctrine of parens patriae. The parens patriae doctrine ascribes to the principle that in order to protect the state's interests, the court has the right to direct the care and custody of the youth that

come under its jurisdiction (Report of the National Juvenile Justice Assessment Center, 1980, p. 12). Thus, the reformers of that period envisioned a juvenile court where there would be no need for lawyers, as the judge himself would be acting in the best interests of the child (Rothman, 1972).

The establishment of the juvenile court marked a significant advancement for the legal status of children, by making the proceeding function within a legal framework. Adjudication became subordinated to the goal of care and rehabilitation with the court assuming the responsibility to decide what was best for children under its jurisdiction unconstrained by the safeguards that existed for adults. It is here that a contradictory role for the juvenile court evolved. On the one hand, it performed the role as an alternative to family authority; while on the other, the court had to protect the individual. Individual justice requires clear-cut, objective, and non-arbitrary standards be brought to bear in the judgement of guilt or innocence on the basis of factual data--hence, the paradox in the juvenile court (Report of the National Juvenile Justice Center, 1980, pp. 15-16).

The Period of Juvenile Rights

In 1964, Gerald Gault, a fifteen-year old boy in Arizona, was picked up by the County Sheriff. A neighbor of Gerald's had called the police and told them that Gerald had made an obscene phone call to her. Gerald was picked up at about 10:00 a.m. when both his parents were at work. No notice was left for his parents as to his whereabouts, and no

efforts were made to inform them later on that he had been, in effect, arrested. Gerald was taken to the Children's Detention Home where his mother finally located him about 6:00 p.m. She was told that Gerald should appear at a hearing the following day. A petition was filed by a probation officer, accusing Gerald of being a delinquent minor, but not explaining why. The family was not shown the petition.

At the hearing, the neighbor did not appear. Gerald had no attorney. No transcript was made of the hearing, and there was, subsequently, conflicting testimony as to whether Gerald admitted having made the phone call. The judge said he would "think about it" and scheduled a second hearing for the following week. Gerald was sent back to the Detention Home.

Arizona law does not permit an appeal in juvenile cases, so Gerald's family filed a petition for a writ of habeas corpus with the Supreme Court of Arizona. At the hearing which followed, the Juvenile Court judge who had committed Gerald testified that he had done so because Gerald was a delinquent who was "habitually involved in immoral matters." The Supreme Court of Arizona dismissed the writ, and the case was then taken to the United States Supreme Court which, in a landmark decision, gave Gerald his freedom (Rothman, 1972).

In 1967, the Supreme Court ruled in the Gault case that a juvenile was entitled to:

1. Notice of the charges;
2. Right to counsel;
3. Right to confrontation and cross-examination of witnesses; and

4. Privilege against self-incrimination.

With this ruling, the Supreme Court in effect restored to children some of the provisions of the Bill of Rights that had been traded away for the protection of the "wise and kindly judge."

In 1968, the Supreme Court, which had made no previous rulings concerning the juvenile courts, ruled in Kent v. United States that the basic requirements of due process and fairness must be met in juvenile court proceedings. Justice Fortas, speaking for the minority, said:

There is evidence . . . that there may be grounds for concern that the child receives the worst of both worlds: that he gets neither the protections accorded to adults nor the solicitous care and regenerative treatment postulated for children.

In the Winship case (1970), the Supreme Court ruled that children have the right to have their delinquency proved "beyond a reasonable doubt" rather than "on a preponderance of the evidence." However, it had thus far failed to establish any minimum guidelines in regard to the right to care or treatment of children deprived of their freedom. While explicitly excluding from the compass of its decision, both pre- and post-adjudicatory procedures, the Supreme Court in Gault referred to lower court cases indicating "that appropriate treatment is essential to the validity of juvenile custody" (Rothman, 1972).

In sum, children alleged to have engaged in criminal offenses were now afforded the constitutional rights that heretofore were reserved for adults.

The Policy Debate Regarding Status Offense
Jurisdiction

The current policy debate over the jurisdiction of status offenders is a matter of high priority in numerous states and particularly in New York State. The current stream of thought in this area is moving along two fronts. The first front concerns the legal rights of children, while the second concerns itself with strengthening the family as the primary socializing agent (Report of the National Assessment Center, 1980, p. xii). The National Council on Crime and Delinquency has published an Anthology (1980 Second Edition), consisting of articles advocating for the removal of and against the removal of the status offender statutes. How should the state handle this group of youngsters classified as status offenders who come under the court's jurisdiction is a major public policy issue.

In some states, such as Indiana, Minnesota and Connecticut, non-criminal behavior is placed under the delinquency section of the statutes, which in other states, such as Florida and Pennsylvania, it is included under the dependency section (National Juvenile Law Center, Inc., 1979, Appendix, pp. 13-17).

The majority of states, with the exception of the aforementioned states, have adopted a distinct jurisdictional category for status offenses.

Status offenses are defined as any offense committed by a juvenile that would not be a crime if committed by an adult or specified by the statutes of the jurisdiction which is specifically applicable to

juveniles. Status offender is defined as any juvenile who is adjudicated to have committed an act that would not be a crime if committed by an adult and includes any juvenile who is alleged or adjudicated to have violated a court order (Reports of the National Juvenile Justice Assessment Centers, 1980, p. 1). It appears that status offenses are designated behaviors and status offender is a legal status.

While many status offenders are jurisdictionally kept apart from youth labelled as delinquent, they are often subjected to the same pre-adjudication detention and post-adjudication custody as alleged and adjudicated delinquent children (National Juvenile Law Center, Inc., 1979, p. 28). Three major positions are identified that are at the core of the status offender category: (1) retention of court jurisdiction over status offenders; (2) retain court jurisdiction as listed under #1 but focus on the family; and (3) abolish the court's jurisdiction (National Juvenile Law Center, Inc., 1979, p. 29). Two of the three positions--retention and abolition--will be discussed.

Argument(s) for Abolishing the Jurisdiction of Status Offender

Those who want to limit or abolish the court's jurisdiction over status offenses present the status offender as engaging in victimless non-criminal behavior and has needs different from those of a juvenile delinquent. A report, prepared for the U. S. National Institute for Juvenile Justice and Delinquency Prevention (Weir, et al., 1979, pp. 7-8), offers the following reasons for abolishing the status offense jurisdiction:

- (1) The juvenile court is not, in fact, a rehabilitative agency and, therefore, does not control juvenile crime or prevent status offenders from becoming delinquents. In short, the court is ineffective in changing the behavior of youthful offenders, meeting their needs, or both.
- (2) The juvenile court unnecessarily criminalizes non-criminal misbehavior in its handling of status offenders.
- (3) The operations of the court may label or stigmatize youths who are involved in criminal behavior, as well as status offenders, with the possible effect that the careers of both, but particularly of the latter, may be adversely affected and escalate.
- (4) Status offenses are part of the "transitional deviance" in which most youths engage as part of normal socialization and maturation; that is, this kind of behavior should probably be discouraged but also tolerated because it is not a sign of worse things to come. In short, involvement in status offenses does not predict involvement in serious delinquent behavior.
- (5) Jurisdiction is sometimes abused as the legal status of status offender becomes currency in a plea bargain--a crime is reduced to a status offense in exchange for a guilty plea.
- (6) Status offenses do not threaten the public safety, social order, or even necessarily the welfare of the child.
- (7) The availability of a less serious offender category may lead to unjust discretionary decisions based on sex, race, class, age and other "extralegal" criteria.
- (8) The juvenile justice system is overburdened, primarily with status offenders, and, therefore, its ability to deal with both criminal and non-criminal youths is impaired; it would be a more effective institution if it had responsibility for only one or the other.
- (9) Historically, the juvenile court has processed and handled delinquents and status offenders in similar fashion, which is not only unjust--especially if one assumes that they differ in typical behaviors and needs--but also hold the potential for behavioral contamination, negative identification by association and so on.

- (10) Status offense jurisdiction has been attacked on a number of legal grounds--void for vagueness, violation of equal protection, denial of right to treatment, and unjust punishment of a condition.
- (11) The needs of neither the child nor society are being met by the services provided, nor do they promise to be met with the current structure of statutes and the juvenile justice system.

The Board of Directors of the National Council on Crime and Delinquency issued a policy statement advocating the removal of status offenses from the jurisdiction of the juvenile court in its official publication (1978, pp. 3-5). The Board advocated its position based on the assumption that status offenses (truancy, running away, disobeying authority, ungovernability, etc.) helps neither the child nor society and often does considerable harm to both. The Board, in its policy statement, refers to a report prepared by the Ohio State Youth Commission (1974). The report states that juvenile status offenders are committed for longer periods of time than are adult felons; the younger the offender, the longer the period of incarceration; classification for rehabilitation does not reduce recidivism and often extends the period of placement, and children with the longest institutional sentences have the highest rate of parole revocation. The Board concluded its policy statement by stating that the court should use its resources for criminal conduct, and social misconduct should be referred to social agencies, not courts of law.

The arguments for elimination of status offense jurisdiction find grounds based on legal and practical consideration. Statutes often are vague in the language denoting status offenses, such as "beyond control,"

"habitual." As a result, the decision as to acceptable or unacceptable conduct is often left with police officers, social workers, etc. (National Juvenile Law Center, Inc., 1979, pp. 32-33).

Arguments taken from the Legislative Manual prepared for the Second National Juvenile Justice Legislative Advisory Conference, produced by the National Juvenile Law Center, Inc., cites the following:

Court intervention is an unwise and uneconomic use of public funds; juvenile courts cannot identify pre-delinquent youth nor 'save' anyone from embarking on a criminal career; court intervention exacerbates rather than alleviates family harmony and status offense statutes are invoked discriminately since girls are more frequently charged with status offense than boys and suffer greater sanctions (1979, p. 34).

In summary, the major focus for the case for the abolition of the status offender jurisdiction center around the vagueness of the language describing status offender behavior in the statutes; court intervention is often not necessary and status offenses do not threaten the public safety.

The Case for Retaining the Jurisdiction with the Court Structure

In a rebuttal to the Board of Directors of the National Council on Crime and Delinquency, an article was written by Lawrence Martin and P. Hylise and R. Snyder of the Berkshire Farms Center and Services for Youth in the Crime and Delinquency Journal (1978, pp. 6-8) which advocates for the maintenance of the status offense jurisdiction within the juvenile court. The authors' position is based on the assumption that youngsters who are classified as status offenders are often more troubled

and difficult to help, thereby requiring longer lengths of stay than juveniles charged with delinquent acts. Parents with children who they cannot control look to the court for help. Should these parents be denied this resource? The court would, in effect, not be carrying out its responsibility if it did not support parents and schools in their mission to socialize youth.

In conclusion, the authors make the statement that even if the court were restructured to focus their resources on the youthful criminal offender, there is no guarantee that it would do so.

Arguments that support the retention of the jurisdiction cite grounds such as the rehabilitative nature of the juvenile justice process. It is further argued that court authority is necessary to provide meaningful treatment to at risk youth and families (National Juvenile Justice Law Center, Inc., 1979, p. 29).

The report of the U. S. National Advisory Committee on Criminal Justice Standards and Goals' Task Force on Juvenile Justice and Delinquency Prevention (1976, p. 312) advocates that certain status offense behavior (habitual truancy, repeated runaways, etc.) be under the jurisdiction of the court and designated as a family with service needs category. Arthur Lindsay, in an article entitled "Status Offenders Need a Court of Last Resort" (1978), argues that some children need help and cannot get help or some parents will not participate without a court order.

In summary, the major focus of the case for retaining the status offender jurisdiction centers around the court as the avenue of last resort; in effect, when all else fails, where does one go?

Overview of How States Treat the Status Offender
Jurisdiction

There are numerous differences among the states and their handling of status offenders in the areas of age, definition of status offenses, limitations on the court's powers, jurisdictional disputes and interactions with the adult system (Levin and Sarri, 1974).

New York State became the first state to establish a separate category for juvenile non-criminal behavior. Twenty-three other states followed suit.

Prior to the PINS category, states classified both criminal and non-criminal misbehavior as delinquent.

Ten states still do; five states classify juveniles both as PINS or as delinquents; thirteen states have jurisdiction but no label (Family Law Quarterly, 1980).

Some legislatures have moved some status offense categories into the dependency and neglected category and removed the court jurisdiction over others. Other state legislatures have made a determination that youthful criminal offenders should not be labeled delinquent if he or she is especially young and the improper conduct is a result of neglectful parents and the child is not in need of care and treatment. It has been suggested that the legislative posture of where these actions have been advanced is in recognition of the fact that responsibility for social misconduct may be with the entire family unit and with the child's normal developmental processes (Family Law Quarterly, 1980).

The following states have taken legislative action in the area of status offender jurisdiction.

Colorado. In 1978, Colorado abolished its Children in Need of Supervision category and enacted "Child Needing Oversight," defined as "any child whose behavior or condition is such as to endanger his own or others welfare." In addition, the legislature eliminated truancy altogether and moved the runaway and beyond control behavior to the dependent or neglected classification (National Juvenile Law Center, Inc., 1979, pp. 38-39).

Washington. Juvenile Court jurisdiction over status offenses was eliminated in 1979. The code requires crisis intervention services and alternative living situations before judicial intervention. In the case of truancy, the school is responsible for notifying parents and other parents are responsible for their children's attendance and can be fined if children do not attend school (National Juvenile Law Center, Inc., 1979, pp. 40-41).

Iowa. The Iowa legislature has adopted a Family in Need of Services (FINS) category. Any family member, including a child, may file a FINS petition for services. The code shifts the responsibility from the child to the family. The essential element in their approach is family breakdown. However, there is no specific criteria for determining the existence of what a family breakdown is (National Juvenile Law Center, Inc., 1979, pp. 42-45).

Pennsylvania. In 1977, the Pennsylvania legislature passed Act 41 which mandated basic changes in the processing and delivery of service to juvenile status offenders. In effect, the Act transferred the jurisdiction over status offenders from the juvenile court to the County Children and Youth Services Department. Their jurisdictional shift has been substantially completed with the exception of a few counties who continue to operate special units. Act 41 also relabelled the ungovernable child, which had previously been labelled delinquent, now dependent. The Act further mandates that a child adjudicated dependent for ungovernable acts must be in need of care. One of the significant findings of the study conducted by the Government Studies and Systems, Inc. (1980), to analyze the impact of Act 41, was that widespread relabelling of status offense behavior as delinquency to avoid the stigma of criminalization, which was the intent of the Act, was not accomplished (Government Studies and Systems, Inc., 1980; See also National Juvenile Law Center, Inc., 1979, pp. 45-47).

Arizona. The Trial Court System (Statute ARS 8-201 amended in 1980) in Arizona is organized by county. The juvenile court exercises jurisdiction over juveniles. A delinquent child is one who commits either an act that would be a public offense if committed by an adult or an act that would constitute a public offense. An incorrigible child is one who refuses to obey his or her parent, guardian and beyond lawful control (Handler, et al., 1982).

Utah. In 1971, the Utah legislature removed runaways from the jurisdiction of the juvenile court (SB 73), also truants. The Act officially

removed from the court jurisdiction of runaways and truants and placed limitations on what constituted an ungovernable child.

The 1977 Act (HB 340) removed ungovernable and runaway youth from Utah's Juvenile Justice System (Handler, et al., 1982).

Virginia. In 1977, the legislature enacted a revision to Virginia's code. The emphasis of the new law is on the family rather than the juvenile (more accountability for acts of their children). The act established three categories for juveniles: (1) delinquent; (2) abused or neglected child; and (3) CHINS (habitually truant, disobedient, runaways).

Law required that before state intervention occurs on behalf of CHINS, a clear, present threat of life or health of the child or child's family must exist (Handler, et al., 1982).

Massachusetts. In 1972, legislation was introduced that prohibits the classification of status offender as criminals and defined them as youth with unmet social needs--the bill was defeated by its opponent. The bill was reintroduced and passed in 1973. Status offenders were diverted from the court to the Department of Public Welfare prior to adjudication wherever possible (Handler, et al., 1982).

Louisiana. In Louisiana, the neglected children definition is distinct from delinquency, however, the law gave options to judges as to dispositions and placements. No attempt was made to distinguish status offenders from delinquents. In 1976, the legislature amended the law and did not define status offenders or delinquents. The custody of

status offenders was transferred from the Department of Corrections to the Office of Youth Services (Division of Youth) [Handler, et al., 1982].

California. Juvenile court jurisdiction over non-criminal youth has not succeeded in rehabilitating youth or bringing justice to children. Proposals, community-based services and advisory arbitrations were viewed as possible alternatives to juvenile court jurisdiction.

California, in 1976, approved Assembly Bill 3121 which was a revision of the juvenile court system which also amended the Welfare and Institution Code to deinstitutionalize the status offender. The revised Welfare and Institution Code section (207) mandated that status offenders be confined to non-secure institutions only.

Because of certain problems that resulted from the placement of status offenders in community-based services (runaways, etc.), the California legislature enacted Assembly Bill 958 which limits situations which a minor could be detained in a secure facility. In effect, this bill gave police the authority to lock up status offenders. The author states that the legislation has functioned more to appease those in opposition to deinstitutionalization than to facilitate the treatment of status offenders (Hastings Law Journal, 1979, p. 550).

Illinois. A Governor's Special Task Force on Services to Troubled Adolescents Reports and Recommendations, Springfield (1981), was appointed by the Governor of Illinois in 1980 and was charged to review the problems faced by adolescents in the state to meet their needs.

Some of the Task Force's recommendations are listed as follows (Governor's Task Force on Services to Troubled Adolescents, 1981, p. 6):

1. The primary responsibility for the provision of services to adolescents in Illinois rests with a local entity, with the state's responsibility to provide direction and support.
2. Juvenile court jurisdiction over MINS (Minors in Need of Supervision), be limited to placing a youth outside his home and to ordering medical treatment for a youth who is in need and refusing such treatment.

The Task Force also cited numerous problems with the Youth Service Systems in Illinois at the time of the report which spelled out the difficulty to assess the nature and size of the troubled adolescent problem; the problem with categorical funding and the fragmentation of youth service delivery systems.

The Task Force further recommended that a youth not be placed until all other available community resources have been made available.

By way of summary, the analysis prepared by the National Juvenile Law Center (1979, Appendix I-3 to I-7) provides the following information on the statutory classification of juveniles in the United States:

1. Delinquent Child Category (Adult-type criminal offense)--
43 states maintain this classification;
2. Status Offense within the Delinquent Child Category--
3 states maintain this classification;
3. Status Offense Child Category--
33 states maintain this classification;
4. Dependent Child Category--
40 states maintain this classification;

5. No Labels--
12 states do not label youth as delinquent,
etc., but adjudicate according to offense--
truancy, adult-type criminal offense, etc.

It is clear that the majority of states have separate categories for delinquents and dependent children and status offenders. The statutory analysis conducted by the National Juvenile Law Center (1979, Appendix I-3 to I-7) shows that the status offenses (truancy, runaway) fall within those categories listed (delinquent child, status offense and dependent child). It is apparent that states use the same status offenses but categorize them differently.

Leven and Sarri (1974) did an analysis of 24 states and the District of Columbia as to the legal processing of status offender, and one of their findings is most significant as it pointed out that separate categories do not provide assurance of differential handling even though there is a consensus on how wayward behavior should be treated. If one forces jurisdictional abandonment of status offenses, the issue of differential treatment is non-existent as the court's emphasis will be focused on criminal behavior. If one supports status offense jurisdiction, behavior and needs are important criteria for differential programming and dispositions. After examining the deinstitutionalization of status offenders in ten states, Tate, et al. (1978, p. vii) concluded, which is also supported by research conducted by Handler, that "there are virtually no status offender specific needs. Rather, there are youth needs. . . . The status offender population overlaps with juvenile delinquents, dependent and neglected children, as well as emotionally disturbed children. . . . The spectrum of service

needs for each of these groups is very similar" (Handler, et al., 1982, p. 11).

The historical overview, the arguments for and against the status offender jurisdiction, and a review of how several states handle status offenders provide a lead-in as to how New York State handles its status offenders. To gain some insight into the New York State processing of status offenders, we will review a study prepared by the Vera Institute of Justice (1980), entitled The Family Court Disposition Study.

The Vera Study

Description of the Study. The Vera Institute of Justice is a private research firm based in New York City which specializes in research in the juvenile and criminal justice fields. The overall purpose of the study is described as follows:

The purposes of the research were to provide a systematic information base describing the kind of behavior with which Family Court is presented in its delinquency and status offense cases, and to try to understand how the Family Court disposes of these cases (1980, p. xxii).

A sample of 1,890 delinquency and 893 PINS cases were selected randomly from all the cases presented at probation intake in four of the five boroughs in New York City between 1 April 1977 and 31 March 1978.

In broad outline, the information gathered focused on: the behavior and circumstances alleged in the sample case; the characteristics of the juvenile respondent and his/her family, as such characteristics were documented in case records; and detailed case processing information describing the path followed by the case from arrest (delinquency) or appearance at intake (PINS) through a final disposition (e.g., adjustment at intake, dismissal, placement) that moved the case from further Family Court processing (1980, p. xxiii).

The data provided Vera with the capacity to identify and quantify the different cases that were removed from the processing in the Family Court and the points at which they were removed. For the purposes of this review, the PINS sample of the Family Court Dispositional sample will be the focal point for discussion.

The PINS Sample of the Family Court Dispositional Study. A person in need of supervision (PINS) is defined as a male less than sixteen years of age and a female less than eighteen years of age who is incorrigible, ungovernable, or habitually disobedient and beyond the lawful control of parent or other lawful authority, and requires supervision or treatment (New York Family Court Act, 1962).

The Court of Appeals in 1972 ruled that the age for girls and boys under the jurisdiction must be the same--sixteen years (In Re Patricia A., 1972).

Characteristics of Juveniles--The Aggregate PINS Sample. The age of the sample is displayed in Vera Table 2 (Vera Study, p. 436) depicting the average age is thirteen and seven months. Vera Table 3 (Vera Study, p. 436) indicates that Whites make up 14% of the sample and Blacks and Hispanic surname juveniles make up 44% and 41% of the sample respectively.

TABLE 2

PINS: AGE OF JUVENILES*

Under 10	10	11	12	13	14	15	16 & Over	TOTAL
2%	2%	3%	7%	19%	31%	36%	1%	100%
(14)	(14)	(31)	(61)	(169)	(279)	(318)	(7)	(893)

*Vera Study, p. 436.

TABLE 3

PINS: ETHNIC ORIGIN

Black	Spanish Surname	White	Other	TOTAL
44%	41%	14%	1%	100%
(302)	(281)	(96)	(6)	(685)

*Vera Study, p. 436.

Note: The ethnicity of 208 juveniles is missing.

Vera Table 4 (Vera Study, p. 437) displays an even distribution between boys (51%) and girls (49%). Vera researchers point out that there is a vastly higher female representation in the PINS sample as compared to delinquency sample. It is postulated that boys' behavior is not sanctioned to the degree of girls' behavior which is further supported by the fact that the Legislature has left the age distinction between boys (sixteen years) and girls (eighteen years) intact, even

though the Court of Appeals has ruled an age equity (sixteen years for boys and girls).

TABLE 4

PINS FREQUENCIES: SEX OF JUVENILES*

Male	Female	TOTAL
51%	49%	100%
(456)	(437)	(893)

*Vera Study, p. 437.

Vera Table 5 (Vera Study, p. 438) indicates that 52% of the sample lived with the mother only.

TABLE 5

PINS: HOUSEHOLD STATUS*

Juvenile Resides With	Percent	Number
Both Parents	21%	181
Mother Only	52%	445
Mother/Other Man	10%	90
Father	5%	40
Grandfather/Mother	1%	9
Other Relative	6%	56
Agency/Foster Care	1%	10
Other	3%	24
TOTAL	100%	855

*Vera Study, p. 438.

Note: Household status information missing for 38 juveniles.

Vera Table 6 (Vera Study, p. 438) indicates that 42% of the sample families were on no public assistance as compared to 39% on total public assistance.

TABLE 6

PINS: PUBLIC ASSISTANCE STATUS*

Families on Public Assistance				
None	Total	Partial	Other Benefits	TOTAL
42%	39%	10%	9%	100%
(320)	(293)	(76)	(65)	(754)

*Vera Study, p. 438.

Note: Public assistance information missing for 139 juveniles.

Vera Tables 9 through 14 (Vera Study, pp. 440-441) indicate in the sample: (a) 41% had prior court charges of some type; and (b) 25% appeared under on prior PINS petition.

TABLE 9

PINS: EXISTENCE OF PRIOR CHARGES IN PINS SAMPLE*

Priors	No Priors	TOTAL
41%	59%	100%
(366)	(523)	(889)

*Vera Study, p. 440.

Note: Past court history information missing for 4 juveniles.

TABLE 10

PINS: NEGLECT/ABUSE HISTORY FOR PINS JUVENILES*

No History	1 Case	2 Cases	3 Cases	6 Cases	TOTAL
96% (848)	4% (34)	** (3)	** (2)	** (1)	100% (888)

*Vera Study, p. 440.

**Less than .5 percent.

Note: Neglect/abuse information missing for 5 juveniles.

TABLE 11

PINS: NUMBER OF PRIOR PINS CHARGES*

None	1	2	3	TOTAL
76% (672)	18% (161)	5% (45)	1% (5)	100% (883)

*Vera Study, p. 440.

Note: Prior PINS charge information missing for 10 juveniles.

TABLE 12

PINS: ALLEGATIONS OF PRIOR PINS*

Truancy	Running Away	Late Hours	Undesirable Companions	Beyond Control	Other
53% (112)	39% (83)	37% (78)	18% (38)	51% (108)	44% (93)

*Vera Study, p. 441.

Note: Percent based on 211 juveniles with prior PINS.

TABLE 13

PINS: NUMBER OF PRIOR DELINQUENCIES*

None	1	2	3	4	5	6	7	8	TOTAL
79% (701)	13% (119)	4% (39)	2% (14)	----- (3)	1% (2)	----- --	----- (2)	1% (5)	100% (885)

*Vera Study, p. 441.

Note: Information for 8 juveniles is missing.

TABLE 14

PINS: PAST COURT HISTORY OF JUVENILE*

None	1 PINS	1+PINS	1 JD	1+JD	PINS + JD	TOTAL
61% (524)	14% (120)	4% (35)	10% (91)	4% (37)	7% (56)	100% (863)

*Vera Study, p. 441.

Note: Prior charges information missing for 30 juveniles.

The Vera researchers found that in the "Away for Sex" cases category, the distribution of boys (29%) and for girls (71%) is a significant comparison to the rest of the sample of 42% girls and 58% boys. This finding confirms the hypothesis that sexual behavior for girls is sanctioned to a greater degree as compared to boys.

In the "Out of Control" category, the study reveals a large proportion of juveniles under twelve (10%) are in the sample as compared to other PINS cases. It is hypothesized that this age group would find it difficult to run away from home or engage in sexual activity, but stealing from home is an activity this age group can indulge in. The sexual distribution of this particular category (69% boys and 31% girls) is closer to the delinquency distribution than to the other PINS cases.

In the "Drug Set" category, juveniles were significantly older than other PINS (84% are fourteen years and older) and in the Truancy cases, juveniles involved more white males as compared to other PINS in the sample.

Case Processing.* Basically, there are three major points at which cases exist from the Family Court process which are summarized as follows:

- Intake;
- Pre Fact-Finding (cases are withdrawn before a finding);
- Post Fact-Finding (cases in which a finding is made and a disposition is made or the case is dismissed).

A major factor pointed out by the Vera researchers is that a much smaller proportion of the PINS than the delinquency sample exists from the system at intake (34% of PINS, as compared to 50% of delinquency samples). It is hypothesized that PINS complainants place greater pressure to keep PINS cases in the system.

It is further noted that 47% represents the largest segment of the PINS sample exit at the court level without a finding.

Highlights of Themes That Emerged From the PINS Sample. The themes that emerged from the PINS sample developed by the researchers and relevant to the overall study are summarized as follows:

- More cases were terminated at the court level before a finding of fact.
- The placement rate in the "away for sex" cases was substantially higher than the placement rate in the aggregate sample, of which the largest category is girls.
- Truancy, which appears to be the most objective of all of the PINS allegations, raises questions as the hidden agendas of school truant officers were discovered to be at work behind the scenes in the filing of PINS petitions, often in concert with parental sanctions.

*See Appendix.

- The actions of parents had more of an impact on the behavior of the juvenile as to the factors determining case outcome as compared to the delinquency sample which underscores the parent's role in the PINS cases (pp. 502-506).

Interviews with court actors (Family Judges, Probation Officers, etc.) revealed that they felt what was at work in PINS proceedings were "hidden neglects" or at least complex situations with "multi-problem families." The PINS proceedings, as presently used, lost most of the cases through the technical defects due to the inconsistencies in the process. The adversarial nature of the PINS proceeding often intensified parent/child isolation which is contrary to the overall purpose of the proceedings.

The final statement advanced by the researchers is an excellent summary statement:

Court actors are forced, by the virtual identity of PINS and delinquency procedures, to go forward in PINS cases using metaphors that grew out of criminal cases; they seem to feel defeated by the procedural equation of delinquency and PINS cases because the facts of the case, and the factors to which the court actors respond, differ fundamentally (p. 506).

In summary, the literature review has presented an historical overview of the juvenile court system; the policy debate regarding the status offender jurisdiction was articulated by reviewing both sides of the issue of retaining or abolishing the jurisdiction; an overview of how other states handle their status offender jurisdiction was discussed followed by an in-depth review of the Family Court in New York City as to the processing of juvenile and status offense cases that come under its jurisdiction.

With this as background data, Chapter III will articulate the purpose of the study and the methodology that will be used.

C H A P T E R I I I

DESIGN OF THE STUDY

This chapter is organized into four sections: the first section briefly describes the purpose of the study; the second section presents a short background description of the state of the court system for handling children and family problems prior to the enactment of the New York State Family Court Act of 1962 and the research questions which form the basis for the study; the third section briefly describes the setting of the study; and the fourth and final section describes the research methods employed in the study and the sources of data collection and the manner in which the data was analyzed.

Purpose of the Study

The purpose of this study is to analyze the legislative intent of New York's policy for handling youthful non-criminal offenders, and to find out is the intent being followed in practice and is what is being practiced serve the intent of the legislation. This will be done through an historical review of events that preceded the enactment of The Family Court Act of 1962, and a legislative analysis of Article 7 of the Act which addresses New York State's policy for the legal processing of youthful non-criminal offenders followed by a discussion of how this group of youth is treated by one of the state's child care agencies that has a mandate to serve this population.

Background of the Court Jurisdiction Prior to the
Enactment of the Family Court Act and the
Research Questions that Form the Basis
for the Study

Prior to the enactment of the Family Court Act of 1962, there existed a patchwork quilt of court jurisdictions that handled children and family problems. The jurisdictions consisted of both civil and criminal courts at the local and state levels. The fragmentation and resulting confusion of the court system presented such legal problems for agencies that a commission was established by the governor to prepare a plan for the reorganization of the courts (Legislative Information Bureau Bulletin, 1962).

The concept of status offenders was non-existent, and youth who came before the court for non-criminal offenses (wayward behavior) were classified as juvenile delinquents. The child reformers were concerned about children who were brought before the court for non-criminal offenses being processed and treated together with children who committed criminal acts, and pressed the legislature for reform. What followed was the enactment of the Family Court Act of 1962 and, in particular, Article 7 of the Act which addresses the legal process for handling of youthful non-criminal offenders who come under the court's jurisdiction.

The Issue and the Research Questions that Form the Basis of the Study.

At issue in the state as well as the nation today is how to handle that group of youth who have committed no criminal acts but are behavior problems and as such are classified as status offenders or persons in

need of supervision (PINS) and, most importantly, the appropriateness of state intervention in non-criminal activities and the enforcement of parental authority (State-Wide Youth Advocacy, Inc., 1982).

To place the issue into a policy perspective for review, the following research questions have been developed by the author after reviewing data and material that speak to this issue. The following questions form the basis for this study:

1. What is the legislative intent of New York's Policy for the handling of youthful non-criminal offenders who come under the court's jurisdiction?
2. Is the legislative intent being followed in practice?
3. Is what is being practiced serving the legislative intent?

Setting of the Study

The setting of the study is the State of New York and, in particular, the official child care agency of the State which has a mandate to serve the populations of court referred youthful criminal offenders (JDs) and non-criminal offenders (PINS). The Agency referred to is the New York State Division for Youth (DFY). The New York State Division for Youth is part of New York State's government's executive branch. The Division has the responsibility to provide rehabilitative programs for youth found guilty of crimes against persons and/or property. Youth classified as juvenile delinquents (JDs) and persons in need of supervision (PINS) are placed with the Division by the courts depending on the nature of their offense (Executive Law Article 19-A; See Appendix for full program description).

Methodology and Data Collection

The mode of research conducted for this study is primarily historical and legislative analysis. The major issues addressed in the study will be framed by research questions. The research questions that have been formulated and enumerated under the second section of this chapter form the basis for the study and set the framework for the legislative analysis of New York's policy for handling youthful non-criminal offenders, and the legislative analysis will generate additional questions that will guide data collected from the New York State Division for Youth (DFY).

Data Collection. Essentially, two bodies of knowledge will be examined to determine the legislative intent of New York State's policy for handling youthful non-criminal offenders and, in effect, what is happening to this population in practice, as a result of the implementation of the policy.

The first body of knowledge will be the Family Court Act and, in particular, Article 7 of the Family Court Act which states New York's policy for the handling of youthful non-criminal offenders, entitled "Proceedings Concerning Juvenile Delinquency and Whether a Person Is in Need of Supervision" (Looseleaf Law Publications, New York, 1980, p. 74). Article 7 is divided into parts and then subdivided into sections which embody the procedures to carry out the policy intent of the article.

The second body of knowledge to be examined is the admissions data for the New York State Division for Youth (DFY). All admissions data

for DFY is kept on a computer referred to as the Juvenile Contact System (JCS).

Research Design. An analysis of the legislative intent of Article 7 of the Family Court Act of 1962 that applies specifically to the handling of youthful criminal and non-criminal offenders that come under the court's jurisdiction will be conducted by a research technique referred to as content analysis. Legislative intent as stated by Chief Judge Smith Thompson of the State Supreme Court (1818) has the following meaning: "That in construing a statute, the intention of the legislature is a fit and proper subject of inquiry is well settled to admit of dispute. That intention, however, is to be collected from the Act itself" (Carter, 1981, p. 2).

Article 7 is entitled "Proceedings Concerning Juvenile Delinquency and Whether a Person Is in Need of Supervision." The Article is divided into eight parts and subdivided into sections that address the purpose (policy) of the Article and the procedures for the implementation of the policy. The assumption is made by a review of the events that preceded the passage of the Act in 1962 and the reports from the legislature that shaped the intent of the policy applying to the legal processing of youthful criminal and non-criminal offenders would have differences.

The purpose of Article 7, as stated in the Act, "Is to provide a due process of law: (a) for considering a claim that a person is a juvenile delinquent or a person in need of supervision, and (b) for devising an appropriate order of disposition for any person adjudged a delinquent or in need of supervision in any juvenile delinquency

proceeding under this Article. The court shall consider the needs and best interests of the respondents as well as the need for protection of the community" (Looseleaf Law Publications, New York, 1980, p. 75).

To determine the policy intent for the legal processing of this population, each of the parts and sections will be analyzed by using a research method referred to as content analysis. Wapels and Berelson define content analysis as a systematic method of objectively stating the nature and relative strength of the stimuli applied to the reader or listener (1941). Kaplan and Goldsen define content analysis as an approach to quantify and classify a given body of content to yield data relevant to specific hypotheses concerning that content (1943). The content analysis format that will be used is a perception of policy conditions which suggest actions, goals, aims, choices and the means by which the state reaches or proposes to reach these goals (North, et al., 1963).

Each section of each part of Article 7 that specifically addresses policy and procedures as they apply to the legal processing of juvenile delinquents (JDs) and persons in need of supervision (PINS) will be analyzed. The frequencies of dispositional stipulations will be tabulated for both JDs and PINS. Dispositional stipulations is defined as the arrangement for a specific outcome. Dispositional stipulations represent the categories that have been established for quantification. This technique has been validated by Janis (1965) as he refers to this type of content analysis as semantical content analysis and, more specifically, designations analysis, which provides the frequency which

certain persons, things, groups or concepts are referred to. For the purposes of this study, the category of concepts (dispositional stipulations) will be used in the analysis of Article 7 of the Family Court Act. Each of the parts and sections of Article 7 were read and where there was a dispositional stipulation for a JD or PINS, it was checked off. For example, in Section 711 of Part I, which states the purpose of the Act, the dispositional stipulation stated for the needs of the respondents both JDs and PINS were similar, whereas the dispositional stipulation applying to the protection of the community was stated for JDs and not for PINS. Another example for illusory purpose is cited in Section 712 of Part I, which deals with the definitions that address the stipulations for JDs and PINS in a dispositional hearing as to the needs of the respondent as supervision, treatment and/or confinement for JDs; and in the stipulation for PINS, confinement is not mentioned, only supervision and treatment is stated. (See Appendix for full categorization breakdown.)

The content analysis of Article 7 should provide the data that would lead us to conclude what the legislature wanted to happen to PINS and JDs that come under the court's jurisdiction.

The second body of knowledge that will be researched is the admissions data of youth placed with DFY from 1978 to 1981. An analysis of the trends in the placement patterns of PINS youngsters within DFY will be conducted. The confusion surrounding the exact nature of the PINS jurisdiction is well established. The meaning of "status offender" has been debated as has its implications for intervention, especially by

state agencies. For purposes of this study, it is necessary to examine the PINS jurisdiction in terms of the population trends in the Division over a period of time.

All admissions to DFY will be examined over a four-year period (1978-1981) to explore any trends in the admissions during this four-year period. The Division collects data on all of its admissions through a reporting system described as follows.

The New York State Juvenile Contact System (JCS) is a computer-assisted client data base on youth served by DFY. The system contains information gathered at three points in the service process:

1. Demographic and legal information collected at initial referral;
2. Personal, family and social information collected through intake assessment interviews and consultations;
3. Tracking information that marks and records the service location of youth in care.

To describe the trend in DFY admissions of PINS and JD adjudicated youth from 1978 through 1981, the unit of analysis selected is the admission event. The admission information will be taken from the statistics population computer file--first admissions for 1978 and 1979; and total admissions during 1980 and 1981 will be categorized as either JD admissions, PINS admissions, or restrictive JD admissions.

Initially, two tables will be constructed to display the percentage total admissions in each of the four years selected for the trend analysis which fell into each of the adjudication statuses and to display the percentage change (either increase or decrease) of admissions within

each adjudication category over the four-year time period. The percentage change is defined as the number of youth in adjudication category "a" at time "t", divided by the number of youth in adjudication "a" at time "t", or more simply:

$$\% \text{ change} = \frac{X \text{ at } +1 - xat}{xat}$$

Where "X" is the number of youth; "a" is the adjudication category; and "t" is the time of year.

Subsequently, these three categories of admissions (PINS, JDs and RJDs) will be compared within year of admission on three variables (sex, ethnicity, and age) to determine whether significant differences among these three groups of youth existed regarding these characteristics. The descriptive statistical technique employed to display such differences is cross-tabulation, percentaged within adjudication status categories.

In summary, this research project is being conducted to analyze the legislative intent of New York's policy for handling youthful non-criminal offenders, and to find out if the intent is being followed and to see if the practice is serving the intent. To accomplish this, an historical review of events that preceded the enactment of the Family Court Act of 1962 and an analysis of Article 7 of the Act which specifically addresses the state's policy for handling youthful non-criminal offenders that come under the court's jurisdiction will be

performed, followed by an analysis of the population trends for this group of youth that the state's major child care agency is mandated to serve.

The findings generated by this study will hopefully provide a basis for legislative review of the state's policies and procedures that have a major impact on the lives of youth classified as PINS and their families.

C H A P T E R I V

LEGISLATIVE REVIEW AND ANALYSIS OF THE FAMILY COURT ACT OF 1962 AND ARTICLE 7 OF THE ACT AND THE EVENTS THAT LED UP TO ITS ENACTMENT

In this chapter, the social, economic and legal events leading up to the evolution of laws for the care of youth who engage in non-criminal behavior are traced. In addition, the development of the Family Court Act of 1962 in New York State is reviewed and Article 7 of the Act is analyzed, focusing on the original intentions of the legislators who sponsored it.

A study conducted by the Chicago Law Enforcement Study Group summarized the current operating philosophy and goals of the status offense jurisdiction, as the basic underpinning of which is that children are different from adults in their social-perceptual grasp of reality, and must, accordingly, be considered less responsible for their behavior (1981, pp. 41-42). Because of these important differences, it is argued that children should be treated differently. The study's summary is as follows:

1. Childhood is the crucial formative period in a person's life, and how parents rear a child is a single most powerful determinant of that child's future character.
2. The state has an interest in children developing into productive, law-abiding citizens and also in the community being safeguarded from their anti-social acts as children and later as adults. Therefore, the state has the right to intervene, through the juvenile court, to assure proper child-rearing.
3. Since the child is not fully responsible for his conduct, the court's role, when it intervenes, is to provide rehabilitative services rather than punishment to the child.

4. As previously stated, the parent figure serves a crucial function for the child. The court's rehabilitation, therefore, should take the form of bolstering parental authority to preserve and strengthen the child's natural family, or of providing an alternative living situation with surrogate parents.
5. Because its role is to rehabilitate the child rather than punish him for misconduct, the court should not be limited in its options by the nature of the offense. The officers of the court must have broad dispositional discretion so that justice may be individualized to the needs of the particular child.

The Study Group analyzed the court's philosophy, extracted goals, and categorized them into two groups--Outcome and Intermediate process goals. The Outcome goals were to: (a) help youth with their social and developmental problems, and (b) protect the community from harm. The Intermediate process goals, which theoretically would lead to the achievement of the outcome goals, were listed as follows:

1. Ensure a good family environment for the youth.
2. Ensure that the youth and the family receive adequate social services.
3. Individualize treatment so that services provided are appropriate to the needs of the youth and family.
4. Treat the youth benevolently rather than punitively.

The Chicago Study Group found that the means toward the end of helping status offenders--the process goals--had changed little in almost one hundred years. The courts still focus on delivering amorphous services such as providing "individualized treatment" for "appropriate needs."

The Chicago Study Group summarizes the current state of thinking surrounding the status offender jurisdiction, which they state as the

problem surrounding the treatment of status offenders, remains one of definition and delivery: Can we identify status offenders effectively, and, if so, can distinct, appropriate services geared to their special needs be delivered? In the next section, a legislative review tracks the evolution of child labor and compulsory attendance (school) laws as the foundations for the eventual development of the Family Court in New York State.

Antecedent Legislation in the Areas of Child Labor and Education

The notion of status offenders--children whose behavior is troublesome but not criminal--has its origins in early labor and education legislation. This early child protective legislation was designed to protect youngsters from being used irresponsibly in factories during the development of large urban centers during the early nineteenth century (Everhart, 1977).

Compulsory Education/Attendance Laws and the Child Labor Law movement were initiatives that addressed the problems and social conditions associated with the country's movement from a rural orientation to an urban orientation, coupled with the massive immigration of foreigners in the early nineteenth century which was influenced by the need for a work force to supply labor for the factories and mills in the industrialization of the Northeast (Everhart, 1977). As a result of this demand for labor, children became an important economic factor to both the family and the factory owners.

During the evolution of the Child Labor and Compulsory Education/Attendance movements, many stakeholders emerged, each with personal interests in the new movement. Humanitarians banded together into advocacy groups to press their concerns for the well-being of the child. Organized labor supported the adoption of Child Labor Laws to keep the children out of the labor market to protect adult workers. Manufacturers opposed to the enactment of bills to sustain a cheap supply of labor. Poor parents resisted compulsory schooling as children contributed earnings to the family budget. Teachers and administrators supported the movement because of job security with an assured client system. Thus, the Child Labor and Education movement was caught up in political, social, and economic issues identifiable as the antecedent variables that established the framework for the Compulsory Education and Attendance Laws that exist today (Everhart, 1977).

One of the chief exponents of Child Labor legislation during the latter part of the eighteenth century and in the beginning of the nineteenth century was an advocacy group called the National Child Labor Committee. It was their view that compulsory education and child labor laws would be the means to end the abuses of child labor while at the same time provide children with a basic education. Children worked long hours under poor working conditions, and as a result, many children's health and growth were adversely affected. The Child Saver Movement sought to correct these conditions (Everhart, 1977).

The forces of urbanization, industrialization and immigration changed the family's ability to socialize youth. In the typical

agrarian setting, the family unit worked and spent much of its leisure time together. Reading and storytelling was an essential element of family activity. By contrast, the parents of urban families worked long hours, independent of their children, which left little time for socialization and educational activities. The movement of people from rural communities to cities, compounded by the influx of immigrants from foreign countries seeking employment opportunities, created a pluralistic urban work force. The lifestyles of foreigners, whose cultures, religions and languages were different, made an impact on the traditional rural family structure. As a result of these forces, there was an institutional breakdown of the family unit and the community structure which was further precipitated by social conditions such as delinquency, unemployment and idleness (Everhart, 1977).

Poverty became the main debilitating factor in the lifestyles of many immigrants. Families with limited means depended on children working and could ill afford to send their children to school because of the loss of income to family coffers.

From this social malaise emerged a middle class that wanted to keep a way of life that was being threatened by the influx of immigrants. Moreover, during this period, morality was a pervasive force that dominated the thought of the ruling class (White Anglo-Saxon Protestants). Schooling was viewed by this group as the means to perpetuate the culture, and instill morality in the rural, immigrant working class. The establishment of the common school structure provided the means to acculturate the masses and perpetuate the goals of the dominant culture (Everhart, 1977).

Prior to the establishment of the common school, schooling consisted of a loose framework of private and parochial schools that were not free. Teachers competed for students and often were not assured of remuneration for their services. If every child had to attend school, an assured client-based system would be established. The next steps in the school movement were to develop a financial system that provided for a consistent reliable revenue source. The late 1840s saw the formation of teacher institutes, and one of their main purposes was to lobby for public support and financing of the public school system.

In summary, the following social and economic themes emerged:

1. Social Antecedents. The interests of humanitarian elements were based on their desire to eliminate the adverse working conditions that children were subjected to by restricting child labor involvement in factories and mills and, at the same time, they established a school system that would enhance the children's educational opportunities. Subsequent to the child-saver movement, the emergence of a middle class with a victorian concept of morality sought to perpetuate the culture of Anglo-Saxon Protestants by establishing a common school system for the working class which included a large percentage of foreign immigrants.

2. Economic Antecedents. The need for a work force to supply the factories and mills in the developing cities encouraged the migration of rural families and the immigration of foreigners to seek expanded economic opportunities. The children of the poor were wage earners and were expected to contribute to the financial needs of the family.

The support of child labor was in the best interests of manufacturers, as children were a source of cheap labor supply in the overall work force. In contrast to the groups who supported child labor, there existed organized labor unions who sought to exclude children from the work force because they threatened the jobs of adult union paying members. Administrators and teachers formed coalitions to lobby for child labor and compulsory education legislation to guarantee a client structure and a stable and consistent remuneration system for their services. As Robert Everhart states, "It took the alliances of educators, Protestant Ministers, social reformers, businessmen, politicians, and even concerned parents to take this strange mixture of hopes, fears, contradictions and paradoxes and mold them into legislative action resulting in the evolution of state supported school systems" (1977, p. 510).

The latter part of the nineteenth century and the early part of the twentieth century saw the enactments of a series of child labor and compulsory school attendance laws. In 1903, the integration of the legal framework of compulsory education and child labor laws began, so that one set of laws could not exist without the other. Following this period, history records the enactment of bureaucratic mechanisms that were developed for their implementation in census and attendance regulations monitored by staff assigned to carry out legal mandates.

The next logical component in the legal structure for handling of child labor and educational labor was an enforcement mechanism. It is at this point that the need for a special arena for the handling of

these issues became apparent, and the Family Court System became the mechanism by which laws applicable to children and youth were implemented and enforced.

Events Leading Up to the Enactment of the
Family Court Act in New York

In 1922, the New York State Legislature passed the Children's Court Act (Chapter 547, of the Laws of New York State). The Act applied to all counties in the State except for New York City, Buffalo and Syracuse, and established the Children's Court, defined its jurisdiction, power, duties, and specified procedures for carrying out its mandates. The existing Children's Courts in New York City, Buffalo and Syracuse were continued and this Act had no effect on their jurisdiction (Children's Court Act, 1922).

What was noteworthy in the legislation is the definition of "Delinquent Child." The definition of Juvenile Delinquency included status offenses (truancy, incorrigibility) as we now know it. It also included the definitions of neglected child, abandoned child, and destitute child.

Early definitions of delinquency in New York included all behavior in children which was deemed to be troublesome. While early reformers protested the inclusion of neglect as kind of delinquency, their objections were largely silenced by the view that the court would serve as the paternal protector of children, thus obviating the need for great precision in their labelling. It is this very kind of early trust in the good judgement of the court which modern reformers identify as the

first flaw in status offender legislation.

In 1933, the Domestic Relations Court was forced to consolidate the Children's Court and the Family Court as part of the Magistrate's Court. Even with this consolidation, the fragmentation of court jurisdiction presented families, social agencies, and law enforcement officials with a menagerie of legal entanglements. This fragmentation and disorganization of the Court's system was of such concern that in 1953, the Tweed Commission was formed for the purpose of focusing on family problems in the judicial system. The Commission provided the studies and recommendations that led eventually to the Courts Reorganization Act of 1962.

The Children's Court Act provided services to youth under sixteen years of age, and services to youth over sixteen years of age were provided by the Adult Court system. The Legislature was concerned about adult court dispositions for this age group (sixteen to twenty-one years) and, as a consequence, proposed to enact the Youth Court Act which was to become effective in February of 1957 but never did.

The Youth Court Act (Chapter 838) was:

An act to establish a youth court in each county as a division of the county court in New York County or a division of the court of general sessions of the County of New York; defining its powers, jurisdiction, procedure and services and repealing Title VII-B of part six of the Code of Criminal Procedure relating to proceedings respecting youthful offenders and Chapter 440 of the Laws of 1949 as amended relating to adolescent courts in the Counties of Kings, Queens and Richmond--effective February 1, 1957. However, the effective date of the Act was successively postponed by the Legislature each year from 1957 to the date it was to become effective, April 1, 1961, at which time it was repealed (McKinney's, 1956, p. 1088).

The proposed purpose of this Act was to serve the best interest of the community by providing to youth coming within the jurisdiction of the court prompt treatment, guidance and control, preferably in his own home or community, as will protect society and further the youth's adjustment and welfare and make him aware of his obligations to society and the meaning of his offense. The court shall be guided in the exercise of its discretion by these criteria in securing for each youth adjudicated or convicted by it through its own facilities and through public, religious, charitable or other agencies and institutions such guidance and control as will further the aim of rehabilitation rather than punishment (McKinney's, 1956, p. 1088).

The enactment of the Youth Court Act was delayed for several years, since a number of bills were submitted to then Governor Nelson Rockefeller, recommending revisions, and repealing the Youth Court Act. Governor Rockefeller took the position that the Judicial Conference should study the Act and report its recommendations to the Legislature by February of 1961. In his message, he stated:

An objective of the Youth Court Act was to afford youthful offenders treatment to youths so capable of rehabilitation as to warrant special non-criminal adjudication. It was contemplated that they would receive proper rehabilitative treatment at reformatories and through probation services (McKinney's, 1956, p. 1088).

This issue was the crux of the Governor's decision to delay signing the Act. Finally, it was recommended that the Act be reviewed and studied by the Judicial Conference.

The Judicial Conference reviewed the Youth Court Act of 1961 and made the following recommendations:

The Judicial Conference of the State of New York recommended to the Legislature that the controversial Youth Court Act be repealed and that a proposed Uniform Correction Code for Youth be enacted to replace the present Youthful Offender procedure provided by Title VII-B of the Code of Criminal Procedure (McKinney's, 1960).

A summary of the Conference's recommendations is categorized as follows:

1. Perspective on Youthful Offenders

Recommendations were made to repeal the Youth Court Act and start over; incorporate a youth component in the overall structure of the court and focus on youth between the ages of sixteen and eighteen years (McKinney's, 1960).

2. Youth Rights

Recommendations were made to protect the rights of youth within an overall framework that would provide for the speedy processing and disposition of youth matters with emphasis upon correction and rehabilitation. A great concern was that no stigma of criminal or civil disability be attached to youth adjudicated under this procedure (McKinney's, 1960).

Governor Rockefeller approved the repeal of the Youth Court Act on April 11, 1961. The Governor's statement reflected his determination to make a fresh start in dealing with the problem of youth within the Court (McKinney's, 1960). Excerpts from Governor Rockefeller's message indicated:

1. The legislature at its 1961 session recommended a unified statewide court system which was submitted at the November, 1961, general election for approval by the voters (McKinney's, 1960).
2. The legislature also established a Joint Legislative Committee to study and recommend new legislation to implement the constitutional reorganization of the courts which would include a family court system to handle youth cases (McKinney's, 1962).

In sum, the Youth Court Act was repealed before it was implemented to make way for a unified Statewide court system that included a family court structure to deal with youth problems.

The common theme throughout all of the legislative initiatives during these many years was that of the search for an organized mechanism for dealing with the three notions of juvenile delinquency, status offenders who were not delinquents, and family problems, including neglect of children, separation, divorce, and abandonment. While some legislators were reluctant to assign all of these complicated problems to a single court, others argued that the inter-relatedness of the problem required such an assignment. After considerable debate, the Family Court Act was adopted in 1963.

The Essential Elements of the Family Court Act
as Adopted in 1962

In its report, the Joint Legislative Committee on Court Reorganization proposed the establishment of a new Family Court:

The Family Court Act, which the committee now submits for public consideration, is designed to implement the constitutional mandate. The Family Court is concerned with many of the most pressing problems facing society; juvenile delinquency, conflicts in the family, neglected and abandoned children and many others. It must deal with sensitive and difficult areas of life about which reasonable men and women differ. Hence, it is necessarily an experimental court. The proposed legislation for this reason leaves room for experimentation and looks to improvements based on experience and observation. Since the Act dealt only with youth under sixteen years old, the legislature proposed that the Youthful Offender Act, the Wayward Minor Law and the Penal Law be studied and reported on in 1963 (McKinney's, 1962, p. 3429).

Excerpts of information gleaned from the Information Bureau Bulletin, dated 8 February 1962, provide an analysis of the preface of the Joint Legislative Committee's reports as well as a summary of the proposed Family Court Act's major sections.

The Preface to the report of the Joint Legislative Committee recognizes the existence of differences of opinion on the problems to be dealt with, and says: 'Hence, it is necessarily an experimental court.' The proposed legislation, for this reason, leaves room for experimentation and looks to improvements based on experience and observation (Legislation Information Bureau Bulletin, 1962, p. 29).

The Preface states that the age at which the law of juvenile delinquency should apply is a question the Committee will study and report on in 1963. Meanwhile, the Committee's draft continues the existing age limit--persons under eighteen.

The major proposals of the Act as it applies to youthful offenders are categorized as follows:

Youth Rights

Institute a program of Law Guardianship to represent children involved in court proceedings.

Institute rules to avoid the excessive detention and commitment of children.

To avoid the stigma of court processing of court involved youth, a revision of the law of juvenile delinquency and the introduction of the concept of person in need of supervision was recommended.

A revision of the law of neglect was also recommended (Legislation Information Bureau Bulletin, 1962).

The recommendation pertaining to Juvenile Delinquency and Neglected Children was stated in the Joint Legislative Committee report as follows:

Juvenile Delinquency

The Committee believes that an adjudication of delinquency may have a damaging effect on a child and on his career as a citizen. The Committee, therefore, proposes to narrow the current definition of juvenile delinquent, and to create a new category to be known as a person in need of supervision.

Juvenile Delinquent is defined in the proposed legislation as a person over seven and less than sixteen years of age who does any act which, if done by an adult, would constitute a crime, and requires supervision, treatment or confinement.

Person in Need of Supervision is defined by the Committee as a male less than sixteen years of age and a female less than eighteen years of age who is incorrigible, ungovernable or habitually disobedient and beyond the lawful control of parent or other lawful authority, and requires supervision or treatment (McKinney's, 1962, p. 3424).

With the introduction of the new category of "person in need of supervision," the proposed legislation defines the powers of police and courts so that a person allegedly in need of supervision may not be taken into custody (no urgency); may not be placed in detention pending the filing of a petition; may not be committed for conduct which, if done by an adult, would not constitute a crime. The Committee observed that "Detention is a drastic action that may result in lasting damage to the children who are needlessly detained. It clearly should be avoided for their welfare." The Committee cited reports showing that unnecessary detention occurs both in New York City and in upstate New York.

Revision of Law of Neglected Children

The Committee believes that the coercive powers of a court should be used only when methods of persuasion, informal adjustment, and help have failed. Accordingly, the statutory definition of neglected child (Section 312) refers to a male under sixteen or female under eighteen years of age who suffers serious harm from the improper guardianship, including lack of moral supervision or guidance, of his parents or other

person legally responsible for his care, and requires the aid of the court. In the absence of serious harm and a need for the court's aid, continues the report, the matter should not be brought to court.

The main purpose of a neglect proceeding under the proposed legislation is to assure that the home satisfies at least the minimal requirements of a suitable place for a child to grow. Only in grave and urgent circumstances does it authorize removal of a child from his home and his being placed elsewhere.

The main purpose of a juvenile delinquency proceeding is to provide supervision or commitment whereas the main purpose of a Person in Need of Supervision proceeding is for treatment purposes. This, of course, may require giving direction to the family by means of an order or protection; the proposed legislation authorizes the court to do so.

According to expert opinion, the probability of a satisfactory return home of a placed child diminishes considerably after the first year of placement. This consideration and the desirability of periodic review of the work of those with whom the child is placed seems to the Committee of major importance. Accordingly, it proposes that no placement under the law of neglect 'may be for a period in excess of one year, unless the court finds at the conclusion of that period and after hearing that exceptional circumstances require continuation of the placement for an additional year.' Successive extensions are permitted (McKinney's, 1962, pp. 3440-3443).

The proposed definitions of Persons in Need of Supervision called for evidence that the person involved requires supervision or treatment. The Family Court was envisioned as a last resort. It was felt that the community should provide the necessary services for conduct which amounted to technical violation of the law and did not warrant court action.

Following the Joint Legislative Committee report, Assemblyman Albert introduced a bill to establish a Family Court Act (dated 10 April 1962).

Subject and Purpose: To establish a family court for the State of New York to implement Article Six of the Constitution of the State of New York. Approved by the people on the seventh day of November, Nineteen Hundred Sixty-One (McKinney's, 1962).

Purpose of Bill: To establish a state-family court system with jurisdiction in family problems and problems relating to children (McKinney's, 1962).

The Family Court Act in New York State was established in 1962 as a law mandated by the people of New York State which was approved by Constitutional Amendment. This Act represented a joining of social services ideology and traditional legal concepts. It brought within one legal forum all matters concerning children and families. Specifically, in November of 1961, the voters of New York State approved the Constitutional Amendment which created a new court system for the State. One of the provisions of the Amendment called for the establishment of a Family Court in every county of the State (McKinney's, 1962).

Family Court Act of the State of New York, Laws of 1962, Chapter 686, was made effective 1 September 1962 (Senate Bill #3494, 1962).

1. It established the family court.
2. It provided jurisdiction over child and family proceedings.
3. It designated components of the court to deal with neglect, juvenile delinquency, status offense charges.
4. It specified the structure of the court, the number of judges, and their appointment procedures, and term of office.
5. It specified the general powers and authority of the court and the procedures to be followed necessary to carry out its mandates.

This is the major bill that established the structure and jurisdiction of the Family Court in New York State.

Intent of the Act

In the evolution of the Juvenile Court System, one can see the guiding principle of its founders: the basic tenet that children differ from adults in responsibility. It is within this context that we examine the intent of the Family Court Act as it applies to delinquent youth and, in particular, youth who have committed no crimes but are referred to as status offenders (Persons in Need of Supervision).

In a memorandum addressed to the Governor by the Social Services Department (Senate Bill #3439, dated 13 April 1962), the following comment was made:

The Special Committee on the Reorganization of the Courts, the Association of the Bar (1962), took the following position on the Persons in Need of Supervision category that was proposed at that time. The Committee believed that the most important function of the court in the PINS category was not to characterize the quality of the anti-social behavior but to understand its source and to provide the best rehabilitative treatment available, as the juvenile courts were not created to merely deal with the act committed but rather to deal with the child and the problem of which the Act is merely symptomatic. Therefore, the court dispositional procedures for Juvenile Delinquents and PINS cases should be the same.

The New York Family Court Act (1962) sets forth its purpose concerning children alleged to be delinquent or persons in need of supervision as twofold:

The purpose of this article is to provide a due process of law: (a) for considering a claim that a person is a juvenile delinquent or a person in need of supervision,

and (b) for devising an appropriate order of disposition for any person adjudged a juvenile delinquent or in need of supervision.

The New York Act thus mandates two co-equal purposes: procedural due process and appropriate disposition. In subsequent sections, dispositional hearing is defined as a hearing to determine whether a child found to be delinquent requires supervision, treatment, or confinement and whether a child found to be in need of supervision requires supervision or treatment. Thus, there is a legislative mandate that where treatment is necessary, it shall be provided for delinquents. In regard to persons found to be in need of supervision, the deprivation of freedom is authorized only if placement provides treatment.

Requirements for procedural due process were spelled out in the Family Court Act. In contrast, those sections of the Act directed to the implementation of requirements for making appropriate dispositional orders were not spelled out and were limited. In addition to requiring a probation service in each county, the Act provided only that "the Family Court in any county shall have such other auxiliary services as will serve the purposes of this Act and as are within its authorized appropriations" (1962).

In a report prepared by the Temporary State Commission of the New York State Legislature, the goal of the Family Court is described as the Court being the special agency for the care and protection of the young and the preservation of family life (Lasher, 1980).

In the area of delinquency, the report states:

It was believed by the original drafters of the Family Court Act that persons in need of supervision (truants, incorrigibles, and habitually disobedient youths) may not be at fault, but rather parental neglect may be responsible for the child's behavior. Therefore, the Act provided that the court's concern in protecting the child's interest would be best served by allowing the court to substitute a neglect petition for a petition to determine whether a person was in need of supervision. Originally, Article 7 of the Act was legislatively intended not to punish, stigmatize, or label misbehaving youths, but to uplift, correct and structure a disposition based upon the individual needs of the child (Lasher, 1980, p. 22).

From the data researched that led up to the enactment of the Family Court Act and a review of the Act itself, the objectives of the Act are listed as follows:

1. To create a court that would function as a special agency for the care and protection of the young.
2. To separate criminal offenses from non-criminal offenses and handle non-criminal offenders differently from criminal offenders.
3. To avoid stigmatizing youth who were adjudicated by changing the concept of youth court processing.
4. To create a legal category (Persons in Need of Supervision) that would facilitate processes and structure a disposition based on the individual needs of the youth that would assist and help them rather than stigmatize or punish.
5. To provide a legal structure to protect the rights of a child.
6. To assure that the home satisfies a set of minimum standards as a suitable environment for a child to grow.
7. To ensure that the youth and family receive adequate social services.

The Family Court in New York, in effect, has emerged as the social institution responsible for the handling of virtually all problems

regarding children and families. In the creation of a special category of non-offenders known as "persons in need of supervision," the enactors of the 1962 Family Court Act were seeking a strategy for providing services to youngsters without subjecting them to delinquency labelling.

The final section of this chapter will present an analysis of the state's policy for the legal processing of status offenders (PINS) and juvenile delinquents that come under the jurisdiction of the court which is embodied in Article 7 of the Family Court Act of New York State.

Research Method Used for Article 7 of the
Family Court Act of New York State, 1962

A closer look at the legislative intent regarding the legal processing of cases that come before the court of youth classified as status offenders or more commonly referred to as Persons in Need of Supervision (PINS) will be achieved by analyzing Article 7 of the Family Court Act using a research technique referred to as content analysis.

Article 7 of the Family Court Act of New York State is entitled "Proceedings Concerning Juvenile Delinquency and Whether a Person Is in Need of Supervision" (Looseleaf Law Publications, Inc., New York, 1980, p. 74). This article of the Family Court Act specifically puts forth the state's policy for the handling of youthful criminal offenders referred to as juvenile delinquents (JDs) and, in some cases, restrictive juvenile delinquents (RJDs) and youthful non-criminal offenders (PINS) who come under the jurisdiction of the Family Court. The purpose of Article 7, as stated in the Act, "is to provide a due process

of law: (a) for considering a claim that a person is a juvenile delinquent or a person in need of supervision, and (b) for devising an appropriate order of disposition for any person adjudged a delinquent or in need of supervision in any juvenile delinquency proceeding under this article. The court shall consider the needs and best interests of the respondents as well as the need for protection of the community" (Looseleaf Law Publications, Inc., New York, 1980, p. 75).

To determine the policy intent for the legal processing for youthful non-criminal offenders, each of the parts and sections of Article 7 will be analyzed by using a research method referred to as content analysis. Wapel and Berelson define content analysis as a systematic method of objectively stating the nature and relative strength of the stimuli applied to the reader or listener (1941). Kaplan and Goldsen define content analysis as an approach to quantify and classify a given body of content to yield data relevant to specific hypotheses concerning that content (1943). The content analysis format that will be used is a perception of policy conditions which suggest action, goals, aims, choices and the means by which the state proposes to reach these goals (North, et al., 1963).

Each section of each part of Article 7 that specifically addresses policy and procedures as they apply to the legal processing of juvenile delinquents (JDs) and Persons in Need of Supervision (PINS) will be read and analyzed. The frequencies of dispositional stipulations will be tabulated for both JDs and PINS. Dispositional stipulation(s) is defined as the arrangement for a specific outcome. Dispositional

stipulations represent the categories that have been established for quantification. This technique has been validated by Janis (1965) as he refers to this type of content analysis as semantical content analysis and, more specifically, as designations content analysis which provides the frequency which certain persons, things, groups or concepts are referred to. For the purpose of this study, the category of concepts (dispositional stipulations) will be used in the analysis of Article 7 of the Family Court Act. Each of the sections of the article were read and where there was a dispositional stipulation for a JD or PINS, it was checked off (see Appendix for full coding sheet). The content analysis of Article 7 should provide the data that would lead us to conclude what the legislature wanted to happen to PINS and JDs that come under the court's jurisdiction.

Analysis of Article 7 of the Family Court Act

Article 7 of the Family Court Act is entitled 'Proceedings Concerning Juvenile Delinquency and Whether a Person Is in Need of Supervision' (Looseleaf Law Publications, Inc., New York, 1980, p. 74).

This article for all intents and purposes represents the state's policy for the handling or legal processing of youthful criminal and non-criminal offenders that come before the court. The purpose of this article as stated on page 16 can be construed as the intent of the legislature enacting this legislation to provide a due process of law for youth who commit non-criminal offenses and to protect the community from youthful criminal offenders. The addition of the sentence applying to protection of the community was added to the purpose (amended) during the legislative session of 1978.

Let us assume for the purposes of this study that there is no difference in the legal processing of youth classified as JDs or PINS that

come under the court's jurisdiction. Therefore, it is necessary to determine if indeed differences do exist. An analysis of the parts and sections of the article can be enumerated as follows.

Part I: Jurisdiction

Section 711: Purpose. The difference noted in this section comparing legal processes for JDs and PINS is that a need for protection of the community is expressed in the JD proceeding and not in the PINS proceeding.

Section 712: Definition. The difference noted in this section between the JDs and PINS is the definition of criminal behavior. Criminal behavior is spelled out in the definition of what constitutes a juvenile delinquent as opposed to social misbehavior that categorizes a PINS definition. In addition, the policy driving the dispositional hearing specifies that the outcome for a JD may be to determine whether supervision, treatment or confinement is needed. Whereas in a PINS proceeding, supervision and treatment is mentioned but not confinement. This is a significant factor that distinguishes differences in a dispositional outcome for PINS vs. JD adjudicated youth.

Section 716: Substitution of Petition. The court has the ability to substitute a petition to determine a need for supervision for a delinquency petition (waiver down) but is constrained from substituting a delinquency petition for a person in need of supervision petition (waiver up).

In summary, Part I of Article 7 distinguishes between criminal and non-criminal behavior for PINS and JD youth; specifies the dispositional

outcomes for both but limits PINS to supervision and treatment as opposed to confinement; supervision and treatment for JDs; in addition, a waiver down of a substitution for a petition is allowed for JDs to PINS and not allowed from PINS to JDs (waiver up).

Part II: Custody and Detention

Section 731: Originating Juvenile Delinquency Proceeding;

Section 732: Originating Proceeding to Adjudicate Need for Supervision.

The difference noted between Sections 731 and 732 is the definition of criminal behavior and the need for supervision, treatment or confinement in the case of a JD as opposed to status offenses (non-criminal behavior) for PINS is the need for treatment or supervision. The word confinement is left out in the PINS proceeding.

Section 734: Rules of Court for Preliminary Procedure. This section specifies procedures applying to criminal behavior as does Section 734a--approving a petition in a juvenile delinquency proceeding--no mention of similar procedures for PINS petitions is stated.

In summary, the differences noted in Part II fall in the areas of the definition of criminal and non-criminal behavior and the dispositional outcomes and the procedural requirements available for the two categories.

Part IV: Hearings

No significant differences noted in this part.

Part V: Orders

Sections 753 and 754: Disposition of Adjudication for Delinquency

and Persons in Need of Supervision (respectively). The difference noted in this section is that the court can discharge the respondent without warning in the PINS proceeding but not in the JD proceeding.

Section 756: Placement. The major differences noted in this section comparing placement options for PINS and JDs is that PINS cannot be placed in or transferred to a secure facility.

Section 757: Probation. The maximum period for probation for a PINS is one year, as compared to two years for a JD.

In summary, the major differences noted in options for PINS vs. JDs in Part V are that PINS can be discharged from a court proceeding without warning, cannot be placed in or transferred to a secure facility and have available a shorter maximum probationary period than JDs.

Part VI: New Hearing and Reconsideration of Orders

No differences for PINS/JDs--Procedural or dispositional outcome noted.

Part VII: Compliance with Orders

Section 773 petition for transfer for incorrigibility to an agency other than a state training school and PINS cannot be placed in a state training school by law (Ellery, C.) are the major differences noted.

Part VIII: Effect of Proceeding

No differences noted as to effect on PINS/JDs.

In reviewing the Parts of Article 7, it appears that Part V (Orders) has the most significant differences in the legal processing of PINS vs. JDs. Specifically, a PINS youth is not subjected to the same legal

sanctions, as he/she can be discharged from a proceeding without warning. This option is not available to a JD. In addition, PINS youth cannot be placed in or transferred to a secure facility.

Part III is the next section that displays the most significant differences among the Parts of Article 7 pertaining to the legal processing of JDs and PINS. The definition for criminal and non-criminal behavior is addressed and the sanctions for both categories is noted. JDs can be legally subjected to treatment, supervision and/or supervision and treatment.

Parts IV, VI, and VIII displayed no differences in the legal processing for JDs and PINS. These parts addressed hearings, new hearings and reconsideration of orders and effect of proceedings respectively.

From the legislative analysis of Article 7 of the Family Court Act of New York State, the following intent has been deduced as to the policy of the State of New York in the handling of non-criminal offenders. The purpose as stated regarding the handling of criminal and non-criminal offenders is to provide a due process of law for those who come before the court and to protect the community from youthful criminal offenders. The frequency of jurisdictional stipulations for carrying out this policy is essentially the same for both JDs and PINS, however. If we analyze the jurisdictional stipulations and classify them as to client protective stipulations, we find differences in the Parts and Sections of Article 7 as to the legal processing of JDs and PINS in the areas of definition as to what constitutes a

criminal action and status offense, adjudication and placement options.

By way of summary, from the content analysis method applied to Article 7 of the Family Court Act of New York State enacted in 1962 and amended in 1978, it has been deduced that the legislative intent of Article 7 is to provide a due process of law for youth who commit criminal acts and/or status offenses, and to distinguish between what constitutes a criminal act and a status offense; protect the community from youthful criminal offenders and consider the needs of the respondent by providing procedural safeguards (client protective stipulations). We, therefore, conclude from this analysis in relation to the legal proceeding for JDs and PINS that PINS are afforded certain legal procedural safeguards that are not afforded to JDs and JDs are subjected to criminal sanction that are not applicable to PINS.

The next step in the research project is to determine if the legislative intent (policy) is being carried out. The question is: What is actually happening to youth classified as PINS that come under the court's jurisdiction? What is happening in practice? To place this issue into a framework for examination as to what is happening in practice, the following questions are constructed which have been deduced from the analysis of the legislation.

Statement of Questions Deduced from the Analysis of Article 7 of the Family Court Act.

1. If the stipulations that apply to PINS youth are uniformly applied, no differences should exist between male and female, white and non-white and between geographic regions within the state?

2. Are the PINS youth that are placed outside of their homes assured of treatment?
3. Are the PINS youth that come under the court's jurisdiction assured of a due process of law?

These questions will be used as a guide to frame the review of data collected from the New York State Division for Youth (DFY) which will be an analysis of the trends in the placement patterns of PINS youngsters within the Division over a four-year period (1978-1981). For purposes of this study, it is necessary to examine the PINS jurisdiction in terms of the population trends in DFY over a period of years.

C H A P T E R V

TRENDS IN THE PROCESSING OF PINS YOUNGSTERS WITHIN THE NEW YORK STATE DIVISION FOR YOUTH

The passage of the 1976 and 1978 Juvenile Justice Reform and Juvenile Offender Acts in New York State represented a change in the philosophy to treat children separately from adults. The application of criminal sanctions to youthful non-criminal offenders as an approach had been rejected as recently as 1960. For the first time since 1909, youth charged with the commission of serious offenses are subject to prosecution in criminal courts (Sobie, 1981). As a result of the enactment of the Juvenile Offender Law, the placement patterns have shifted to placements for the more serious offender (DFY Annual Statistical Report, 1982). As recently as eight years ago, almost half of the population of youngsters being served in the Division for Youth (DFY) were persons in need of supervision (PINS) [Juvenile Contact System, 1981].

In fact, prior to the Ellery C. and Lovette court decisions in New York, offenders and non-offenders were housed and serviced together in DFY, in non-residential and residential programs alike (1973).

The confusion surrounding the exact nature of the PINS jurisdiction over the years is well established. The meaning of "status offender" has been well debated, as has its implications for intervention, especially by state agencies (Chapter II). For the purpose of this study, it is critical to examine the PINS jurisdiction in terms of population trends in the Division for Youth over a number of years.

In order to explore trends in admissions to the Division for Youth with a particular focus on PINS, all admissions to the New York State Division for Youth were examined over a four-year period (1979-1981). The Division collects data on all of its admissions through a reporting system described as follows.

The New York State Juvenile Contact System (JCS) is a computer-assisted client data base on youth served by the Division for Youth. The system contains information gathered at three points in the service process: (1) demographic and legal information collected at initial referral; (2) personal, family and social information collected through intake assessment interviews and consultations; (3) tracking information that marks and records the service location of youth in care.

To describe the trend in DFY admissions of PINS and JD adjudicated youth from 1978 through 1981, the unit of analysis selected is the admission event. The admission information was taken from the statistics population computer file. First admissions for 1978 and 1979, and total admissions during 1980 and 1981, were categorized as either PINS admissions, JD admissions, or restrictive JD admissions.

Initially, two tables were constructed to display the percentage of total admissions in each of the four years selected for the trend analysis which fell into each of the adjudication statuses, and to display the percentage change (either increase or decrease) of admissions within each adjudication category "a" at time "t" + 1 minus the number of youth in adjudication category "a" at time "t", divided by the

number of youth in adjudication "a" at time "t", or more simply:

$$\% \text{ change} = \frac{x_{at+1} - x_{at}}{x_{at}}$$

where x is the number of youth;
 a is the adjudication category; and
 t is the time of year

Subsequently, these three categories of admissions (PINS, JDs and RJDs) were compared within year of admission on three variables (sex, ethnicity, and age) to determine whether significant differences among these three groups of youth existed regarding these characteristics. The descriptive statistical technique employed to display such differences is cross-tabulation, percentaged within adjudication status categories.

In the following analyses, the relative size of the PINS population serviced by the Division over the years is examined, as were pattern of change in demographic characteristics.

Trends of Adjudication Status

During the years 1978-1981, several pronounced changes occurred in the character of the Division for Youth population. Table 1 and Figure 1 show that while a significant increase in the size of offender subgroups have occurred during 1978-1981, a decrease has occurred in the size of the non-offender groups. Specifically, while PINS and

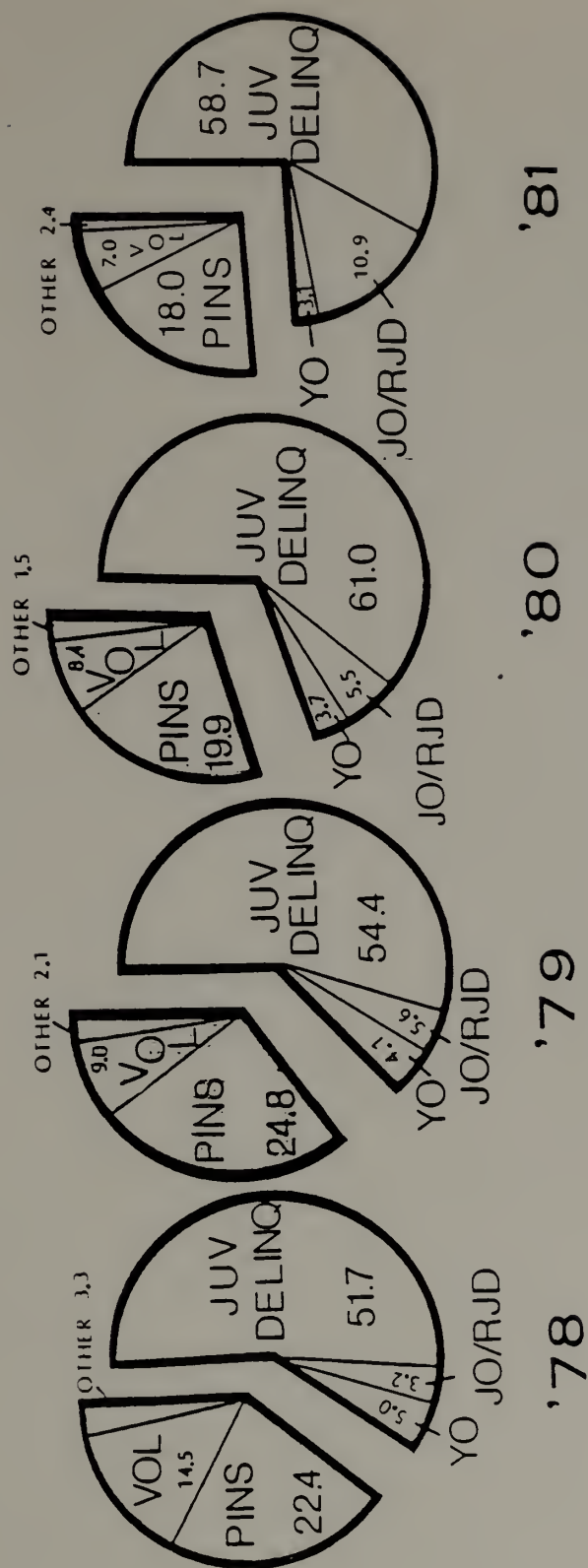
TABLE 1
 TOTAL ADMISSIONS: ADJUDICATION STATUS BY YEAR OF ADMISSION*
 (1978-1981)

Adjudication	1978	1979	1980	1981
Juvenile Offender	2 (0.1)	81 (4.0)	89 (4.0)	232 (9.7)
Restricted Juvenile Delinquent	71 (3.1)	33 (1.6)	33 (1.5)	28 (1.2)
Juvenile Delinquent	1195 (51.7)	1098 (54.4)	1352 (61.0)	1403 (58.7)
Person in Need of Supervision	517 (22.4)	501 (24.8)	440 (19.9)	431 (18.0)
Youthful Offender	116 (5.0)	83 (4.1)	82 (3.7)	73 (3.1)
Voluntary	336 (14.5)	181 (9.0)	185 (8.4)	168 (7.0)
Other	76 (3.3)	42 (2.1)	34 (1.5)	57 (2.4)
TOTAL	2313 (100.0)	2019 (100.0)	2215 (100.0)	2392 (100.0)

*Numbers in parentheses are percentages

FIGURE 1

ADMISSIONS BY ADJUDICATION



N = 2,313 '78 2,019 '79 2,215 '80 N = 2392 '81

voluntary youngsters were decreasing in proportion, Juvenile Offenders, Restrictive Juvenile Delinquents and Juvenile Delinquents were increasing. In absolute numbers, the PINS population dropped from 517 in 1978 to 431 in 1981, a decrease of 17%. Voluntary cases were even more dramatic: from 336 youngsters in 1978 to only 168 in 1981.

Percent change over the four years by adjudication status is displayed in Table 2. Note that the Juvenile Offender jurisdiction was created during 1978; prior to that time, particularly serious juvenile delinquent offenders were classified as Restrictive Juvenile Delinquents. As a consequence of the new jurisdiction, Restrictive Juvenile Delinquents have become a very diminished population.

Adjudication Status and its relation to ethnicity is displayed in Table 3 and Figure 2, arraying the four years under study. For reasons which are not entirely clear, the PINS jurisdiction has over the years been predominantly white; in 1980, fully 70% of the PINS youngsters were white. Despite a downward trend for 1981, the PINS youngsters continue to be disproportionately white, especially when compared to Restrictive Juvenile Delinquents.

The relationship between adjudication and sex is displayed in Table 4 and Figure 3, showing a disproportionately high number of females in the PINS jurisdiction. Although the four-year patterns show some fluctuation, it is clear that approximately half or more of the PINS youngsters, but only slightly more than 10% of the Juvenile Delinquent youngsters, were females.

TABLE 2
 ADJUDICATION STATUS OF TOTAL ADMISSIONS: PERCENT CHANGE
 (1978-1981)

Adjudication	1978-1979	1979-1980	1980-1981	1978-1981
Juvenile Offender	N/A	+ 9.9	+160.7	N/A
Restricted Juvenile Offender	-53.5	0.0	- 15.2	-60.6
Juvenile Delinquent	- 8.1	+23.1	+ 3.8	+17.4
Person in Need of Supervision	- 3.1	-12.2	- 2.0	-16.6
Youthful Offender	-28.4	- 1.2	- 11.0	-37.1
Voluntary	-46.1	+ 2.2	- 9.2	-50.0
Other	-44.7	-19.0	+ 67.6	-25.0
TOTAL	-12.7	+ 9.7	+ 8.0	+ 3.4

TABLE 3
ADJUDICATION STATUS BY ETHNICITY (1978-1981)*

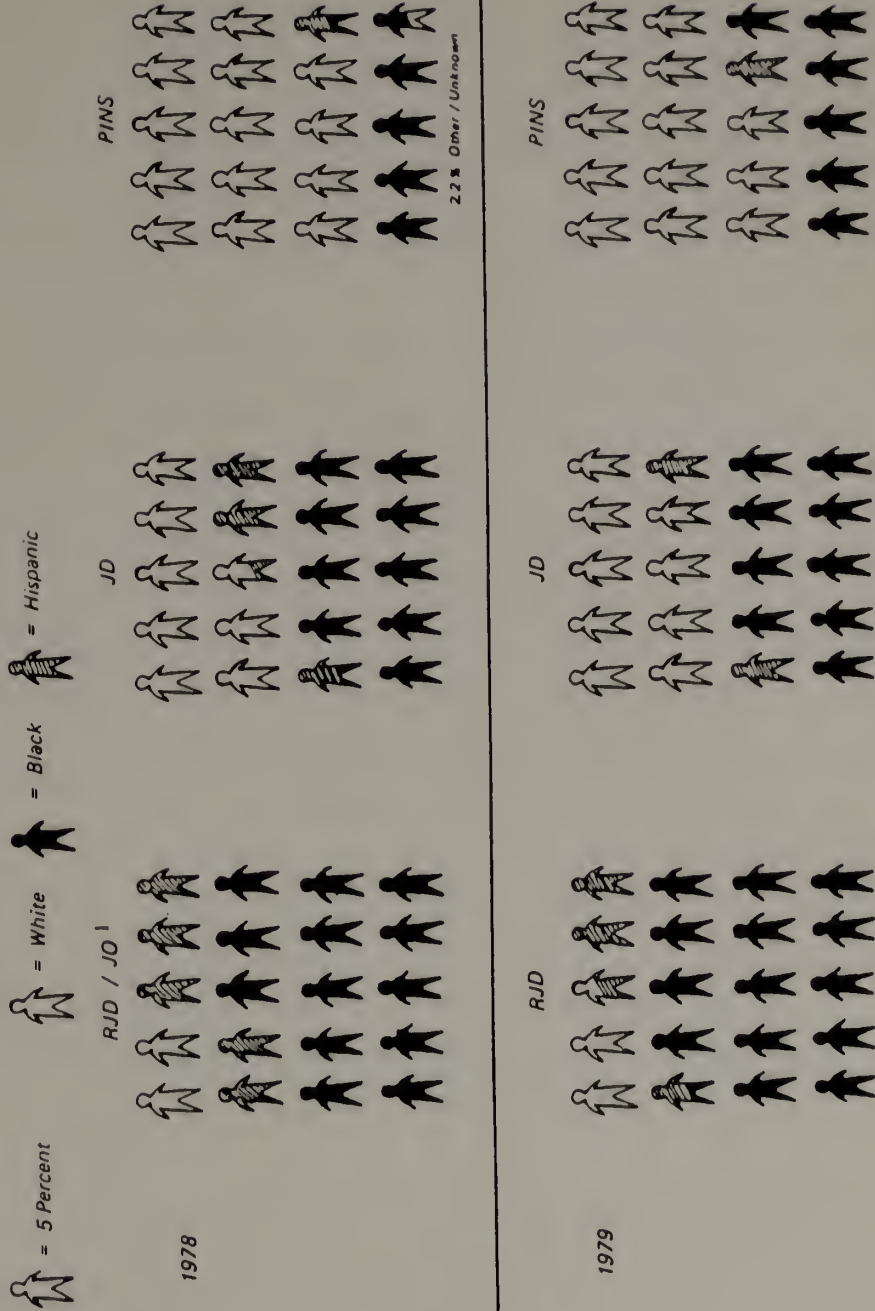
Adjudication	1978				1979				1980				1981					
	White	Black	Hispanic	Other	White	Black	Hispanic	Other	White	Black	Hispanic	Other	Unknown	White	Black	Hispanic	Other	TOTAL
Restricted Juvenile Delinquent/ Juvenile Offender ¹	6 (9.8)	40 (65.6)	15 (24.6)		3 (12.0)	18 (72.0)	4 (16.0)		10 (30.3)	17 (51.5)	6 (18.2)			8 (28.6)	16 (57.1)	4 (14.3)		28 (100.0)
Juvenile Delinquent	323 (38.3)	386 (45.7)	124 (14.7)	11 (1.3)	370 (43.4)	382 (44.8)	88 (10.3)	12 (1.4)	505 (37.4)	632 (46.7)	159 (11.8)	13 (1.0)	43 (3.2)	557 (39.7)	668 (47.6)	164 (11.7)	11 (0.8)	1403 (100.0)
Person in Need of Supervision	213 (66.6)	91 (28.4)	9 (2.8)	7 (2.2)	218 (64.9)	99 (29.5)	15 (4.5)	4 (1.2)	308 (70.0)	101 (23.0)	18 (4.1)	4 (0.9)	9 (2.0)	257 (59.6)	143 (33.2)	21 (4.9)	9 (2.1)	431 (100.0)
Restricted Juvenile Delinquent Juvenile Delinquent																		25 (100.0)
Person in Need of Supervision																		852 (100.0)
																		336 (100.0)
Restricted Juvenile Delinquent Juvenile Delinquent																		33 (100.0)
Person in Need of Supervision																		1352 (100.0)
																		440 (100.0)
Restricted Juvenile Delinquent Juvenile Delinquent																		28 (100.0)
Person in Need of Supervision																		1403 (100.0)
																		431 (100.0)

*Numbers in parentheses are percentages

¹Includes 2 JOs admitted during 1978

FIGURE 2.1

FIRST ADMISSIONS, ADJUDICATION STATUS BY ETHNICITY, 1978 -- 1979



¹ Includes 2 JOs admitted during 1978

FIGURE 2.2

TOTAL ADMISSIONS, ADJUDICATION STATUS BY ETHNICITY, 1980 .. 1981

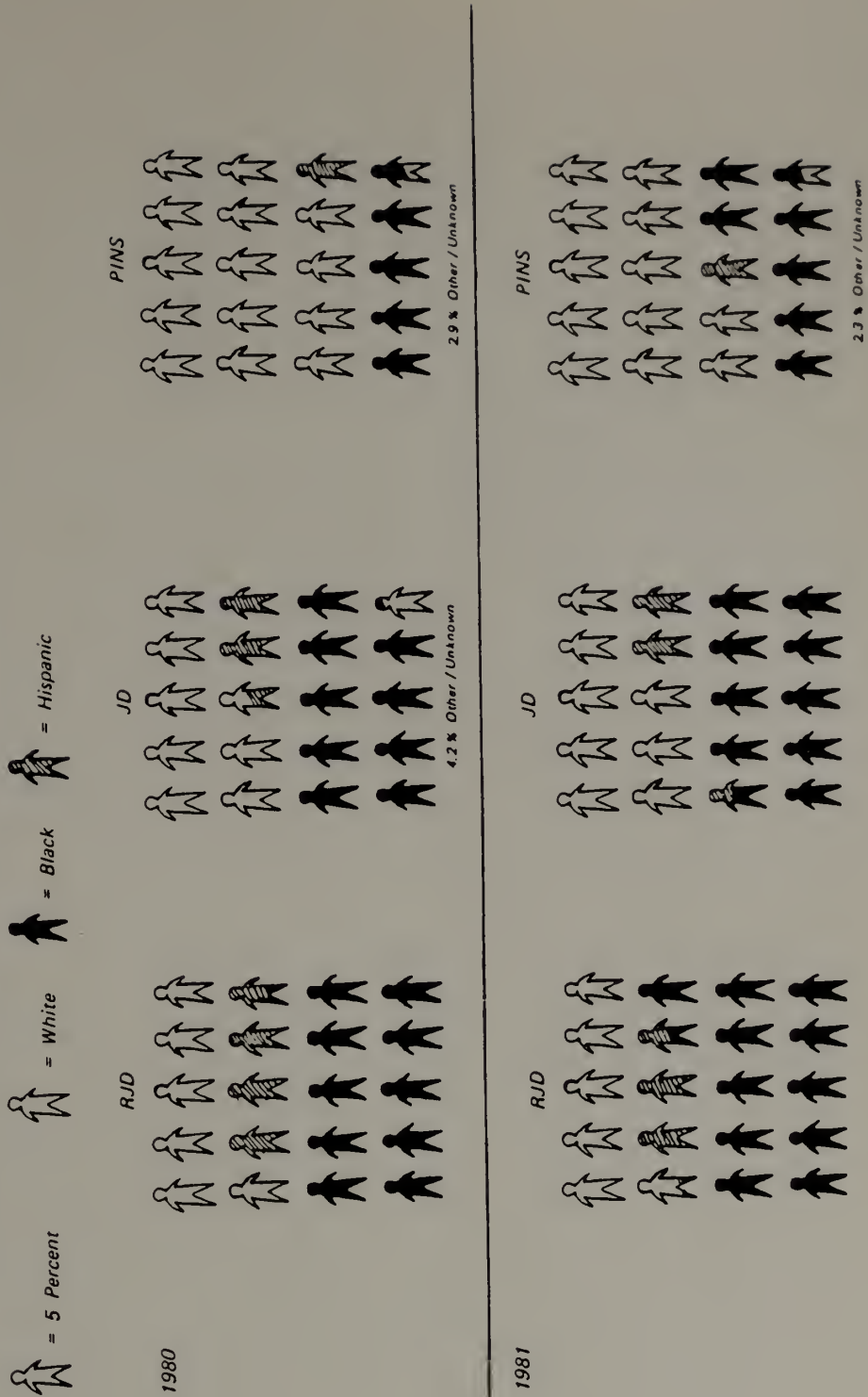


TABLE 4

ADJUDICATION STATUS BY SEX (1978-1981)*

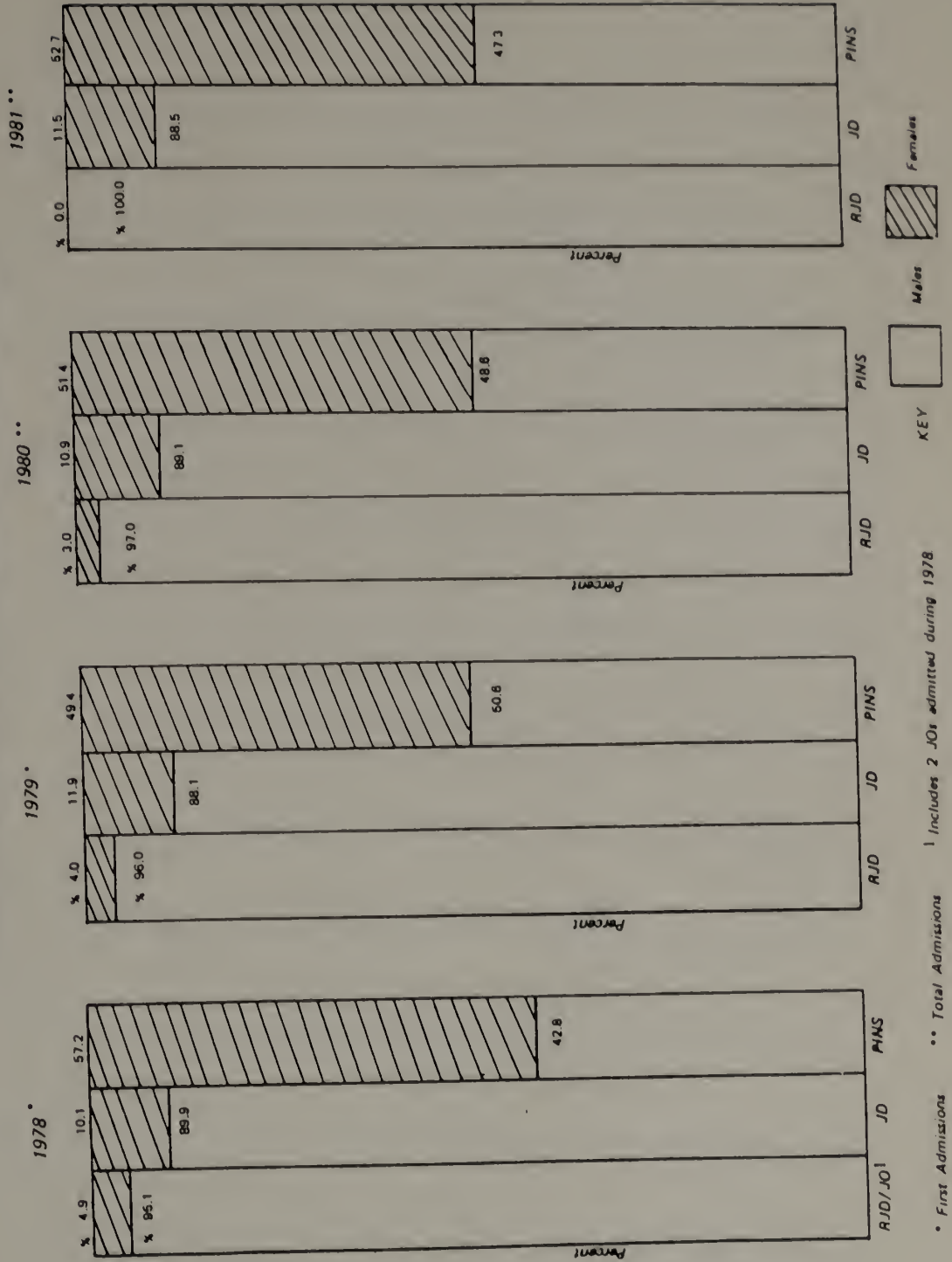
	Male		Female		TOTAL
	1978	1979	1978	1979	
Restricted Juvenile Delinquent/ Juvenile Offender ¹	58 (95.1)	24 (96.0)	3 (4.9)	1 (4.0)	61 (100.0)
Juvenile Delinquent	759 (89.9)	751 (88.1)	85 (10.1)	101 (11.9)	844 (100.0)
Person in Need of Supervision	137 (42.8)	170 (50.6)	183 (57.2)	166 (49.4)	320 (100.0)
Restricted Juvenile Delinquent					25 (100.0)
Juvenile Delinquent					852 (100.0)
Person in Need of Supervision					336 (100.0)
Restricted Juvenile Delinquent					33 (100.0)
Juvenile Delinquent					1352 (100.0)
Person in Need of Supervision					440 (100.0)
Restricted Juvenile Delinquent					28 (100.0)
Juvenile Delinquent					1403 (100.0)
Person in Need of Supervision					431 (100.0)

*Numbers in parentheses are percentages

¹ Includes 2 JOs admitted during 1978

FIGURE 3

ADJUDICATION STATUS BY SEX, COMPARED BY YEARS, 1978 -- 1981



* First Admissions

** Total Admissions

1 Includes 2 JOs admitted during 1978

KEY

Male

Female

Table 5 and Figure 4 array the relationship between adjudication and age. Although no significant differences were found, PINS youngsters, particularly in 1981, were slightly younger than were their JD counterparts.

In summary, the PINS jurisdiction in New York State has evolved, over the years, into a special category of youngsters over-representing white females. These findings are substantiated in the Paquin, et al. study (1976), which also found a relationship between adjudication and geography. That study found that New York City was much less likely, and upstate much more likely, to refer adjudicated PINS to the Division for Youth. Moreover, the Study found that the PINS adjudication was far less frequently utilized in New York City than it was elsewhere, suggesting that placement with the Division was not the key difference, but rather Family Court proceedings across different geographic areas.

Implications for Processing PINS

The PINS jurisdiction is a shrinking adjudication, representing a peculiar group of youngsters (predominantly white females) from upstate family courts. As is the case with volunteers, this group of youngsters at one time represented a large portion of the State's Division for Youth population, but has been reduced over time. It is clear that the reduction has and continues to occur; why it has occurred is a separate question.

There has been substantial confusion regarding the special status of PINS youngsters ever since the creation of that group. Court

TABLE 5
ADJUDICATION STATUS BY AGE (1978-1981)*

Adjudication	1978							TOTAL
	12	13	14	15	16	17		
Restricted Juvenile Delinquent/ Juvenile Offender ¹ Juvenile Delinquent Person in Need of Supervision	18 (2.1)	44 (5.2)	6 (9.8)	24 (39.3)	27 (44.3)	4 (6.6)	61 (100.0)	
	4 (1.3)	20 (6.3)	148 (17.5)	270 (32.0)	315 (37.3)	49 (5.8)	844 (100.0)	
			59 (18.4)	101 (31.6)	119 (37.2)	17 (5.3)	320 (100.0)	
1979								
Restricted Juvenile Delinquent Juvenile Delinquent Person in Need of Supervision	1 (4.0)	1 (4.0)	7 (28.0)	7 (28.0)	8 (32.0)	1 (4.0)	25 (100.0)	
	30 (3.5)	81 (9.5)	204 (23.9)	360 (42.3)	168 (19.7)	9 (1.1)	852 (100.0)	
	9 (2.7)	29 (8.6)	84 (25.0)	152 (45.2)	59 (17.6)	3 (0.9)	336 (100.0)	
1980 ²								
Restricted Juvenile Delinquent Juvenile Delinquent Person in Need of Supervision	26 (2.3)	80 (7.2)	4 (16.7)	7 (29.2)	7 (29.2)	4 (16.6)	24 (100.0)	
	9 (2.4)	32 (8.4)	232 (20.9)	462 (41.5)	254 (22.8)	58 (5.2)	1112 (100.0)	
			88 (23.1)	151 (39.6)	77 (20.2)	24 (6.3)	381 (100.0)	
1981								
Restricted Juvenile Delinquent Juvenile Delinquent Person in Need of Supervision	42 (3.0)	107 (7.6)	7 (25.0)	7 (25.0)	5 (17.9)	7 (25.0)	28 (100.0)	
	9 (2.1)	37 (8.6)	259 (18.5)	600 (42.8)	329 (23.4)	66 (4.7)	1403 (100.0)	
			100 (23.2)	169 (39.2)	81 (18.8)	35 (8.2)	431 (100.0)	

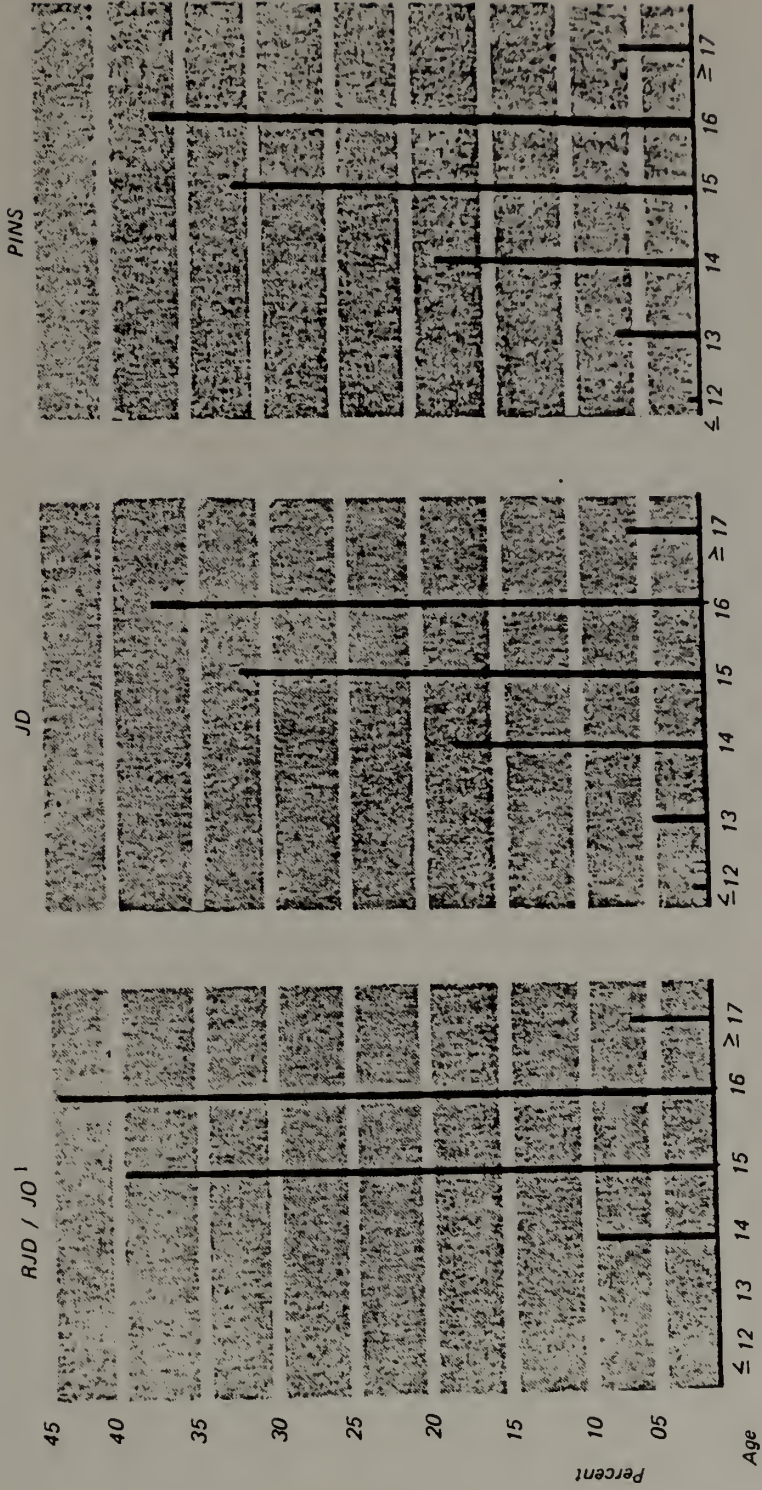
*Numbers in parentheses are percentages

¹Includes 2 JOs admitted during 1978

²Totals are different from preceding two tables due to updated information

FIGURE 4.1

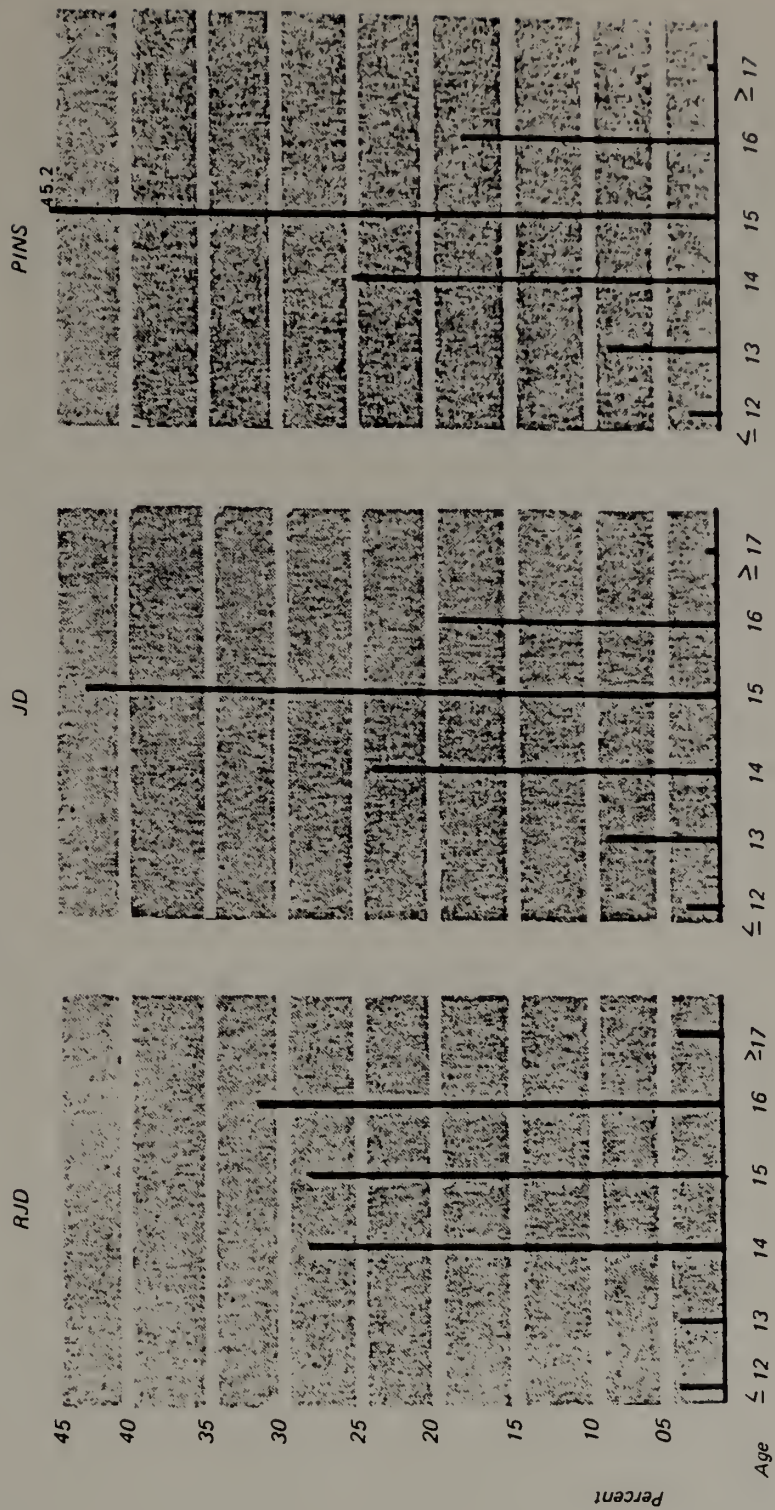
ADJUDICATION STATUS BY AGE, 1978 *



* First Admissions ¹ Includes 2 JOs admitted during 1978.

FIGURE 4.2

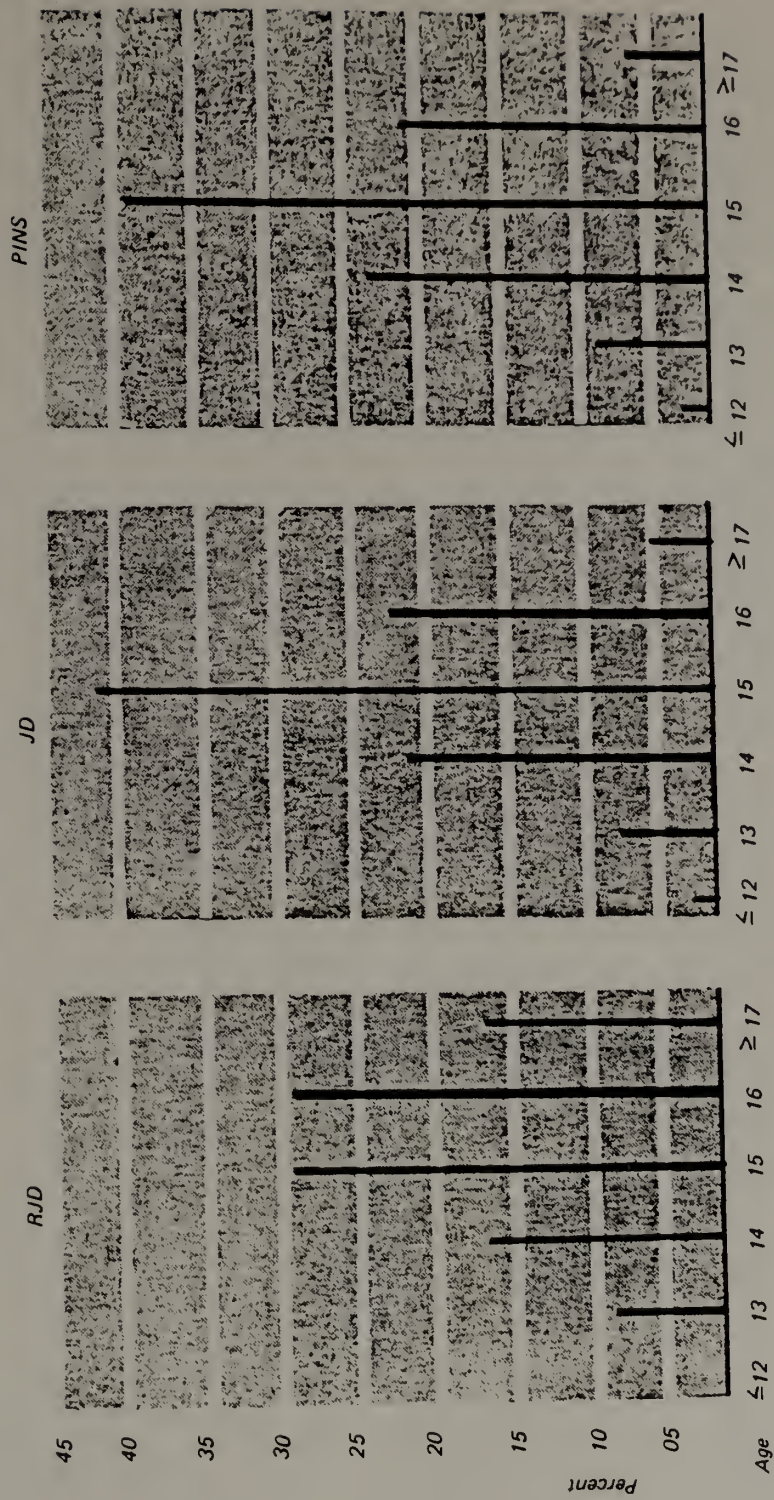
ADJUDICATION STATUS BY AGE, 1979 *



* First Admissions

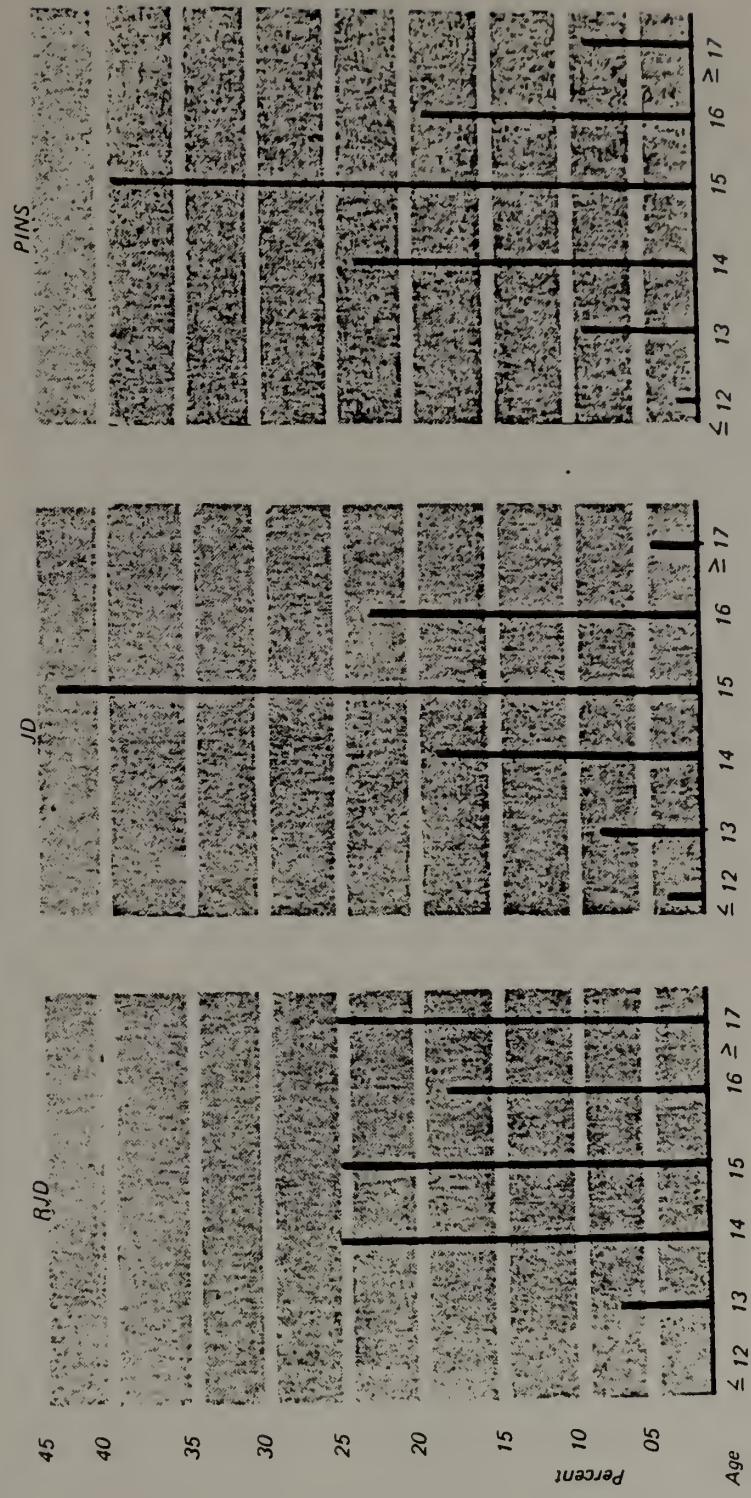
FIGURE 4.3

ADJUDICATION STATUS BY AGE, 1980 *



* Total Admissions

FIGURE 4.4
ADJUDICATION STATUS BY AGE, 1981 *



* Total Admissions

intervention has guaranteed somewhat separate treatment, although little agreement exists regarding exactly how separate the treatment should be or what it should consist of. There is still much disagreement among youngsters using labels such as PINS and JDs. In a 1975 study, the National Science Foundation found that a significant amount of charge and plea-bargaining actually occurred in family court, often taking the form of bargains involving the reduction of JD petitions to PINS petitions. These kinds of bargains, found in that study to be quite common, seriously undercut the validity of the adjudicatory labels.

The PINS jurisdiction has somehow become a vehicle for placing white upstate females, the bulk of whom will have been found to be ungovernable. It is conceivable that the label is still used upstate for dealing with problems which would not even be heard in a New York City family court--or, if heard, would not result in a placement with the Division for Youth (National Science Foundation, 1975).

The fact that PINS youngsters are as different as they are, and that so much confusion remains concerning the purpose of the jurisdiction, suggests that major changes may be in order.

To add further substance to the data gathered from the Division for Youth four-year population trend analysis, material collected on youth placed out of their homes in New York State referred to as The Out of Home Project--Children in Placement by the Council on Children and Families, a coordinating agency for Human Services located in the executive branch of government, will be discussed.

Findings of the Out of Home Study

In 1979, the New York State Council on Children and Families initiated a cohort tracking study designed to comprehensively examine youngsters placed out of home in New York State. Although the study has not yet been completed, a special analysis of some of their population data provides additional insight into the peculiarities of the PINS population.

The Out of Home study design consisted of a "snapshot" sampling of all youngsters in placement during the initial data collection phase of the study in 1979-1981. A total of 732 youngsters were currently in DFY placement, of which 140 or 19% were PINS (1983).

Out of Home data shows that PINS youngsters were much more likely to be female than were conventional (non-violent) juvenile delinquents (55% of the PINS were female, but only 12% of the JDs) [see Table 6]. In addition, the study corroborates the relationship between adjudication status and ethnicity found in our own investigation: while 60% of the PINS youngsters in placement were white, only 30% of the JDs were of the same ethnicity (see Table 7).

Perhaps the most interesting finding of the Out of Home study regarding PINS has to do with their assessment of the extent of behavior problems present while in placement. In a unique approach to data collection, Out of Home researchers captured behavior characterizations from program files, and through discussions with program staff. These data were then scored on a five-point scale assessing the extent of behavior problems. Table 8 arrays current adjudication status and

TABLE 6

CURRENT LEGAL STATUS BY CHILD'S SEX*

Adjudication	Sex		ROW TOTAL
	Male	Female	
None	39 (57.4)	29 (42.6)	68 (9.3)
Current Persons in Need of Supervision	63 (45.0)	77 (55.0)	140 (19.1)
Current Juvenile Delinquent Non-Violent	288 (88.3)	38 (11.7)	326 (44.5)
Juvenile Delinquent Violent	29 (80.6)	7 (19.4)	36 (4.9)
Juvenile Delinquent Restricted	22 (100.0)	0 (.0)	22 (3.0)
Current Juvenile Offender	70 (95.9)	3 (4.1)	73 (10.0)
Current Youthful Offender	42 (97.7)	1 (2.3)	43 (5.9)
Persons in Need of Supervision Pending	1 (50.0)	1 (50.0)	2 (.3)
COLUMN TOTAL	573 (78.3)	159 (21.7)	732 (100.0)

*Numbers in parentheses are percentages

TABLE 7

CURRENT LEGAL STATUS BY ETHNICITY*

Adjudication	Ethnicity				ROW TOTAL
	White	Black	Hispanic	Other or Unknown	
None	3 (23.1)	6 (46.2)	3 (23.1)	1 (7.7)	13 (12.4)
Current Persons in Need of Supervision	17 (63.0)	7 (25.9)	3 (11.1)	0 (.0)	27 (25.7)
Current Juvenile Delinquent Non-Violent	20 (42.6)	19 (40.4)	6 (12.8)	2 (4.3)	47 (44.8)
Juvenile Delinquent Violent	0 (.0)	4 (100.0)	0 (.0)	0 (.0)	4 (3.8)
Juvenile Delinquent Restricted	1 (25.0)	1 (25.0)	1 (25.0)	1 (25.0)	4 (3.8)
Current Youthful Offender	6 (100.0)	0 (.0)	0 (.0)	0 (.0)	6 (5.7)
Persons in Need of Supervision Pending	1 (100.0)	0 (.0)	0 (.0)	0 (.0)	1 (1.0)
Juvenile Delinquent Pending	2 (66.7)	1 (33.3)	0 (.0)	0 (.0)	3 (2.9)
COLUMN TOTAL ALL ADJUDICATION	50 (47.6)	38 (36.2)	13 (12.4)	4 (3.8)	105 (100.0)

*Numbers in parentheses are percentages

TABLE 8

CURRENT LEGAL STATUS OF BEHAVIORAL PROBLEMS*

Adjudication	Behavioral Problems				ROW TOTAL	
	None or Slight	Mild	Moderate	Severe Incident		
None	32 (47.1)	20 (29.4)	11 (16.2)	2 (2.9)	3 (4.4)	68 (9.3)
Current Persons in Need of Supervision	36 (25.7)	49 (35.0)	44 (31.4)	11 (7.9)	0 (.0)	140 (19.1)
Current Juvenile Delinquent Non-Violent	113 (34.7)	109 (33.4)	77 (23.6)	26 (8.0)	1 (.3)	326 (44.5)
Juvenile Delinquent Violent	20 (55.6)	5 (13.9)	8 (22.2)	2 (5.6)	1 (2.8)	36 (4.9)
Juvenile Delinquent Restricted	13 (59.1)	3 (13.6)	5 (22.7)	1 (4.5)	0 (.0)	22 (3.0)
Current Juvenile Offender	46 (63.0)	9 (12.3)	14 (19.2)	4 (5.5)	0 (.0)	73 (10.0)
Current Youthful Offender	24 (55.8)	10 (23.3)	6 (14.0)	3 (7.0)	0 (.0)	43 (5.9)
Persons in Need of Supervision Pending	1 (50.0)	1 (50.0)	0 (.0)	0 (.0)	0 (.0)	2 (.3)
COLUMN TOTAL ALL ADJUDICATION	292 (32.9)	209 (28.6)	173 (23.6)	53 (7.2)	5 (.7)	732 (100.0)

*Numbers in parentheses are percentages

extent of behavior problems for the 732 youngsters in DFY placement. The table shows that PINS youngsters were more likely than conventional JD youngsters to be scored as having moderate to severe behavior problems while in placement. In fact, of all the jurisdictions, with large enough samples, these youngsters were the most frequently rated as moderate to severe in behavior problems.

In summary, material presented in this chapter was guided by the research questions formulated from an analysis of the legislative intent of Article 7 of the New York State Family Court reviewed in Chapter IV.

The questions were constructed as follows:

1. If the stipulations that apply to PINS youth are uniformly applied, no differences should exist between male and female, white and non-white youth and between geographic regions within the state?
2. Are the PINS youth that are placed outside of their homes assured of treatment?
3. Are the PINS youth that come under the court's jurisdiction assured of a due process of law?

The data presented from the DFY population trend analysis and the Council on Children and Families Out of Home Study point out that:

1. There has been a decrease in the population of PINS and volunteer youngsters and an increase in the size of offender groups served over the period from 1978-1981.
2. PINS youth served more predominantly white from 1978-1981.
3. During this period (1978-1981), half of the PINS youngsters were females. (This is especially interesting when compared with the number of females classified as juvenile delinquents which was 10%.)

4. The PINS adjudication was used more so upstate than in New York City.
5. PINS youngsters were more likely than conventional JD youngsters to display moderate to severe behavior problems while in placement.

The data suggests that stipulations that apply to PINS youth are not uniformly applied, as more PINS youth are white compared to their JD counterparts, who are predominantly non-white. More females are adjudicated as PINS from upstate areas compared to their JD counterparts upstate and downstate.

The answers to the balance of the questions that guided the data collection for this chapter and the research questions that formed the basis for the study will be addressed in the next chapter.

CHAPTER VI

SUMMARY AND CONCLUSION

The purpose of this study was to analyze the legislative intent of New York's policy for handling non-criminal offenders, to find out is the intent being followed in practice and is what is being practiced serve the intent of the legislation.

The following research questions were formulated to place the Overriding Public Policy Issue as to what is the best process for the handling of youthful non-criminal offenders that come before the court into a framework for policy review:

1. What is the legislative intent of New York's policy for the handling of youthful non-criminal offenders who come under the court's jurisdiction?
2. Is the legislative intent being followed in practice?
3. Is what is being practiced serving the legislative intent?

Chapter IV presented a review of the New York State Family Court Act of 1962 and the events that led up to its enactment. In addition, an analysis of Article 7 of the Family Court Act that speaks to the state's policy for the handling of youthful criminal and non-criminal offenders that come under the court's jurisdiction was conducted.

Chapter V investigated the placement trends of JDs and PINS youth within the Division for Youth over a four-year period (1978-1981) to ascertain what was happening to the PINS population during this period.

This chapter will attempt to relate the intent of Article 7 of the Family Court Act as analyzed in Chapter IV with the data reviewed in

Chapter II (Literature Review), the Vera Institute's Family Disposition Study and the data investigated on the placement trends in the Division for Youth to determine what is happening to this population in answer to the research questions that formed the basis for this study.

The issue(s) which formed the basis for this study are summarized and addressed as follows:

1. What is the legislative intent of New York's policy for the handling of youthful non-criminal offenders who come under the court's jurisdiction?

An analysis of the Family Court Act and the events that led up to its enactment indicate that its objectives were:

- To create a court that would function as a special agency for the care and protection of the young;
- To separate criminal offenses from non-criminal offenses and handle non-criminal offenders differently from criminal offenders;
- To avoid stigmatizing youth who were adjudicated by changing the concept of youth court processing;
- To create a legal category (Persons in Need of Supervision) that would facilitate processes and structure a disposition based on the individual needs of the youth that would assist and help them rather than stigmatize or punish;
- To provide a legal structure to protect the rights of a child;
- To assure that the home satisfies a set of minimum standards as a suitable environment for a child to grow;
- To ensure that the youth and family receive adequate social services.

From an analysis of Article 7 of the Family Court Act, we have deduced that the legislative intents were:

- To provide a due process of law for criminal (JDs) and non-criminal offenders (PINS) that come under the court's jurisdiction and to protect the community from youthful criminal offenders.
- Youth classified as PINS would be afforded certain legal safeguards that are not afforded to JDs.

We, therefore, conclude that the legislature wanted to treat JDs and PINS differently by providing certain legal safeguards for PINS as opposed to JDs by providing certain dispositional outcomes for JDs, which can be construed as punishment for the youth involved and for the protection of the community.

2. Is the legislative intent being followed in practice?
3. Is what is being practiced serving the legislative intent?

The data reviewed in the Vera Study (1980) indicates there were 4,776 petitions filed in the Family Court in 1979 alleging that a youth was in need of supervision and that more cases were terminated at the court level before a finding of fact than survived to go on to the next step in the process. A paper prepared by the criminal justice coordinating council of the City of New York, entitled "Persons in Need of Supervision: A Policy Review and Recommendation," which gives commentary on the Vera Study, indicates that between intake and the fact-finding hearing, an additional 47% of the original cases will be withdrawn or dismissed. There are several reasons given for this outcome by the study, however. The major reason advanced by the researchers is that many parents become disillusioned with the process of the court and withdrew the PINS petitions. Among the major justifications

for the retention of the PINS jurisdiction is that it serves as a mechanism for the identification of "at risk" families and to subsequently provide services to those families. The study suggests that nearly everyone agrees that services are not delivered and are often not available (1982). The study draws a conclusion "that there is little empirical data on the quality, effectiveness or efficiency of the existing PINS system to support an argument either for or against its retention based solely on the supposition that service provision is assured" (1982, p. 18). Moreover, further analysis of the issue by revisiting the questions that the legislative analysis prompted and enumerated in Chapter IV--if the stipulations that apply to PINS youth are uniformly applied, no differences should exist between male and female, white and non-white youth and between geographic regions within the state? Are the PINS youth that are placed outside their homes assured of treatment? Finally, are the PINS youth that come under the court's jurisdiction assured of a due process of law?

First and foremost is the question of who are youth classified as PINS. An analysis of the data derived from the Vera Study depicts PINS youth as predominantly minority with a larger proportion of the sample being female when compared to their male counterparts in the delinquency sample conducted by Vera (1980). The majority of youth in the sample fall within the fourteen to fifteen year old age range and come from single parent homes (mothers only). The Division for Youth study identifies PINS youth on a statewide basis as predominantly white, and particularly white upstate females who fall within the age range of fourteen and fifteen year olds.

The Criminal Justice Coordinating Council, in their policy review paper (1982), suggests that there are three patterns involving the parents of PINS parents that come before the Family Court. The majority of parents appear to be overwhelmed by the impact of poverty situations. Secondly, there are those parents who want to abdicate their responsibility to the court and, finally, there is that group of families that truly have multi-problems and is looking to the court for help. Furthermore, the Council states in its paper that it is not surprising that the majority of cases are represented by the lower and most disadvantaged.

It has been hypothesized by many that there is a correlation between juveniles involved in PINS and delinquency cases which supports a position of keeping PINS under the jurisdiction of the court. The data from the Vera Study does not support this hypothesis. The Council Study cited that:

In fact, the Vera Study showed that only 21% of PINS cases had prior delinquency petitions. By contrast, 41% of these PINS had prior PINS contact with the court--mostly truancy allegations--suggesting that recidivism among PINS children is likely to be other status offense matters and not delinquency matters (1982, p. 13).

The analysis of data presented in the preceding Chapters (II and IV) indicate that there are factors other than offense behavior that influence the placement or non-placement of PINS youth.

The following factors are cited as possible determinates of the placement process of PINS youth:

Ethnicity: The data reveals that minority youth make up the largest ethnic distribution in the Vera PINS sample conducted in New York City. In addition, the Division for Youth study reveals that

non-minorities make up the largest percentage of non-offender groups compared with the fact that minorities occupy the largest percentage of placements within the offender categories.

Sex: The data derived from both studies (DFY and Vera) depict that females are subjected to a greater degree of PINS processing as compared to their male counterparts in the PINS sample.

Geography: Upstate courts utilize PINS processing to a greater degree than New York City courts, even though there has been a decrease in the upstate court's processing of PINS cases. In addition, the data reveals that upstate processes more non-minority and females in particular through PINS proceedings.

The Four-Year Trend Analysis depicting the placement of non-offenders and offenders with the Division of Youth from 1978-1981 indicates that there has been a significant decrease in the non-offender population as compared to the offender population. The Division of Youth is mandated by law not to co-mingle PINS and delinquents in programs designed for delinquents within the least restrictive environments (Ellery, C.). The New York State Council on Children and Families conducted a study of a sample of youth placed with DFY in 1971. The findings are discussed in the next section.

Findings of the Out of Home Study

In 1979, the New York State Council on Children and Families initiated a cohort tracking study designed to comprehensively examine youngsters placed out of home in New York State. Although the study

has not yet been completed, a special analysis of some of their population data provides additional insight into the peculiarities of the PINS population.

The Out of Home Study design consisted of a "snapshot" sampling of all youngsters in placement during the initial data collection phase of the study in 1979-1981. A total of 732 youngsters were currently in DFY placement, of which 140 or 19% were PINS (see Table 6, Chapter V).

Out of Home data shows that PINS youngsters were much more likely to be female than were conventional (non-violent) juvenile delinquents (55% of the PINS were female, but only 12% of the JDs). In addition, the study corroborates the relationship between adjudication status and ethnicity found in our own investigation: while 60% of the PINS youngsters in placement were white, only 30% of the JDs were of the same ethnicity (see Table 7, Chapter V).

Perhaps the most interesting finding of the Out of Home Study regarding PINS has to do with their assessment of the extent of behavior problems present while in placement. In a unique approach to data collection, Out of Home researchers captured behavior characterizations from program files, and through discussions with program staff. These data were then scored on a five-point scale assessing the extent of behavior problems. Table 8 (Chapter V) assays current adjudication status and the extent of behavior problems for the 732 youngsters in DFY placement. The table shows that PINS youngsters were more likely than conventional JD youngsters to be scored as having moderate to severe

behavior problems while in placement. In fact, of all the jurisdictions, with large enough samples, these youngsters were the most frequently rated as moderate to severe in behavior problems.

The literature review presented in Chapter II indicates that some states place non-criminal behavior under the delinquency section of the statutes; while in others, it is included within the dependency section. Yet in other states, it is a complete and separate section. The status offender at best is in a legal limbo as he/she is not a delinquent or a dependent child which, of course, raises the issue as to the proper relationship between the court and the status offender.

Those proponents of abolishing the PINS jurisdiction offer the point that the court is not a rehabilitative agency and cannot control juvenile crime or prevent status offenders from becoming juvenile delinquents and, in effect, the juvenile court unnecessarily criminalizes non-criminal misbehavior in its handling of status offenders. Moreover, the advocates of abolishment advance the argument that the juvenile court has historically processed and handled delinquents and status offenders in a similar fashion and "to wit" attack status offense jurisdiction on the legal grounds of void for vagueness, violation of equal protection, denial of right to treatment and unjust punishment of a condition.

The data revealed in a study conducted by the Citizens Committee for Children (1979) that PINS stay longer in institutional placement and in detention longer than their juvenile counterparts. These findings are also supported by data derived from a report of the

Administrative Board of the Office of Court Administration in New York City (1976).

Moreover, the Concept of Parens Patriae, which is the underpinnings of the Family Court Philosophy, focussed its approach on the child and not on society, as the framers of the family court structure believed that children should be treated differently from adults and, therefore, they created a special court to handle troubled youth.

In effect, the data derived from the literature review and the studies presented suggests that the present structure of the family court and the manner in which it processes cases of non-criminal offenders does not offer protection to society and does not necessarily provide for rehabilitation of youth as its role as the protector of the child and/or the protector of society from the child has become confused.

In summary, in regard to the findings articulated in this study, we can say that the legislative intent is clear as to the handling of youthful non-criminal offenders that come before the court. The legislature wanted to provide due process for JDs and PINS: differentiate between the legal processing for both groups by providing certain legal safeguards for PINS and certain dispositional outcomes for JDs, in an effort to afford protection for the community. The difficulty lies in the implementation of the law or what is actually happening in practice. Differences exist as to the legal processing between geographic regions within the state, who gets placed as opposed to whom is not placed and where and for how long. Therefore, in answer to

the questions, is the legislative intent being carried out in regard to PINS youth and is what is being practiced serving the legislative intent, the data suggests a "no" answer to both questions.

Conclusions

Current Trends in the Processing of Juvenile Crime. One cannot draw conclusions from any study or studies of the status offense jurisdiction without examining the current trend toward the country's attitude of the legal processing of youth who commit serious crimes and its subsequent impact on the Juvenile Justice System, as touched on in Chapter V.

The New York State Juvenile Act was passed in 1978 as purportedly the answer to serious or increasing juvenile crime.

For the first time since 1909, children accused of serious offenses are subject to prosecution in the criminal courts. The gradual decriminalization of delinquency, an evaluation that began a century-and-a-half ago has been reassessed (Sobie, 1981, p. 5). The study conducted by Meril Sobie of Pace Law School (1981) indicated that during the 1970s, increasing juvenile crime and the public perception of lenient sanctions prompted action for tougher punishments. In 1978, the Juvenile Offender Act was enacted which subjected youthful offenders to adult court processing. In effect, the adult court now has original jurisdiction over a certain category of crimes committed by youth from the age of thirteen and up, whereas, heretofore, their jurisdiction originated in the family court.

This is a significant development in the field of Juvenile Justice as evidenced by the increasing numbers of offenders placed with the Division for Youth when compared with a decrease in the non-criminal offender placements. In effect, society has become more community protection focussed rather than child care focussed.

To conclude this study, the following observations are offered. The PINS placements within the Division for Youth is a shrinking population. The questions that come to the forefront are: Should the Division for Youth be in the child care neglect business? What is a true PINS? Is the child the problem, or the parent, or a combination thereof? What treatment programs are available for PINS as opposed to JDs, since they are legally viewed as very different? The evidence indicates that there is very little.

Some of the inequities in the adjudication process in this regard are reflected in the fact that in the upstate areas, the courts often utilize the PINS Statute as a plea bargaining process for youth. The PINS proceeding is often utilized as a law and order statute for parents in upstate communities. Whereas in New York City, youth who commit crimes usually do not share this situation and are adjudicated as JDs.

A number of recent laws have been enacted that prohibit the co-mingling of youth adjudicated as juvenile delinquent and youth adjudicated as PINS in institutional settings. It was assumed that youth who were adjudicated under the PINS label would acquire worse habits if exposed and placed with a juvenile delinquent population.

One of the first questions one should ask in looking at the inequities in the system is: Has the Family Court intervention in the lives of PINS youth served an important public purpose? Usually in a juvenile delinquency proceeding, a parent is assisting the youth and is trying to rescue the youth from the court. The youth is afforded, in this proceeding, his/her due process rights--e.g., he/she is entitled to legal counsel, to know the charges being brought against him/her, he/she is able to bring witnesses to speak on his/her behalf, and he/she is entitled to have an appropriate hearing or trial--whatever the case may be. Whereas, his/her counterpart, the PINS, the parent is often looking to the court to rescue him/her from the youth. Specifically in the case of truants, the school and the parent are often in collusion with the court against the youngster. So the question here is whether the youth's rights are being violated. Moreover, the data suggests that an adjudication as a status offender has done little or nothing to ensure that treatment or help is being offered. After all, it was the original intent of the PINS Statute to help youngsters and not to punish them. More often than not, youth who are placed as PINS stay longer in institutional placements and in detention than their juvenile delinquent counterparts.

The assumption has been made that the basic tenet of a child care system is to help children, since they differ from adults in responsibility and, therefore, more of an attitude of humanity should characterize dealings with youthful transgressors of the law or societal norms. The juvenile justice system functions like a triage system--

the system must be able to discern between serious offenses and chronic offenders as opposed to less serious offenses and offenders. The system must distinguish between levels of offenses and offenders and provide for different kinds of processing and disposition, and the system must focus on those small numbers of cases that involve serious offenses by chronic offenders. Therefore, it can be posited that if the court is to adequately utilize its resources to effectively serve the population that falls within its legal mandate, then it should focus on the juvenile justice part of the system.

These observations lead to a conclusion that in looking at the child care (the social) aspect of the system, there needs to be some other mechanism inside and outside the Family Court System for this group of youngsters so they do not penetrate the juvenile justice system.

The data presented in this paper, regarding the jurisdiction of status offenders and the processing of these cases within the Family Court System, support a re-examination of the status offense category within the domain of the Family Court.

Being adjudicated as a status offender (PINS) has done little or nothing to ensure that treatment or help is being offered.

It was the original intent of the PINS statutes to help youth in this category and not to punish them.

The present structure of the system facilitates against the twin purposes of rehabilitation and protection of society within the context of individualized justice and constitutional rights.

These are statements that speak to the dissonance and the dilemma that exists within the Child Care System. How do we protect society from violent offenders on the one hand, and, on the other, provide rehabilitative services and treatment for those youth most in need. It is this writer's opinion that the resolution of this problem rests in the policy domain of the legislative branch of the government. A modification of the PINS statutes by revising the status offender statutes will go a long way to better serving this segment of the youth population.

C H A P T E R V I I
P O L I C Y R E C O M M E N D A T I O N S

As a public policy executive in the Juvenile Justice and Child Care field, it is difficult to design and implement programs because of the disparities in the system caused by the present labeling of youth. It is my opinion that a large percentage of youth who are classified as PINS should be handled outside of the court system and often do not require placement outside of the home. The data presented in this study gives substance to my position.

The Context

The original intent of the PINS jurisdiction within the Family Court Act was to help troubled youth since conceptually they differ from adults in responsibility and, therefore, should be treated differently within the legal system. In addition, the confusion surrounding the issues of how to treat criminal and non-criminal offenders in the Juvenile Court system remains as the center of controversy between proponents of a tougher legal system for delinquent behavior as opposed to a more socially focussed helping system. To maintain this jurisdiction within the Family Court structure, and how to deliver services to this population under its jurisdiction, is at the heart of the issue. The research presented in this document places the issues squarely in the public area for policy change.

At the crux of the problem is the overriding public policy issue of how to provide services to non-criminal offenders. Moreover, at the

center of this issue is the question of where services for youth in this category should be focussed and where the locus of control of these services should be situated.

A Fragmented Youth Service System

Who should be served, how they should be served and who should have top priority for service are the essential questions to be addressed in a human service system.

My observations over the last five years reveal that the majority of youth in the institutional settings of the Child Care System (public and private) are Black and Hispanic. A survey conducted by the Committee on Mental Health Services Inside and Outside the Family Court in New York City (1972) indicated that the inadequacy of treatment services in New York State hits hardest at poor children coming from broken families and at a disproportionate number of non-white children. The contributing causes to delinquency have been cited in many references culled from the literature in the field. If one were to look at one underlying cause of delinquency, this writer would cite poverty. The individual response to the lack of opportunity, disrupted family life, ineffective schools, a demeaning welfare system, and the lack of jobs produce the hopelessness of the youths in the Juvenile Justice System. The largest percentage of DFY youth come from urban areas. The deterioration of the cities is exacerbated by what Vernon Jordan (1978) describes as the new negativism, making the situation more hopeless, if that is possible. Jordan describes the new negativism as

anti-social in nature, suffocating the hopes of poor people and minorities. The new negativism surfaces around key issues like taxes, inflation, affirmative action and urban aid. Jordan says that it is a reactionary counter-revolution against positive social change. Today's youth growing up in this anti-social climate exemplify feelings of passivity, rage, worthlessness, and futility which render the individual less capable of taking advantage of the meager opportunities that are available. The end result is often crime.

The Child Care System parallels the public school system in urban areas in that the affluent (people with resources), the ethnic majority, have options to educate their children outside of the public system. Wider use is made of private and parochial schools. The public system must absorb the less-affluent and minorities. So it is with the Child Care and Juvenile Justice system--the public agencies--which have to provide services for disparate numbers of minority youth.

Dr. Jerome Miller, former Commissioner of Youth Services for the State of Massachusetts, elevates the issue of private vs. public care to the socio-political realm: "Public institutions have always been reserved for the poor and the poor have no other option." In the present environment of taxpayer equity, fiscal austerity and the fact that children do not vote, we find ourselves in an era of competing for scarce resources for children's services in a political system that has not responded to this population's needs. Moreover, the present structure of the Child Care System militates against an effective service delivery system. This condition is best summed up in a report of a

study of children services in New York City (Citizen's Committee for Children, 1979, p. 59).

The themes are presented as follows:

1. The Process of Marginalization

Youth do not fit into niches or labeling categories because of the way services are structured within the human services bureaucracy and are forced to exist outside of the mainstream of services.

2. Fragmentation

The lack of rational planning and coordination of services within and across service systems for youth, families and communities often exacerbate the problems of those most in need of services.

3. Isolation

The isolation of children from their families and communities; isolation of service consumers from service providers; isolation of agencies from their surrounding communities; and isolation of each of the different service systems.

4. Alienation

Alienation is the final theme which speaks to the alienation of children from the social institutions with which they interact; alienation of children's service professionals from the organization in which they are employed; and the alienation of large segments of the public from the political process.

It is no wonder, then, that the adjudication as a PINS youth does not ensure treatment which was the original intent of the law as it was written. This gap in the legislative framework for PINS has resulted historically in inappropriate placements, avoidance of responsibility for those who should be responsible (parents, community) and all at an excessive expense for taxpayers.

In view of these controversies, I will present two alternative programs to court processing that are in current operation and, finally, revisit the legal approach to the issue by making policy recommendations.

Community Programs for Status Offenders

Two examples of current programs for the Status Offender population include the following.

The Children's Hearing Project (Massachusetts Advocacy Center, 1982).

Using the concept of the Scottish Children's Hearing System for Children's cases, the Massachusetts Children's Hearings Projects started in August of 1980. This project attempts to improve the lives of the children and serve the community in Cambridge, Massachusetts. The project, in essence, was created as an alternative to the adversarial court process that exists in the Family Court in New York State. The project provides a forum for family problem-solving where parents and children can participate as equals through mediation. Observations of the court proceedings involving status offenders, as compared to delinquents, revealed that parents were the main initiators of the court process and permitted a minor role for the child who was the focus of the proceeding.

During the period covered in this report, 21 May 1981 to 1 April 1982, 92 families participated in the project, almost two-thirds of whom were referred by the courts. Review of ten months of referrals to this experimental program indicates that mediation relating to parent and child conflict shows promise, and that use of community volunteers has a significant impact on the parties involved in mediation.

Removing Status Offenders from Family Court: A Cross Systems Approach (PINS Diversion Project) [Rochester Monroe County Youth Board PINS Division Project, 1979]. Monroe County is a Western New York State community of approximately 700,000 individuals with the City of Rochester as the urban center of the area. During the period of 1979-1980, Monroe County was experiencing an increase in PINS and PINS-related behavior, coupled with the fact that the Division for Youth, one of the prime youth service providers for the county, was receiving fewer PINS youth in the system, the County had to look to its own resources.

To deal with the problem, the Youth Bureau* convened a steering committee of planning/funding agencies to address the issues. The group was made up of representatives from the County Department of Social Services, the Probation Department, and the State Division for Youth. The Committee recommended a four-tiered approach to the problem.

The PINS Diversion Services System (PINS Diversion Project).

Intake Services. A specialized PINS Diversion Service Unit was created. The unit operates as a distinct section of Family Court Probation Intake and provides centralized intake services for all PINS complainants (parents, schools, agencies) and youth. The unit is geared to immediate crisis-oriented family service and retains prime

*A Youth Bureau is an agency created by counties and cities or a town or village with a total population of 20,000 or more, and responsible to the chief executive thereof for the purpose of planning, coordinating and supplementing the activities of public, private and religious activities devoted to, in whole or in part, the welfare and protection of youth.

responsibility for diversion service for periods up to 120 days. Close ties are maintained between the PINS Service Unit and essential PINS services (respite housing, day services, and mediation, mental health services, etc.). Staffing includes two probation officers selected for their interest, experience and skills to provide service to youth and families in crisis. Also, an advocate/screener (non-probation officer) with expertise in truancy, suspension and dropout situations, policies and procedures within local school districts, works within the unit. In addition, another non-probation person, preventive worker, helps screen PINS-potential youth to determine whether they could be eligible for special services under the State Child Welfare Reform Act.

Truancy Intervention. Two-thirds of all PINS petitions have come from the Rochester City School District. In order to respond to this, the District Youth Bureau, Probation and Social Services staff have been working to develop new procedures that will place a priority on diversion. During the 1981-1982 school year, school building-level personnel responsible for attendance will be trained in the use of community agencies, and other alternatives to petition. At the central administrative level, the PINS diversion services (respite housing, mediation, day services, etc.) will be utilized as final diversion opportunities prior to petition. The advocate screener at Probation Intake (described above) will play a major role with the School District in averting petitions.

Respite Housing. Often parents file petitions because there are no alternatives for them and they do not want their child in the home.

This program offers a "cooling off" period of a few weeks while trained workers intervene with the family. Presently, the program consists of two group homes and four foster care beds. This was the first program initiated in the diversion process. Since March, 1980, when it started, 75% of the youth referred to the program by the Intake were not petitioned to court. The service agency is Hillside Children's Center (a private not-for-profit child care agency in Rochester, New York).

Day Services. While respite housing is an important element in the diversion scheme, it is an out-of-home placement. The day services program helps the youth and the family to continue living together with intensive in-home services offered. Convalescent Hospital for Children (Rochester, New York) operates the program with two youth workers who serve up to 60 PINS-potential youth referred from Intake.

PINS Services Coordination. A coordinator's position was seen as essential to maintain an adequate flow of responsive, effective services to youth across the barriers of several private and public service systems that participated in the Coordinated PINS Diversion Project. Coordination tasks include: establishing communication and close collaboration between participating agencies, other youth and family services systems, and the community; collecting and analyzing data, securing funding for evaluation, and monitoring all service components; linking funders and youth service planners; executing necessary studies, planning and developing additional services as needed. The coordinator is on the staff of the Youth Bureau.

PINS System Evaluation. A carefully designed and executed evaluation of the Coordinated PINS Diversion System is critical in order to assess impacts and costs of the voluntary services approach for PINS youth and in determining the usefulness of the county's approach as a model. During 1981-1982, the Center for Governmental Research in Rochester (New York) planned to conduct the evaluation.

The two-year planning process is complete and the evaluation process has just begun. The two programs presented reflect the attempts of advocacy groups and public officials to provide services for youngsters and families who need help. Both of the programs presented exist outside of the court processing system. There are other program models that need to be reviewed so that the system can match families and children in need of help with appropriate services.

In summary, the major issues presented by this study fall within two major areas--legal and social.

Within the legal domain, one must examine the structure of the court and the intention of the legislation that created it. Crime is a court function which is specialized. Rules and procedures within this framework often produce different outcomes than a socially-focussed court might produce. In constructing a statute, the intention is often based on the cause or necessity and even certain circumstances for making the statute. Circumstances change which often frustrate intent. Laws must be updated to reflect changing social conditions.

Within the social dimension, truancy, as an example, is the largest status offense allegation and is essentially a school issue. The lawful

control of minors is a family issue. In the status offense categories of truancy, incorrigibility, and runaways, institutionalization is more often not the answer to correct the situation. In effect, if the problem is not being addressed by the disposition, it should be removed. The problem has been identified as one of definition and delivery. If this is so, perhaps a redefinition of PINS is in order. Take the option of institutionalization away. If the system is threatened by the removal of the PINS jurisdiction, it may focus on the problem and resolve it.

My observations and biases lead me to conclude that in looking at the child care (the social) aspect of the system, there needs to be some other mechanism outside of, or maybe within, the Family Court System for this group of youngsters so they do not penetrate the juvenile justice system.

The data presented in this paper supports my position regarding the jurisdiction of status offenders and the processing of these cases within the Family Court System which is a revision of the status offense statutes in the State of New York.

Recommendations

Toward a Framework for Policy Development. In the absence of appropriate public policy for youth services, we, the human services workers, have all been witnesses to the inequalities, the inequities, the lack of access to the needed resources for youth at risk. The purpose of this section of this paper is to analyze policy development in the field of

Child Care and Juvenile Justice services. To accomplish this purpose, the components of a policy development model developed for exceptional children will be used (1979).

Policy Formulation.

1. Base Line. To establish a base, policies must be established that ensure the rights of individuals and communities which articulate society's philosophy and translate them into moral and legal obligations. It is at this level that we must revisit the basic premise that established the first juvenile court, as to treatment of children and adults within the legal system, within the present concerns of protection of the public and yet help youth who enter the juvenile justice system.

To address both components--Child Care concerns and Juvenile Justice mandates--we base our efforts on the principle of Justice and Equity (Justice and Equity for the Victim). There are essentially two victims. Delinquents have been victimized by society and they, in turn, make society their victims.

So this is our base--policies and laws that are just and equitable for youth and the community.

2. Level II--Resource Distribution. Resource Distribution refers to policies that require distribution of time, fiscal, human and material resources. This comes down to funding and appropriation which is translated into the commitment of resources necessary to put principle into practice.

3. Level III--Implementation. How does policy become practice? How are policies directed toward recipients/clients which goes back to our original question Intent (policy) and Outcome (practice)? Once laws are enacted, the operational units (Family Court and Division for Youth), and other appropriate service delivery systems must be given the resources to carry out the law and, in turn, be held accountable.

Policy Recommendation(s). In light of the data presented in this study pertaining to the Legislative Intent of Article 7 of the Family Court Act which defines New York's policy for processing cases of status offenders that come before the court--"to wit" Youthful Criminal Offenders (JDs) and Non-Criminal Offenders (PINS) should be legally treated differently. The article established certain legal procedural safeguards (client protective stipulations) for PINS youth and not for JD youth and conversely established certain criminal sanctions for JD youth and not for PINS youth. Moreover, PINS youth and JD youth are essentially different kids. The Out of Home Study, conducted by the Council of Children and Families, indicated that PINS youth (in placement) exhibited more moderate to severe behavior problems than their JD counterparts. The Vera Study indicated that more cases with PINS petitions were terminated at the Court level before a finding of fact and the actions of parents had more of an impact on the behavior of the youth as to the factors determining case outcome as compared to the delinquency sample which underscored the parent's role in the PINS cases. Furthermore, interviews with court actors (Family Judges,

Probation Officers, etc.), conducted by Vera researchers, revealed that they felt "hidden neglects" were at work in PINS proceedings exacerbated by complex situations with "multi-problem families."

The PINS proceedings, as presently used, lost most of the cases through the technical defects due to the inconsistencies in the process. The adversarial nature of the PINS proceedings often intensified parent/child isolation which is contrary to the overall purpose of the proceeding. By contrast in a juvenile delinquency proceeding, the youth is afforded his/her due process and is usually supported by the parent, whereas in a PINS proceeding, the parent is often looking to the court to rescue him/her from the youth. In addition, the data points out that PINS kids from upstate areas are essentially white and, in particular, white females, as compared to PINS kids from New York City who are predominantly minority. The difficulty obviously lies in the implementation of the law as differences exist as to the legal processing between geographic regions of the state.

Furthermore, factors such as sex, age and ethnicity are often the determining factors of who gets placed, as opposed to who is not placed, and where and for how long. It is for these reasons that a different mechanism must be established within the Family Court system to ensure service delivery to youthful non-criminal offenders. It is quite evident from the data presented that the family, however defined, must be involved in the intervention process for services for status offenders. It is within this context that I recommend the removal of the PINS label from the Family Court Act and replace it with A Family in Need of

Services (FINS) Jurisdiction. Several states have adopted this jurisdiction. The State of Iowa is one specific example. Any family member, including a child, may file a FINS petition for services. The Iowa Code shifts the responsibility from the child to the family.

In June of 1976, the Citizens Committee for Children of New York Inc. prepared a draft statute for Families in Need of Court Assistance. It is obvious that the draft did not advance in policy making circles; however, certain sections of the proposed statute are relevant to the proposed FINS jurisdiction (see Appendix).

Recommendations for Further Research. Since the truancy allegation represents the largest status offense in the sample population depicted in the study, there is a need to investigate the causation and propose alternatives to court involvement. As the avenue of first resort, one suggestion may even entail amending compulsory school attendance laws.

Summation. The results of the study point out the need for a further investigation as to the implementation of the state's policy for the handling of youthful non-criminal offenders who come under the Family Court Jurisdiction. Even though the legislative intent may be clear, the fact remains that if the policy is not working, one needs to re-examine that policy. It is, therefore, recommended that a Family in Need of Services (FINS) jurisdiction replace the present Persons in Need of Supervision (PINS) jurisdiction. It is hoped that the Temporary Commission to modify/codify the New York State Family Court Act that the legislature has established will take action in this area.

REFERENCES

Introduction

Reports of the National Assessment Center, A Preliminary National Assessment of the Status Offender and the Juvenile Justice System: Role Conflicts, Constraints, and Information. Office of Juvenile Justice and Delinquency Prevention, Law Enforcement Assistance Administration, U. S. Department of Justice, Washington, D.C., April 1980, pp. 12-13; 22-26.

Tofler, Alvin, The Third Wave, Bantam Books, 1981.

Chapter I

Bedell, Frederick, The Aftermath of Deinstitutionalization: What Next for PINS in New York State, Intervention Skills Forum New York State Division for Youth, Albany, New York, 3rd Edition, December 1980, pp. 28-34.

Bill Moyer's Journal, Judge: The Law and Frank Johnson, WNET Channel 13, New York City, 31 July 1980.

Chase, Edward, PINS: The Invisible Tragedy, Reprinted from the New York Affairs, Urban Periodicals, Inc., New York State Legislature Library, 1974, pp. 16-27.

Committee Reports, McKinney's Session Laws of New York, 1962, Besharov, "Practice Commentaries," pp. 3433-3435.

Court Jurisdiction Over Status Offenses, A Position Paper Prepared by the New York State Council of Voluntary Child Care Agencies, New York, 1978.

Failing Students--Failing Schools, A Report of the Statewide Youth Advocacy Project of New York Civil Liberties Union, Rochester, New York, 1978, pp. 95-105.

Family Court Act of the State of New York, Looseleaf Law Publications, Inc., New York, 1980, pp. 75-111.

In Re Gault, 387, U. S. 1 (1967).

Kent V. U. S., 541 556, (1966).

Lasher, Howard, Chairman, The Initial Report of the Temporary State Commission of Child Welfare of the New York State Legislature, 31 March 1980, p. 22.

New York Senate Research Service, Family Court: The System That Fails All, Task Force on Critical Problems for the Temporary Commission on Child Welfare, Albany, New York, 1977, pp. 1-4.

Pivin, Herman, Statutory Legitimacy in Juvenile Justice: A Study of PINS, Children's Aid Society, New York, 1978, pp. 1-13.

Reports of the National Juvenile Assessment Center, A Preliminary National Assessment of the Status Offender and the Juvenile Justice System: Role Conflicts, Constraints, and Information, Office of Juvenile Justice and Delinquency Prevention, Law Enforcement Assistance Administration, U. S. Department of Justice, Washington, D.C., April 1980, pp. 12-13; 22-26.

National Juvenile Law Center, Inc., Legislative Manual for the Second National Juvenile Justice Legislative Advocacy Conference, St. Louis, Missouri, 1979.

Rothman, Flora, and Whitman, Lois, Justice for Children: A Guide to Study on Action on the Juvenile Justice System in Your Community, National Council of Jewish Women, New York City, 1972, pp. 1-15.

Rubin, Ted, Juvenile Justice, Policy and Law, Goodyear Publishers, New York, 1979 (Chapter on MINS, PINS, CHINS, and JINS).

Sobie, Merril, The Juvenile Offender Act: A Study of the Act's Effectiveness and Impact on the New York Juvenile Justice System, Foundation for Child Development, New York, 1981, pp. 7-12.

Statewide Youth Advocacy, Inc., PINS Jurisdiction in New York State Today: Critique and Recommendation for Reform, Rochester, New York, 1982, p. 1.

The City and It's Children: A View of How New York Serves It's Children in 1979, A Report Prepared by the Citizen's Committee for Children, 1979, p. 54.

Vera Institute of Justice, Inc., Family Court Disposition Study, New York, 1980, pp. 427-490.

In Re Winship, 397, U. S., 385 (1970).

Chapter II

Family Court Act of the State of New York, Looseleaf Law Publications, Inc., New York, 1980, pp. 75-111.

Family Court Act of the State of New York, New York State Laws of 1962, Chapter 686, Eff. 1 September 1962, 185th Session New York State Library System, Albany, New York, pp. 3043-3132.

Government Studies and Systems, Inc., The Impact of Pennsylvania Act 41 on the Processing and Delivery of Services to Status Offenders, Philadelphia, Pennsylvania, 1980, S31275 (Abstract).

Governor's Special Task Force on Services to Troubled Adolescents, Report and Recommendations, Springfield, Illinois, 1981.

Handler, Joe, et al., Neither Angels Nor Thieves: Studies in Deinstitutionalization, National Academy Press, Washington, D.C., 1982.

In Re Patricia A., 31 New York 2nd, 83, New York State, 2nd 33 (1972).

Lindsay, Arthur, Status Offenders Need a Court of Last Resort, 57 Boston University Law Review (4): 631-644, July 1977, Trustee of Boston University, Boston, Massachusetts.

Levin, Mark, and Sarri, Rosemary, Juvenile Delinquency: A Comparative Analysis of Legal Codes in the United States, Ann Arbor, Michigan, University of Michigan, National Assessment of Junivele Corrections, 1974, pp. 61-80.

Marks, Randall D., Juvenile Non-Criminal Misbehavior and Equal Protection, Family Law Quarterly, Chicago, Illinois, 13 849, 1980, pp. 461-503.

National Advisory Committee on Criminal Justice Standards and Goals, Juvenile Justice and Delinquency Prevention, Washington, D.C., 1976, pp. 311-331.

National Council on Crime and Delinquency: Status Offenders and the Juvenile Justice System, An Anthology, 2nd Edition, Hackensack, New Jersey, 1978, pp. 3-5; 6-9.

National Juvenile Law Center, Inc., Legislative Manual for the Second National Juvenile Justice Legislative Advocacy Conference, St. Louis, Missouri, 1979.

- Reports of the National Juvenile Assessment Center, A Preliminary National Assessment of the Status Offender and the Juvenile Justice System: Role Conflicts, Constraints, and Information, Office of Juvenile Justice and Delinquency Prevention, Law Enforcement Assistance Administration, U. S. Department of Justice, Washington, D.C., April 1980, pp. 15-16.
- Rothman, Flora, and Whitman, Lois, Justice for Children: A Guide to Study on Action on the Juvenile Justice System in Your Community, National Council of Jewish Women, New York, 1972, pp. 1-15.
- Skuris, Stephen J., For Troubled Youth--Help, Not Jail, Hastings Law Journal (San Francisco, California) 31 (2): 539-561, 1979.
- U. S. National Institute for Juvenile Justice and Delinquency Prevention, Jurisdiction and the Elusive Status Offender: A Comparison of Involvement in Delinquent Behavior and Status Offenses, by Joseph Weir, et al., University of Washington, Center for Law and Justice, Washington, D.C., U. S. Government Printing Office, 1979, pp. 7-8.
- Vera Institute of Justice, Inc., Family Court Disposition Study, New York, 1980, pp. 423-496.
- In Re Winship, 397, U. S., 385 (1970).

Chapter III

- Carter, Robert, Legislative Intent in New York State, Legislative and Governmental Services, New York State Library, Albany, New York, 1981, pp. 2-6.
- Family Court Act of the State of New York, Looseleaf Law Publications, Inc., New York, 1980, pp. 74-111.
- Family Court Act of the State of New York, New York State Laws of 1962, Chapter 686, Eff. 1 September 1962, 185th Session New York State Library System, Albany, New York, pp. 3043-3132.
- Janis, Irving, The Problem of Validating Content Analysis, in H.D. Lasswell and N. Leites (Eds.), Language of Politics, New York, Stewart, 1949, pp. 55-82.
- Kaplan, A., and Goldsen, J., The Reliability of Content Analysis Categories, in H.D. Lasswell and N. Leites (Eds.), Language of Politics, New York, Stewart, 1949, pp. 83-112.

Legislation Information Bureau Bulletin, 8 February 1962, New York State Library System, Albany, New York, p. 29.

North, Robert, Content Analysis, Northwestern University Press, 1963, pp. 37-51.

Statewide Youth Advocacy, Inc., PINS Jurisdiction in New York State Today: Critique and Recommendation for Reform, Rochester, New York, 1982, p. 1.

Wapels, D., and Berelson, B., What the Voters Were Told: An Essay in Content Analysis, Graduate Library School, University of Chicago, 1941, p. 2 (Mimeographed).

Chapter IV

Children's Court Act, Chapter 547, Laws of 1922 of New York State, New York State Library, Albany, New York, p. 1850.

Everhart, Robert, From Universalism to Usurpation: An Essay on the Antecedents to Compulsory School Attendance Legislation, Review of Educational Research, Summer, 1977, Vol. 47, pp. 499-530.

Family Court Act of the State of New York, Looseleaf Law Publications, Inc., New York, 1980, pp. 74-111.

Family Court Act of the State of New York, New York State Laws of 1962, Chapter 686, Eff. 1 September 1962, 185th Session, New York Library System, Albany, New York, pp. 3043-3132.

In Re Ellery C., 32, New York 2d. 588, 300 NE. 2d. 424, 347 New York 2d. 51 (1973).

Janis, Irving, The Problem of Validating Content Analysis, in H.D. Lasswell and N. Leites (Eds.), Language of Politics, New York, Stewart, 1949, pp. 55-82.

Kaplan, A., and Goldsen, J., The Reliability of Content Analysis Categories, in H.D. Lasswell and N. Leites (Eds.), Language of Politics, New York, Stewart, 1949, pp. 83-112.

Lasher, Howard, Chairman, The Initial Report of the Temporary State Commission of Child Welfare of the New York State Legislature, 31 March 1980, p. 22.

Legislation Information Bureau Bulletin, 8 February 1962, New York State Library System, Albany, New York, p. 29.

McKinney's 1960 Session of Laws, 183rd Session, Brooklyn, New York, Thompson Company, Chapter 881 of the Laws of 1960 of the Laws of New York State (Executive Law, pp. 1416-1423).

McKinney's 1962 Session of Laws, 183rd Session, Brooklyn, New York, Thompson Company, Legislative Reports--Report of the Joint Committee on Court Reorganization, Message of the Governor, pp. 3424-3447.

McKinney's 1960 Session of Laws of New York, 183rd Session, Brooklyn, New York, Thompson Company, Messages of the Governor, pp. 2008-2009.

McKinney's 1956 Session of Laws of New York, 179th Regular Session, 1956, Brooklyn, New York, Youth Court Act, p. 1088.

North, Robert, Content Analysis, Northwestern University Press, 1963, pp. 37-51.

Reed, David, et al., Promises, Promises, Chicago Law Enforcement Study Group, Chicago, Illinois, 1981, pp. 41-42.

Wapels, D., and Berelson, B., What the Voters Were Told: An Essay in Content Analysis, Graduate Library School, University of Chicago, 1941, p. 2 (Mimeographed).

Chapter V

Annual Statistical Report--Program Operations, 1982, New York State Division for Youth, Albany, New York, pp. iii-iv.

Ellery C., 32 New York 2d. 588, Lovette M. Ct. of Appeals, 34 New York 2d., 136 (1973).

National Science Foundation (Grant #GI29727), Characteristics of Youngsters Referred to Family Court Intake and Factors Related to Their Processing, Paquin, et al., State University at Albany, New York, 1976.

New York State Division for Youth, Juvenile Contact System (JCS) Reports, Albany, New York, 1978-1982.

Sobie, Merrill, The Juvenile Offender Act: A Study of the Act's Effectiveness and Impact on the New York Juvenile Justice System, Foundation for Child Development, New York, 1981, pp. 7-12.

Out of Home Project, Survey of Children in Placement, New York State Council on Children and Families, Albany, New York, 1979.

Chapter VI

Criminal Justice Coordinating Council, The City of New York: Persons in Need of Supervision, A Policy Review and Recommendations Paper, New York, March 1980, pp. 16-20.

Ellery C., 32 New York 2d. 588, Lovette M. Ct. of Appeals, 35 New York 2d. 136 (1973).

The City and It's Children: A View of How New York Serves It's Children in 1979, A Report Prepared by the Citizen's Committee for Children, 1979.

Sobie, Merril, The Juvenile Offender Act: A Study of the Act's Effectiveness and Impact on the New York Juvenile Justice System, Foundation for Child Development, New York, 1981.

Vera Institute of Justice, Inc., Family Court Disposition Study, New York, 1980, pp. 427-490.

Chapter VII

Argust, Thomas, Removing Status Offenders from the Family Court: A Cross Systems Approach, The Forum, Council for Exceptional Children, Vol. 8, No. 1, Spring 1982, p. 12.

Committee on Mental Health Services, Inside and Outside the Family Court in the City of New York, Juvenile Justice Confounded: Pretension and Realities of Treatment Services, National Council on Crime and Delinquency, New Jersey, 1972, p. 5.

Higgins, Scottie, and Barresi, T., The Changing Focus of Public Policy, in The Journal of the Council for Exceptional Children, Vol. 45, No. 4, January 1979, pp. 270-284.

Jordan, Vernon, My Turn, Newsweek, August 1978, p. 8.

The Children's Project, A Program of the Massachusetts Advocacy Center, Cambridge, Massachusetts, May 1982.

The City and It's Children: A View of How New York Serves It's
Children in 1979, A Report Prepared by the Citizen's Committee
for Children, 1979, p. 54.

BIBLIOGRAPHY

- Angell, R., and Friedman, R., The Use of Documents, Records, Census Materials, in L. Festinger and D. Katy, Eds., Research Methods in the Behavioral Sciences, New York, Holt, Rinehart and Winston, 1953.
- Allinson, Richard, ed., Status Offenders and the Juvenile Justice System: An Anthology, 2nd ed., Hackensack, New Jersey, 1980.
- American Bar Association, Institute of Judicial Administration, Juvenile Justice Standards Project, Standards Relating to Non-Criminal Misbehavior, Ballinger Publishing Company, Cambridge, Massachusetts, 1977.
- Argust, Thomas, Removing Status Offenders from the Family Court: A Cross Systems Approach, The Forum, Council for Exceptional Children, Vol. 8, No. 1, Spring 1982.
- Bedell, Frederick D., The Division for Youth--An Agency in Transition, Albany, New York, 1978, ED 189 491.
- _____, New York State Division for Youth: Past and Present, The Forum, New York State Federation of Chapters of the Council for Exceptional Children, Vol. 8, No. 1, Spring 1982.
- Chase, Edward, PINS: The Invisible Tragedy, Reprinted from New York Affairs, Urban Periodicals, Inc., New York State Legislative Library, 1974.
- Chicago Law Enforcement Study Group, Promises, Promises . . . Does the Juvenile Court Deliver for Status Offenders? -- The Record in Cook County, Illinois, by David Reed and Others, Chicago, 1981.
- Committee on Mental Health Services, Inside and Outside the Family Court in the City of New York, Juvenile Justice Confounded: Pretensions and Realities of Treatment Services (1972), New York.
- Court Jurisdiction Over Status Offenses, A Position Paper Prepared by the New York State Council of Voluntary Child Care Agencies, New York, 1978.
- Emerson, Robert, Judging Delinquents, Aldine Publishing Company, Chicago, 1969.
- Erikson, Erik, Identity, Youth and Crisis, New York, N. W. Norton.

- Everhart, Robert, From Universalism to Usurpation: An Essay on the Antecedents of Compulsory School Attendance Legislation, Review of Education Research, Vol. 47, Summer 1977.
- Failing Students--Failing Schools, A Report of the Statewide Youth Advocacy Project of the New York Civil Liberties Union, Rochester, New York, 1978.
- Family Court Act of the State of New York, Laws of New York State 1962, Ch. 686, Effective 1 September 1962, as Amended Through the 1976 Legislature, 1978-79, Bender Pamphlet Edition, New York, Matthew Bender and Company, 1978.
- Fogel, David, We Are the Living Proof: The Justice Model for Corrections, Anderson Publishing Company, New York, 1975.
- Galaway, B., and Hudson, J., Offender Restitution in Theory and Action, Heath Company, 1978.
- Garlock, Peter E., "Wayward" Children and the Law, 1820-1900: The Genesis of the Status Offense Jurisdiction of the Juvenile Court, Georgia Law Review (Atlanta, Georgia), 13 (2): 1979.
- Illinois, Governor's Special Task Force on Services to Troubled Adolescents, Report and Recommendations, Springfield, Illinois, 1981.
- Institute of Judicial Administration Juvenile Justice Standards Project, Standards Relating to Non-Criminal Behavior, Cambridge, Massachusetts, Ballinger Publishing Company, 1982.
- Jordan, Vernon, My Turn, Newsweek, August 1978.
- Kahn, Alfred, Theory and Practice of Social Planning, Russell Sage Foundation, 1969.
- _____, Studies in Social Policy and Planning, Russell Sage Foundation, 1969.
- Lasher, Howard, Chairman, The Initial Report of the Temporary State Commission of Child Welfare of the New York State Legislature, 31 March 1980.
- Legislation Information Bulletin, 8 February 1962, New York State Library.
- Legislative Manual for the 2nd National Juvenile Justice Legislative Advocacy Conference, St. Louis, Missouri, November 1979.

- Lermon, Paul, Delinquency and Social Policy, Praeger Publishers, New York, 1970.
- Levin, Mark, and Sarri, Rosemary, Juvenile Delinquency: A Comparative Analysis of Legal Codes in the United States, Ann Arbor, Michigan, University of Michigan, National Assessment of Juvenile Corrections, 1974.
- Lindzies, G. Aronson, ed., The Handbook of Social Psychology, 2nd edition, Reading, Massachusetts, Addison-Wesley Publishing Company, Vol. II, Chapter 16, 1968.
- Marks, Randall D., Juvenile Non-Criminal Misbehavior and Equal Protection, Family Law Quarterly (Chicago), 13 (4): 1980.
- McKession, Laws of New York, 1922, Ch. 547, Brooklyn, New York.
- McKinney's 1956 Session Laws of New York, 179th Regular Session 1956, Brooklyn, New York.
- McKinney's 1960 Session Laws of New York, 183rd Session, Brooklyn, New York.
- McKinney's 1962 Session Laws of New York, 185th Session, Brooklyn, New York.
- Murphy, Patrick, Our Kindly Parent the State: The Juvenile Justice System and How It Works, New York, Viking Press, 1974.
- National Commission on Youth, The Transition of Youth to Adulthood: A Bridge Too Long, A Report to Educators, Sociologists, Legislators, and Youth Policymaking Bodies, Boulder, Colorado, Westview Press, 1980.
- National Council on Crime and Delinquency, Status Offenders and the Juvenile Justice System: An Anthology, New Jersey, 2nd edition, 1980.
- National Juvenile Justice Program Collaboration, Program Models, New York, National Assembly of National Voluntary Health and Social Welfare Organizations, 1978.
- National Science Foundation, Characteristics of Youngsters Referred to Family Court Intake, Albany, New York, National Science Foundation, 1975.
- Neither Angels Nor Thieves: Studies in Deinstitutionalization of Status Offenders, Handler, Joel, et al., National Academy Press, Washington, D.C., 1982.

- Office of Children's Services, Judicial Conference of the State of New York, Juvenile Injustice, New York, 1973.
- Ohio Youth Commission, A Statistical Inquiry into Length of Stay and the Revolving Door, Columbus, Ohio, 1974.
- Out of Home Project, Survey of Children in Placement, New York State Council on Children and Families (Working Document), Albany, New York, 1982.
- PINS Legislation: A Look at the Current System and Alternatives for New York State, A Report of the Statewide Youth Advocacy, Inc., Rochester, New York, 1979.
- Pivin, Herman, Statutory Legitimacy in Juvenile Justice: A Study of PINS, Children's Aid Society, New York, 1978.
- Platt, Anthony, Child Savers, University of Chicago, 1969.
- Rector, Milton G., Assisting the Status Offender, Child Welfare, 58 (8): 1979.
- Rein, Martin, Social Science and Public Policy, Penguin, New York, 1976.
- Remington, et al., Criminal Justice Administration, Materials and Cases, Contemporary Legal Education Series, Merrill Company, 1969.
- Report to the Governor, Governor's Panel on Juvenile Violence, Albany, New York, 1976.
- Rochester-Monroe County Youth Board, PINS Diversion Project, Rochester, New York, 1979.
- Romig, Dennis, Justice for Our Children, D.C. Heath, Massachusetts, 1978.
- Rosenheim, Margaret, ed., Pursuing Justice for the Child, University of Chicago Press, 1976.
- Rothman, Flora, and Whitman, Lois, Justice for Children: A Guide to Study on Action on the Juvenile Justice System in Your Community, National Council of Jewish Women, New York, 1972.
- Rubin, Ted, Juvenile Justice Policy, Practice and Law, Goodyear Publishers, 1979.

- Schur, Edwin, Radical Non-Intervention: Rethinking the Delinquency Problem, Prentice-Hall, New Jersey, 1973.
- Serrill, Michael, Juvenile Corrections in Minnesota, Corrections Magazine, Vol. II, No. 2, November/December, 1975.
- Skuris, Stephen J., For Troubled Youth--Help, Not Jail, Hastings Law Journal (San Francisco, California), 31 (2): 1979.
- Soloman, L., and Lander, Compulsory Schooling: An Economic Analysis of Law and Social Change in the 19th Century, Journal of Economic History, 1972.
- Spergel, Irving A.; Lynch, James P.; Korbelik, John, Deinstitutionalization in Illinois: The Case for Removal of Status Offenders from Court Processing, Chicago, University of Chicago School of Social Service Administration, 1980.
- Stambler, M., the Effect of Compulsory Education and Child Labor Laws on High School Attendance in New York City--1898-1917, History of Education Quarterly, 1968 (Studies in Urban Education II, Summer 1968).
- The Children's Hearing Project, A Program of the Massachusetts Advocacy Center, Cambridge, Massachusetts, May 1982.
- The City and Its Children: A View of How New York Serves Its Children in 1979, A Report Prepared by the Citizen's Committee for Children, 1979.
- The Impact of Pennsylvania's Act 41 on the Processing and Delivery of Services to Status Offenders, Prepared by Government Studies and Systems, Inc., Philadelphia, Pennsylvania, October 1980.
- Tyach, David, Ways of Seeing: An Essay of the History of Compulsory Schooling, Harvard Educational Review, Vol. 46, No. 3, August 1976.
- U. S. National Institute for Juvenile Justice and Delinquency Prevention, Jurisdiction and the Elusive Status Offender: A Comparison of Involvement in Delinquent Behavior and Status Offenses, by Joseph Weir and Others, University of Washington, Center for Law and Justice, Washington, D.C., U. S. Government Printing Office, 1979.
- Vachss, Andrew, and Bobal, Y., The Life Style Violent Juvenile, D. C. Heath, 1979.

- Van Dusen, Katherine T., Net Widening and Relabeling: Some Consequences of Deinstitutionalization, American Behavioral Scientist (Beverly Hills, California), 24 (6): 801-810, 1981.
- Vera Institute of Justice, Family Court Disposition Study, New York, 1980.
- West, E. G., The Political Economy of American Public School Legislation, Journal of Law and Economics, 1967.

APPENDICES

APPENDIX A: GLOSSARY

APPENDIX B: CHRONOLOGY OF CHILD LABOR, COMPULSORY ATTENDANCE AND
EDUCATION LEGISLATION IN NEW YORK STATE

APPENDIX C: FAMILY COURT CASE PROCESSING FORMAT

APPENDIX D: QUESTIONNAIRE--OUT OF HOME PROJECT, SURVEY OF CHILDREN
IN PLACEMENT

APPENDIX E: FAMILY COURT ACT OF THE STATE OF NEW YORK, LAWS OF 1962,
CH. 686 - ARTICLE 7

APPENDIX F: RELATIVE SECTIONS OF EDUCATION LAW PERTAINING TO
INSTRUCTION AND ATTENDANCE

APPENDIX G: CONTENT ANALYSES--CATEGORIZATION CODING SHEET FOR
ARTICLE 7--FAMILY COURT ACT--CH. 686-1962, AMENDED
19 AUGUST 1978

APPENDIX H: EVOLUTION OF THE NEW YORK STATE DIVISION FOR YOUTH AS
THE STATE'S JUVENILE JUSTICE AND CHILD CARE AGENCY

APPENDIX I: JUVENILE CONTACT SYSTEM

APPENDIX J: DRAFT STATUTE FOR FAMILY IN NEED OF COURT ASSISTANCE

APPENDIX A

GLOSSARY

- ADJOURN: An order to postpone case activity to another day.
- ADJOURNMENT IN CONTEMPLATION OF DISMISSAL (ACD): A dismissal of the petition to take effect at some time in the future, usually six months, if the same or other misbehavior does not occur in the interim.
- ADJUDICATE: To hear and determine the truth of the facts alleged in the petition.
- ARREST: In some proceedings in the Family Court, a juvenile may be taken into custody and detained in an appropriate facility when his or her parents are unknown or cannot be reached. The Family Court Act authorizes the taking of juveniles into custody but refers to this as "custody and detention," rather than arrest.
- COURT INTAKE HEARING: The initial appearance(s) before a judge at which time the petition is read, rights explained, attorneys assigned, charges explained and future hearing dates set.
- CRIME: A crime is an offense punishable by more than fifteen days in jail. A felony and a misdemeanor are crimes; a violation, punishable by no more than fifteen days in jail, is not a crime.
- CRIMINAL COURT (City Court, County Court, Supreme Court): A criminal court is one in which adults accused of violations and crimes are informed of their rights, tried, and sentenced.
- DESIGNATED FELONY ACT: An act committed by a person thirteen, fourteen, or fifteen years of age which, if done by an adult, would be one of the following crimes:
1. Murder in the first degree; murder in the second degree; kidnapping in the first degree; or arson in the first degree. (These are also known as designated class A felony acts when committed by a person thirteen to fifteen years old.)
 2. Assault in the first degree; manslaughter in the first degree; rape in the first degree; sodomy in the first degree; kidnapping in the second degree (but only where the abduction involved the use or threat of use of deadly physical forces); or robbery in the first degree.

3. Attempt to commit murder in the first or second degree or kidnapping in the first degree.

The following are also designated felony acts when committed by a fourteen or fifteen year old:

1. Burglary in the first or second degree; or robbery in the second degree.
2. Assault in the second degree or robbery in the second degree but only where there has been a prior finding by a court that the person has previously committed an act which would constitute assault in the second degree, robbery in the second degree or any designated felony listed in paragraph 1, 2, or 3 above.

In addition to the above-mentioned classes, any person between the ages of seven and sixteen who commits an act which would be a felony if committed by an adult, commits a designated felony act if there have been two prior findings by the court that such person has committed acts which would be felonies if committed by an adult.

DIVISION FOR YOUTH: The agency responsible for the maintenance of state facilities for the detention of juveniles committed to its care.

FACT-FINDING HEARING: In the case of a petition to determine delinquency, a hearing to determine whether the respondent did the act alleged in the petition which, if done by an adult, would constitute a crime. In the case of a petition to determine need for supervision, a hearing to determine whether the respondent did the act alleged to show that he/she violated a law or is incorrigible, ungovernable or habitually disobedient and beyond the lawful control of his/her parents, guardian or legal custodian.

FAMILY COURT: The Family Court is the court which in New York State has the power (jurisdiction) to hear cases concerning youngsters who violate the penal law or who are in need of supervision, neglected, abused, or handicapped. It also hears support, paternity, custody, adoption, and family offense petitions. It is a civil court (not a criminal court).

FELONY: A felony is an offense punishable by more than one year in jail. Examples are murder, robbery, first degree assault.

INCAPACITATION: Protects society by removing the offender.

INVESTIGATION AND REPORT: A report prepared by the Probation Department by order of a Family Court judge of a respondent's past behavior and likely chances for rehabilitation. This report is used by the judge in deciding what kind of dispositional order to make.

JUVENILE DELINQUENT: A person at least seven years of age and less than sixteen years of age who commits an act that, if done by an adult, would constitute a crime.

JUVENILE OFFENDER ACT: The law which established that youths between the ages of thirteen and fifteen could be criminally responsible for committing designated felony acts.

JUVENILE JUSTICE SYSTEM: The New York State Juvenile Justice System is made up of a number of private and public agencies--the Policy Department, the Family and Criminal Court System, the Department of Probation, the Department of Social Services, and the New York State Division for Youth.

MISDEMEANOR: A misdemeanor is an offense which is punishable by more than fifteen days but not more than one year in jail. Examples are petty larceny and unlawful assembly.

NON-SECURE DETENTION FACILITY: A facility characterized by the absence of physically restricting construction, hardware and procedures.

ORDER OF PROTECTION: An order issued by a judge directing that a parent, guardian, spouse or other member of a household provide proper care for, or refrain from menacing, another family or household member.

PANEL ATTORNEY: An attorney who is chosen from a list of attorneys approved by the Appellate Division of the Supreme Court to represent respondents in certain Family Court proceedings. In New York City, these attorneys are known as 18(b) attorneys.

PENAL LAW (Code): The statute that defines behavior that, when engaged in by an adult and certain juveniles, is punishable by imprisonment, fine or probation.

PERSONS-IN-NEED-OF-SUPERVISION (PINS): A male or female less than sixteen years of age who does not attend school, is incorrigible or is habitually disobedient and beyond lawful control of parent or guardian or other lawful authority. These acts if committed by an adult would not constitute a crime.

PETITION: The written document which forms the basis for a Family Court proceeding.

PROBATION INTAKE: That branch of the Department of Probation which is authorized to interview petitioners and respondents before any contact with the court to see if the matter can be resolved without referral to the court. This out-of-court resolution is called "adjustment." Probation cannot compel anyone to appear nor deny anyone access to court.

PUNISHMENT: Sanctions that are meted out quickly so that the end result will be to make a criminal career too costly.

REHABILITATION: Rehabilitation is based on the premise that something is wrong with the offender and he can be helped by matching his/her problems to a treatment modality.

RE-INTEGRATION: Offenders get into trouble because of situational factors. The strategy used for offenders is to assist him/her to cope with the stresses in his/her environment.

REMAND: An order by the judge that a child be kept at a detention facility while awaiting a hearing.

RESPONDENT: The person who is equivalent to the defendant in a criminal proceeding.

RESTRICTIVE PLACEMENT: Detention of youths found to be juvenile delinquents in secure facilities for specified length of time.

SECURE DETENTION FACILITY: A facility characterized by physically restricting construction, hardware and procedures.

VIOLATION: A violation is an offense which is punishable by not more than fifteen days in jail. Examples are disorderly conduct, loitering, trespass, use of fireworks, and certain administrative code violations.

VOLUNTARY AGENCIES: Voluntary agencies are private, non-profit facilities offering residential care for Juvenile Delinquents and PINS. DFY is responsible for supervision of 43 of these agencies.

WARRANT/SUMMONS: A court order requiring either the arrest or the appearance in court of an individual.

Positions and Personnel in the
Family Court in New York City

ADMINISTRATIVE JUDGE: There is one in New York City.

ASSISTANT ADMINISTRATIVE JUDGE: There is one in each county.

JUDGE: There are thirty-nine Family Court judges in New York City.

CLERK OF THE COURT: The clerk of the court is responsible for all non-judicial functions in a particular county (personnel, reports, interagency contacts, public contacts).

CLERK OF THE PART: The clerk of the part "manages the part" under the supervision of the judge. The clerk is responsible for the functioning and supervision of the non-judicial personnel. In addition, the clerk will confirm:

1. Presence of all parties;
2. Whether the case is ready to proceed to a fact-finding or dispositional hearing;
3. A date for the next appearance if the case is to be adjourned.

LAW GUARDIAN: A law guardian is an attorney assigned by the judge to represent a juvenile or the respondent.

ASSISTANT CORPORATION COUNSEL: The Assistant Corporation Counsel works for the city and acts as a "prosecutor" in delinquency petitions. He/she represents the petitioner in paternity and support matters, represents the city in handicap petitions and represents the petitioner in some PINS petitions.

COURT LIAISON OFFICER: The court liaison officer provides abstracts of hearings for the Probation Department records and forwards judges' instructions to agencies. He/she is a probation officer.

UNIFORMED COURT OFFICER: If there is adequate personnel, the functions are split; one court officer maintains decorum and security, and the "bridgeman" calls the calendar and maintains case sequence and order of business.

COURT RECORDER: The court recorder makes a stenotype record (official) of all proceedings, marks and stamps all exhibits and evidence offered to the court and prepares transcripts of proceedings.

Personnel and Their Roles
(Outside New York City)

ADMINISTRATIVE JUDGE: There is one in each county.

JUDGE: There are seventy-nine judges outside New York City. Some Family Court judges also act as County Court judges, and in some counties there are "three hat" judges who sit as Family Court, County Court and Surrogate's Court judges.

LAW GUARDIAN: A law guardian is assigned by the judge to represent the juvenile or the respondent.

THE CLERK: The clerk verifies that case files and reports are placed before the judge, writes down for the record what the judge decides, sets new court dates, prepares referral forms for Probation and other agencies, and keeps track of open dates in case a date for another hearing is needed. The clerk may leave the courtroom to get additional files or perform other necessary errands.

CLERICAL STAFF: Counties with full-time Family Courts employ several persons who function primarily outside the courtroom. They perform such tasks as: preparing petitions; setting up case files; sending out appearance notices; typing and mailing all of the various orders, warrants, and other papers which result from the judges' orders; and maintaining required statistical records. They may occasionally enter to confer with the judge or clerk during breaks in the proceedings.

COUNTY ATTORNEY: Family Court is technically a civil court. Therefore, the county's civil lawyer (the County Attorney) rather than its criminal lawyer (the District Attorney) presents the "people's case" in Family Court. The Juvenile Justice legislation of 1976, recognizing the "quasi-criminal" nature of delinquency proceedings, has authorized the District Attorney to "lend" one of his/her assistants to the County Attorney to help with delinquency cases.

COURT REPORTER: The court reporter makes a verbatim record of everything that goes on in the courtroom. He/she may use shorthand or a stenotype machine for this purpose.

COURT ATTENDANT: The court attendant calls parties from the waiting area and escorts them into the courtroom, announces their names to the judge and may administer oaths when required.

APPENDIX B

CHRONOLOGY OF CHILD LABOR, COMPULSORY ATTENDANCE AND EDUCATION
LEGISLATION IN NEW YORK STATE (STAMBLER 1968)*

1850-1900

Child Labor Laws

Child Labor Laws of 1886 provided for penalties for children under the age of thirteen who worked in factories. In 1889, the law raised the working age up to fourteen and it also added a literacy requirement for children under sixteen.

Compulsory Education/Attendance Laws

The Compulsory Education Law of 1894 required children from eight to twelve years to be in full-time attendance. However, children from twelve to fourteen were permitted to work if they attended school full-time for a specified period of time on a consecutive basis. Children over fourteen were not required to attend school.

1900-1950

Child Labor Laws

In 1903, the Newsboy and Street Trades Law prohibited children to work during school hours and at night in these trades. Also in 1903, the Board of Health was authorized to issue working certificates to youth over fourteen who were enrolled in school.

*Moses Stambler, The Effect of Compulsory Education and Child Labor Laws in High School Attendance in New York City--1898-1917, Studies in Urban Education II, Summer 1968.

Compulsory Education/Attendance Laws

In 1903, the integration of concepts between the Compulsory Education of Child Labor Laws were enacted. The Compulsory Education Law of 1903 extended compulsory education from fourteen to sixteen and at the same time, raised the legal working age to fourteen. Only graduates of elementary school were allowed to go to work and if any youth dropped out of school prior to completion of school, he/she could work if they were between ages fourteen and sixteen and attended an evening school for a prescribed number of hours per week. After sixteen, youth could work full-time without attending school.

In 1909, the law changed the starting age of pupils from seven to eight years. It also allowed non-elementary school graduates between ages fourteen to sixteen to comply with school attendance laws by going to evening school for a prescribed period of time.

In 1908, a Census Board was developed for New York City, Buffalo and Rochester with a mandate to maintain a permanent file on children between the ages of fourteen and sixteen.

In 1914, a Bureau of Attendance was organized in New York City to coordinate and increase the effectiveness of Compulsory Education Laws.

In 1917, Compulsory Attendance Laws and Work Certificate Laws were enacted which changed the minimum educational requirements of those seeking work and required youth between twelve and fourteen to get working certificates.

APPENDIX C

FAMILY COURT CASE PROCESSING FORMAT

Juvenile Delinquency Proceeding (JD)
(Non-Designated Felony)

Intake

1. a. Police may take a person into custody and if he/she is under 16, must notify parent.
- b. If the youth taken into custody is not released to the parent, he/she is sent to a detention facility.

Petition

2. A petition is sent to a probation Intake Office who has discretion whether or not to send the case to court. If the case is not sent to court, it is often adjusted. Adjustments can be a referral for a particular service, e.g., counseling, etc.

Family Court

3. After a petition is filed, the Judge may detain or release the youths, depending on the circumstances. This is usually done at a fact finding hearing where all the material or evidence is presented by all parties concerned.

Person(s) in Need of Supervision Proceeding
(PINS)

Intake

1. A parent or other lawful authority (school official, etc.) must file a petition with the court, spelling out the reasons/charges for filing the petition.

Petition

2. A petition is sent to a probation Intake Office who has discretion whether or not to send the case to court. If the case is not sent to court, it is often adjusted. Adjustments can be a referral for a particular service, e.g., counseling, etc.

Family Court

3. After a petition is filed, the Judge may detain or release the youths, depending on the circumstances. This is usually done at a fact finding hearing where all the material or evidence is presented by all parties concerned.

Juvenile Delinquency Proceeding (JD)
(Non-Designated Felony)

Disposition/Placement

4. The Disposition hearing determines whether the youth in question requires supervision, treatment or confinement.

The Judge has the following options (depending on outcome of the hearing):

- a. Dismissal
- b. Probation
- c. Suspend judgement of the case
- d. Placement
 1. At home
 2. Department of Social Services
 3. Division for Youth
- e. Restitution
- f. Office of Mental Health (if emotional problems are paramount)

Person(s) in Need of Supervision Proceeding
(PINS)

Disposition/Placement

4. The Disposition hearing determines whether the youth in question requires supervision, treatment or confinement.

The Judge has the following options (depending on outcome of the hearing):

- a. Dismissal
- b. Discharge with warning
- c. Placement
 1. At home
 2. Department of Social Services
 3. Division for Youth
 4. Probation up to 1 year

APPENDIX D

OUT OF HOME PROJECT

SURVEY
of
CHILDREN in PLACEMENT

NEW YORK STATE COUNCIL ON
CHILDREN AND FAMILIES

ILENE MARGOLIN
Executive Director

JOSEPH J. COCOZZA, PH.D.
Director, Research Bureau

ROBERT P. INGALLS, PH.D.
Out of Home Project Coordinator

HAROLD C. ABRAMS, M.S.
*Downstate Project Manager,
New School for Social Research*

BARRY J. DULBERG, M.S.
Research Associate

BARBARA L. KAIL, M.S.
Research Associate

NEW YORK STATE COUNCIL on CHILDREN and FAMILIES
 OUT OF HOME PROJECT
 SURVEY OF CHILDREN IN PLACEMENT

1 1

6

8

12

MO DAY YR

18 .

1. Project Case Number
2. Data Collector Code
3. Facility Code
4. Today's date
5. Facility Type (Codes from Appendix A)

1 DEMOGRAPHIC INFORMATION

21

MO DAY YR

27

28

29

30

31

33

6. Child's date of birth
7. Child's sex
 - 1 Male
 - 2 Female
8. Child's ethnic group (if child is multiracial, indicate group with which child identifies)
 - 1 Black
 - 2 White
 - 3 Oriental
 - 4 Native American (Indian)
 - 5 Other (specify) _____
 - 9 Unknown
9. Is child of Hispanic or Spanish origin?
 - 1 No
 - 2 Yes, Puerto Rican
 - 3 Yes, other
 - 4 Yes, unspecified
 - 9 Unknown
10. Child's Religion
 - 1 Protestant
 - 2 Catholic
 - 3 Jewish
 - 4 Other (specify) _____
 - 5 None
 - 9 Unknown
11. County of financial responsibility (if no county of financial responsibility, county from which child was placed) (Codes from Appendix B)

12. County in which child is currently placed (Codes from Appendix B)

35 36 37

MO	YR

MO	YR

11

AT TIME OF PLACEMENT	AT PRESENT TIME

 43

AT TIME OF PLACEMENT	AT PRESENT TIME

13. Child's language

- 1 English only
- 2 Bilingual English-Spanish
- 3 Bilingual English-Other
- 4 Spanish, with limited or no understanding of English
- 5 Other, with limited or no understanding of English

Specify _____

- 6 Child has no language

14. Is child legally freed for adoption?

- 1 No
- 2 A request to free the child for adoption has been made, and proceedings are pending
- 3 Yes
- 9 Unknown

15. If child has been freed, date that child was freed

16. Natural family (if the child has been legally adopted, and then placed out of the adoptive home, the adoptive family is the natural family)

- 01 Mother and father living together
- 02 Mother only (father dead, missing, unknown, or completely uninvolved with child and not living with mother)
- 03 Father only (mother dead, missing, unknown, or completely uninvolved with child and not living with father)
- 04 Mother is family of interest, but father is somewhat involved
- 05 Father is family of interest, but mother is somewhat involved
- 06 Mother and step-father* are family of interest, natural father is somewhat involved
- 07 Father and step-mother* are family of interest, natural mother is somewhat involved
- 08 Mother and step-father only*
- 09 Father and step-mother only*
- 10 A relative is responsible for the child and is family of interest (specify below)
- 11 Other (specify below)
- 12 Child has no family
- 99 Unknown

*Step-parent includes long term relationships even though they are not officially married

Subsequent questions about the child's family should refer to the family indicated here. If it is not clear which family group is the family of interest, please explain.

45 46

17. Number of living siblings (if 8 or more, write 8, if unknown write 9)

18. Number of siblings who are now placed in foster care, residential treatment, DFY facilities, etc. (if 8 or more, write 8, if unknown write 9)

47

MOTHER 48 FATHER 49

19. Number of siblings placed in the same facility as subject child (if 8 or more, write 8, if unknown write 9)

20. Usual occupation of parent(s) (See Appendix D)

- 1 Typically not employed (or homemaker)
- 2 Unskilled manual or service work
- 3 Skilled manual work
- 4 White collar (lower level)
- 5 Professional, managerial, technical
- 8 No parent
- 9 Unknown

Occupation of Father _____

Occupation of Mother _____

AT TIME OF PLACEMENT	AT PRESENT TIME
50 <input type="checkbox"/>	51 <input type="checkbox"/>
52 <input type="checkbox"/>	53 <input type="checkbox"/>
54 <input type="checkbox"/>	55 <input type="checkbox"/>
56 <input type="checkbox"/>	57 <input type="checkbox"/>
58 <input type="checkbox"/>	59 <input type="checkbox"/>
60 <input type="checkbox"/>	61 <input type="checkbox"/>
62 <input type="checkbox"/>	63 <input type="checkbox"/>

Is/was natural family or child receiving public assistance (check all that apply)? Mark 0 if no one is receiving that form of assistance, 1 if assistance is received by family only, 2 if child receives assistance and family does not, 3 if both child and family receive assistance independently, 9 if unknown.

21. Aid to Families with Dependent Children (AFDC)

22. Supplemental Security Income (SSI)

23. Medicaid

24. Social Security

25. Other (specify) _____

26. Unspecified public assistance

27. Other relative or close family friend who might be a potential placement for child

- 1 No mention of other relatives in record
- 2 There are other relatives, but they are unable or unwilling to care for child
- 3 There are other relatives, but there is no indication of whether or not they are willing and able to care for child
- 4 There are other relatives who might be able and willing to care for child
- 5 Not applicable

Briefly describe nature of relationship and involvement: _____

64

MO		DAY		YR	

AT TIME OF PLACEMENT
70

--	--

AT PRESENT TIME
71

--	--

72

--	--	--

75

MO		YR	

79

--

CARD 2 BEGINS HERE

1

--	--	--	--	--	--

 2

6

MO		DAY		YR	

12

--	--	--

15

--	--	--

18

--

19

--

ff PLACEMENT HISTORY

28. Date that child was placed in present facility or home
29. Placement mechanism
- 1 Voluntary placement
 - 2 Placement by School District through Committee on the Handicapped
 - 3 Placement by Family Court for Child Protective Reasons
 - 4 Placement by Family Court as a result of a PINS adjudication
 - 5 Placement by Family Court as a result of a JD adjudication or placement by criminal court or C.O.P.
 - 6 Involuntary placement to OMH or OMRDD facility
 - 7 Remanded to detention
 - 8 Other (specify) _____
 - 9 Unknown

Placement immediately prior to present placement (if there were no prior placements skip 30-32 and 34-36)

30. Facility type (Codes from Appendix A) _____ FACILITY

31. Date of placement

32. Reason why child was transferred from this facility to present facility
- 1 Child needed more supervision (child's behavior inappropriate for that facility)
 - 2 Child required more intensive or different treatment than the facility could provide
 - 3 Child required a less restrictive or more normalizing or less intensive setting
 - 4 Transfer because of wishes of parent or child
 - 5 Transfer from temporary to long-term facility
 - 6 Transfer for administrative reasons
 - 7 Other
 - 9 Unknown

33. Date of initial placement in present cycle (date that child was last living with own family or relative, excluding brief home visits or trial placements of less than 90 days)

Initial placement in present cycle (skip 34-36 if there was only one prior placement in cycle)

34. Facility type (Codes from Appendix A) _____ FACILITY

35. Length of stay in months

36. Reason for transfer from this facility (codes above)

37. Was child in placement prior to present cycle?
- 1 No prior cycles
 - 2 Yes, only one placement
 - 3 Yes, two to four placements
 - 4 Yes, more than four prior placements
 - 9 Unknown

20

22

23

24

25

26

27

28

38. Age at initial placement in first cycle

39. List the number of times in the past three years for which the child was removed from a community based residential program due to behavior problems, mental illness, or the like.
- 1 None
 - 2 Once
 - 3 Twice or more
 - 9 Unknown

If the child has been in any of the following facility types other than those placements listed in question 30 or 34, indicate below with a 1, otherwise put 0.

40. DFY noncommunity based program (Levels 1 to 5)

41. Psychiatric hospital or psychiatric unit

42. Noncommunity based program for the developmentally disabled

43. DSS Institution

44. Residential placement for educational reasons

45. Current discharge goal as stated in record
- 1 Return to family
 - 2 Adoption
 - 3 Discharge to independent living
 - 4 Discharge to a less restrictive level (e.g., foster family care, group home, supervised living)
 - 5 Adult care
 - 6 Other (specify) _____
 - 9 No discharge goal in record

AT TIME OF PLACEMENT	AT PRESENT TIME
29 <input type="checkbox"/>	30 <input type="checkbox"/>
31 <input type="checkbox"/>	32 <input type="checkbox"/>
33 <input type="checkbox"/>	34 <input type="checkbox"/>

III FAMILY CONDITIONS

All questions in this section refer to the family indicated in question 16. If child has no family, mark 0 for questions 46-51.

46. Availability of mother
- 1 Available (i.e., none of the following)
 - 2 Hospitalized
 - 3 Incarcerated
 - 4 Dead
 - 5 Missing
 - 6 Completely uninvolved with child
 - 9 Unknown
47. Availability of father (same codes as above)
48. Parental willingness to care for child in the home
- 1 Parent(s) rejects placement and is willing to keep the child in the home
 - 2 Parent(s) cannot care for child because they cannot cope
 - 3 Parent(s) strongly rejects the child and is unwilling to maintain the child in the home
 - 4 Parental disagreement. One parent wants child, the other does not
 - 5 Parent(s) want placement for treatment reasons only
 - 9 Unknown
49. Supportive services utilized by family prior to placement (other than financial assistance)
- 1 No record of any services offered
 - 2 Services offered and refused
 - 3 Services offered and received
 - 9 Unknown
50. Supportive services utilized by family during placement (other than financial assistance)
- 1 No record of any services offered
 - 2 Services offered and refused
 - 3 Services offered and received
 - 9 Unknown
51. Wishes of parent regarding placement with a family
- 1 Parent(s) objects to child being placed with another family
 - 2 Parent(s) does not object to child being placed with another family
 - 9 Unknown, no information
52. If there is no evidence of parental abuse, neglect, or other gross family pathology or other inability to raise the child, mark a 0 here and skip to Question 66. If there is evidence of parental abuse, neglect, or other gross family pathology or other inability to raise the child, mark a 1 here and complete questions 53 to 65.

35

36

37

38

- 39
53. Physical abuse prior to placement
- 1 No evidence of any intentional parental infliction of physical injury
 - 2 Some evidence of infliction of minor physical injury (e.g., bruises)
 - 3 Some evidence, but no court finding of abuse (i.e., infliction or substantial risk of infliction of severe physical injury likely to cause death, or serious or protracted bodily harm - concussions, broken bones, severe lacerations, etc.)
 - 4 Court finding of abuse
- 40
54. Sexual abuse prior to placement
- 1 No evidence of any sexual abuse (i.e., parent engaged in some form of sexual intercourse with or touched the sexual parts of the child for purposes of sexual gratification)
 - 2 Some evidence of sexual abuse, but no court finding
 - 3 Court finding of sexual abuse
- 41
55. Physical or medical neglect prior to placement
- 1 No evidence of any significant failure in meeting the child's basic physical needs for food, clothing, shelter, and medical/surgical care
 - 2 Some evidence of significant failure, but not to the extent that the child's life or health was seriously endangered
 - 3 Some evidence of gross failure endangering the life or health of the child (although no court finding of neglect)
 - 4 Court finding of neglect
- 42
56. Psychological, social, or educational neglect prior to placement, including leaving child unattended without adequate provision for safety, allowing or encouraging child to commit illegal acts or anti-social behavior, failure to supply adequate education as required by law, severe deprivation of affectional support
- 1 No evidence of problem
 - 2 Some evidence of problem
 - 3 Court finding of neglect based on problem
- 43
57. Is there evidence that the abuse or neglect identified above is part of an historical pattern of such behavior?
- 1 Not applicable (no neglect or abuse)
 - 2 No (only an isolated incident)
 - 3 Yes, other incidents have occurred in the past
 - 9 Unknown

Parental disabilities at time of placement and currently
Use the following codes:

- 1 No problem or not applicable
- 2 Some impairment of child caring capability
- 3 Substantial impairment of child caring capability
- 4 Problem present, but the extent of impairment unknown

AT TIME OF PLACEMENT		AT PRESENT TIME	
MO	FA	MO	FA
44	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
48	<input type="checkbox"/>	50	<input type="checkbox"/>
52	<input type="checkbox"/>	54	<input type="checkbox"/>
56	<input type="checkbox"/>	58	<input type="checkbox"/>
60	<input type="checkbox"/>	62	<input type="checkbox"/>

64 65 66 67

58. Mental retardation

59. Other developmental disability

60. Mental illness or emotional disturbance

61. Alcohol or drug abuse

62. Other physical disability (specify) _____

63. Parent - child conflict in period prior to placement

- 1 None or slight
- 2 Significant amount of fighting, arguments, or disagreement, but child or parent(s) not in danger, and there is a good deal of healthy family interaction
- 3 Conflict to the extent that child or parent(s) might be in danger, or such continual argument that most positive family interaction is precluded
- 4 Immediate danger to either child or parent(s) or else the conflict is so severe that the child has repeatedly run away or is completely unwilling to remain in the home
- 5 There is some indication of parent-child conflict, but there is not enough information to determine the extent of the problem

64. Other serious pathological family interaction

- 1 None, or no evidence
- 2 Evidence of other serious family pathology

65. Is there evidence that serious abuse, neglect, parental disability and/or parent-child conflict identified above has been significantly alleviated so that the child could now be returned home safely?

- 1 Not applicable
- 2 Little or no evidence of significant alleviation
- 3 Evidence that the problem has been significantly alleviated so that the child could be returned home safely

If 52 is marked 0, start here.

66. Is the child apparently freeable for adoption due to abandonment or permanent neglect?

- 1 No, there has been parental contact
- 2 Yes, child has been abandoned (no parental contact or interest in past six months)
- 3 Yes, permanent neglect (substantial failure to plan for child over a period of one year, although the parent(s) is able to do so)
- 4 Yes, parent(s) are unable and will be unable in the foreseeable future to care for child due to mental illness, mental retardation, or the like, and child has been in care for at least one year
- 5 Yes, parent(s) dead or missing
- 6 Child is already freed for adoption

Only complete Questions 67 to 70 if 1 is marked in question 66.

68

67. During the past 90 days, how often has the child's parent(s) visited the child in placement (if placement has been for less than 90 days, indicate visiting for duration of placement)?
- 1 Regularly (nearly every week; 10+ visits in 90 days)
 - 2 Occasionally (more than once a month, less than weekly; 4 to 9 visits in 90 days)
 - 3 Rarely (once a month or less; 1 to 3 visits in 90 days)
 - 4 Never
 - 9 Unknown

69

68. During the past 90 days, how often has the child visited his natural family (if more than one applies, indicate the choice with the lower number)?
- 1 Regular overnight visits (nearly every week or extended visits)
 - 2 Occasional overnight visits (once a month or more)
 - 3 Regular day visits (nearly every week)
 - 4 Occasional day visits (once a month or more)
 - 5 Rare overnight visits (less than once a month)
 - 6 Rare day visits (less than once a month)
 - 7 Never
 - 9 Unknown

70

69. Phone contacts between child and parent(s)
- 1 Regular (nearly once a week or more)
 - 2 Occasionally (once or twice a month)
 - 3 Rarely (less than once a month)
 - 4 Never (no calls in six months)
 - 9 Unknown

71

70. Distance by ground transportation between child's placement and home of natural family
- 1 Less than one hour
 - 2 More than one hour, less than two hours
 - 3 Two hours or more
 - 9 No natural family or residence unknown

If uncertain, write in parent's community _____

IV EDUCATIONAL STATUS AND EDUCATIONAL PROBLEMS

72

71. Child's present educational placement
- 01 Regular class within one year of age appropriate grade (age minus 5)
 - 02 Regular class within one year of age appropriate grade, but receiving special services
 - 03 Regular class, more than one year behind age appropriate grade, not receiving special services
 - 04 Regular class, more than one year behind age appropriate grade, receiving special services
 - 05 Special class for mildly (educable) mentally retarded
 - 06 Special class for moderately (trainable) mentally retarded
 - 07 Special class for severely or profoundly retarded
 - 08 Special class for the emotionally disturbed
 - 09 Special class for children with learning disabilities
 - 10 Special class for the blind or deaf
 - 11 Special class for the physically disabled
 - 12 Special class for the multiply disabled (both retarded and emotionally disturbed)
 - 13 Special class for the mentally retarded (unspecified)
 - 14 Special class for learning disabled and emotionally disturbed
 - 15 Special class (unspecified)
 - 16 Alternative school
 - 17 Vocational training only
 - 18 Not in school
 - 19 Other (specify) _____

74

72. Auspices of child's educational program
- Off site
- 01 Public school
 - 02 BOCES
 - 03 Private or parochial school (nonspecial ed.)
 - 04 Private school for handicapped children
 - 05 Special Act Union Free School District
 - 06 Day treatment program
- On Site
- 07 Private school for handicapped children (853 school)
 - 08 Special Act Union Free School District
 - 09 Private school for blind or deaf
 - 10 Public school annex on grounds of institution
 - 11 Other residential educational program

76 .

CARD 3 BEGINS HERE

1 : 3

6

7 .

10

11

73. Reading grade level according to standardized test
- Test and date _____
- If there is no reading score available, and it is likely that child can read, enter 99.9. If it is obvious that child cannot read, enter 00.0.
74. Indicate how many years ago the test was administered.
75. Math grade level according to standardized test
- Test and date _____
76. Indicate how many years ago the test was administered.
77. IQ _____ Test and date _____
- If child is untestable, enter 888.
- If unknown enter 999.

14

78. Learning disabilities

- 1 None
- 2 Diagnosed specific learning disability in reading (e.g., dyslexia)
- 3 Diagnosed specific learning disability in math
- 4 Other diagnosed specific learning disability

(specify) _____

- 5 Diagnosed general learning disability or two or more specific learning disabilities

15

79. Moderate or severe behavior problems or other serious disruptions in school prior to placement, such that placement is indicated

- 1 No
- 2 Yes
- 9 Unknown

16

80. Does the child have any other educational disability which is so severe that residential placement for educational reasons is indicated?

- 1 No
- 2 Yes

AT TIME OF PLACEMENT

AT PRESENT TIME

17

18

19

20

21

22

23

24

25

26

27

28

29

30

31

32

33

34

35

36

37

38

39

40

41

42

43

44

45

46

47

V BEHAVIOR PROBLEMS

81. If there are indications of behavior problems serious enough to affect treatment decisions, mark a 1 here and complete this section. If there are no indications of behavior problems serious enough to affect treatment decisions, mark a 0 here and skip the rest of this section.

Use the following codes for Questions 82 to 88.

- 1 None
- 2 One incident
- 3 Two incidents
- 4 Three or more incidents
- 5 There is a statement of the problem in the record, but it is impossible to determine the frequency

82. Major assaults (a major assault is one in which serious harm resulted or would have been likely to result had there not been immediate intervention; e.g., an assault with a weapon or an object, or a serious attack on an individual much weaker, or particularly vicious fighting)

83. Major vandalism, destruction of property (damage of more than \$50)

84. Major theft (theft of more than \$50 value)

85. Robbery involving confrontation with the victim

86. Major firesetting (firesetting in which damage of \$50 or more is likely or in which someone is physically in danger)

87. Running away from home overnight or running away from home when child had to be returned by authorities

88. Running away from residential program overnight or running away when child had to be returned by authorities

Use the following codes for questions 89 to 99.

- 1 Not a problem
- 2 Less than twice a month
- 3 Twice a month to once a week
- 4 More than once a week
- 5 There is a statement that the problem exists, but it is impossible to determine the frequency

89. Truancy

90. Excessive alcohol consumption

91. Soft drug use

92. Serious drug use

93. Verbal abusiveness

94. Fighting, other minor assault

95. Minor theft

96. Minor vandalism

- | | | | | |
|----|--------------------------|----|--------------------------|---|
| 48 | <input type="checkbox"/> | 49 | <input type="checkbox"/> | 97. Tantrums, severe anger outbursts |
| 50 | <input type="checkbox"/> | 51 | <input type="checkbox"/> | 98. Threatening others, bullying |
| 52 | <input type="checkbox"/> | 53 | <input type="checkbox"/> | 99. Lying, dishonesty |
| 54 | <input type="checkbox"/> | 55 | <input type="checkbox"/> | 100. Resistance to authority (excluding truancy)
1 Not a problem
2 Child is occasionally resistive, but generally cooperates and follows most rules
3 Continual poor attitude or resistiveness but usually obeys rules
4 Often disobeys rules
5 Grossly uncooperative, goes out of his/her way to violate rules or to defy authority
6 There is a statement that the child is resistive to authority (or the equivalent) but there is not enough information to determine the extent of the problem |
| 56 | <input type="checkbox"/> | 57 | <input type="checkbox"/> | 101. Sexual behavior
1 None, or behavior appropriate for age
2 Child is homosexual to the extent that it is seen as a problem by the child or by others
3 Child is promiscuous to the extent that it is seen as a problem by the child or by others
4 Both 2 and 3
5 Child displays other sexual problem to the extent that it is seen as a problem by the child or by others (specify) |
| 58 | <input type="checkbox"/> | 59 | <input type="checkbox"/> | 102. Other behavior problems not listed in the above section
1 None
2 Mild or occasional
3 Moderate or frequent
4 Severe or habitual
5 There is a statement of other behavior problems, but there is not enough information to determine the extent of the problem
Specify _____ |
| 60 | <input type="checkbox"/> | 61 | <input type="checkbox"/> | 103. To what extent would the child's behavior problems be substantially different if the child were in a different environment such as a foster family or a group home?
1 There is no evidence that the child's behavior would be substantially different
2 There is evidence that child's behavior would be different since child has attempted to display some of the behaviors listed above, but was prevented from doing them because of the close supervision or other security precautions of the facility
3 Child's behavior is substantially worse when child is on home visit or in other setting
4 There is specific evidence that child's behavior is exacerbated by his/her present setting (e.g., when child is in other settings behavior is better) |
| 62 | <input type="checkbox"/> | 63 | <input type="checkbox"/> | 104. Overall, to what extent does the child present behavior problems (see definitions)?
1 None or slight
2 Mild
3 Moderate
4 Severe
5 A single severe incident |
| 64 | <input type="checkbox"/> | 65 | <input type="checkbox"/> | 105. Overall, to what extent does the child present behavior problems, excluding those for which child has been adjudicated? See codes from Question 104. |

AT TIME OF PLACEMENT
66

AT PRESENT TIME
67

68

69

70

71

72

73

74

75

76

77

VI MENTAL ILLNESS AND PSYCHIATRIC SYMPTOMS

106. If there are indications of mental illness or emotional disturbance serious enough to affect treatment decisions, place a 1 here and complete this section. If there are no indications of mental illness or emotional disturbance serious enough to affect placement decisions, mark a 0 here and skip this section.
107. Suicide threats or attempts
- 1 None
 - 2 Occasional threats (a threat is when the child says that he is going to kill himself, but makes no attempts or gestures)
 - 3 Frequent threats (more than three in the past three months)
 - 4 One or two gestures (a gesture is engaging in suicide-like behavior, but which is unlikely to actually result in the death of the child, e.g., taking 12 aspirin)
 - 5 More than two gestures
 - 6 One or more serious suicide attempts
 - 7 There is a statement that the child is suicidal but there is not enough information to determine the extent of the problem
108. Self-mutilation, self-abuse
- 1 None
 - 2 Occasionally slaps self or engages in similar behavior but does not cause himself harm
 - 3 Repeated minor incidents, such as slapping self, to the extent that functioning is inhibited
 - 4 Occasional serious incidents of self-abuse, in which harm is likely and restraint is required
 - 5 Frequent incidents of serious self-abuse, child often in restraint
 - 6 There is a statement that the child is self-abusive but there is not enough information to determine the extent of the problem
109. Eating disorders
- 1 None or slight
 - 2 Pica - child eats nonfoods
 - 3 Bulimia - serious binge eating, often accompanied by episodes of self-starving, vomiting, etc.
 - 4 Moderate anorexia nervosa (self-starving) - serious self-starvation, but not to the extent that life is threatened
 - 5 Severe anorexia nervosa - self-starvation to the extent that life is threatened
 - 6 Other eating disorder (specify) _____
 - 7 More than one of the above
110. Bizarre behavior (e.g., oddities of motor movement such as peculiar hand or finger movements, toe walking, tics, etc. but does not include typical adolescent attention getting behavior) (exclude self-abuse)
- 1 None
 - 2 Occasional minor incidents
 - 3 Frequent minor incidents
 - 4 Continual bizarre behavior to the extent that the child is always calling attention to himself
 - 5 There is a statement that the child exhibits bizarre behavior but there is not enough information to determine the extent of the problem
111. Bizarre language
- 1 Not a problem
 - 2 Occasional peculiarities
 - 3 Major language peculiarities, but child is able to communicate orally to some extent
 - 4 Child is either totally mute or has such serious language peculiarities that most normal communication is precluded
 - 5 There is a statement that child has language peculiarities but there is not enough information to determine the extent of the problem

CARD 4 BEGINS HERE

1					4
---	--	--	--	--	---

AT TIME OF PLACEMENT		AT PRESENT TIME	
6	<input type="checkbox"/>	7	<input type="checkbox"/>
8	<input type="checkbox"/>	9	<input type="checkbox"/>
10	<input type="checkbox"/>	11	<input type="checkbox"/>
12	<input type="checkbox"/>	13	<input type="checkbox"/>
14	<input type="checkbox"/>	15	<input type="checkbox"/>
16	<input type="checkbox"/>	17	<input type="checkbox"/>
18	<input type="checkbox"/>	19	<input type="checkbox"/>
20	<input type="checkbox"/>	21	<input type="checkbox"/>
22	<input type="checkbox"/>	23	<input type="checkbox"/>
24	<input type="checkbox"/>	25	<input type="checkbox"/>

For questions 112 to 119, use the following codes:

- 1 Problem not present
- 2 Mild interference with functioning, child is able to perform most or all activities of daily living
- 3 Moderate interference with functioning, the problem prevents or seriously interferes with several important activities
- 4 Severe interference with functioning, the problem prevents or seriously interferes with most or all normal functioning
- 5 There is a statement that the problem is present, but there is not enough information to determine the severity of the problem

- 112. Hyperactivity
- 113. Withdrawal, passivity, lack of responsiveness to surroundings
- 114. Psychotic thought disorders (e.g., hearing voices, bizarre delusions such as delusions of being controlled, delusions of having no insides, or marked loosening of associations or illogical thinking not attributed to mental retardation)
- 115. Nonpsychotic thought disorders (e.g., magical thinking, bizarre fantasies, recurrent illusions inappropriate for age)
- 116. Paranoia, suspiciousness, mistrust
- 117. Depression (do not include normal periods of "the blues" or normal grief or sadness associated with specific events; the depression must be characterized by symptoms such as loss of interest in usual activities, fatigue, feelings of worthlessness, and diminished ability to think or concentrate)
- 118. Lability and emotional instability (marked shifts in interpersonal behavior, mood, self image, attitude)
- 119. Other affective or emotional disorders (e.g., flat affect)
- 120. Phobias, unusual specific fears
 - 1 Not a problem
 - 2 Isolated specific fears which do not interfere with most functioning, e.g., excessive fear of dogs
 - 3 Numerous minor phobias or one or two major phobias
 - 4 Phobias to the extent that most normal functioning is precluded
 - 5 There is a statement that child has phobias but there is not enough information to determine the extent of the problem
- 121. Sleep disturbances
 - 1 Not a problem
 - 2 Occasional nightmares
 - 3 Frequent nightmares
 - 4 Serious insomnia
 - 5 Sleepwalking
 - 6 More than one of the above
 - 7 There is a statement that the child has sleep disturbances but there is not enough information to determine the extent of the problem

AT TIME OF PLACEMENT		AT PRESENT TIME		
26	<input type="checkbox"/>	27	<input type="checkbox"/>	122. Bedwetting (enuresis) 1 Not a problem 2 Occasional problem 3 Frequent problem (more than weekly) 4 There is a statement that child is a bedwetter but there is not enough information to determine the extent of the problem
28	<input type="checkbox"/>	29	<input type="checkbox"/>	123. Disorders in peer relations 1 None 2 Child is extremely shy; anxious in social situations; may want to make friends but doesn't know how; does not have more than one close friend 3 Displays no apparent interest in making friends, and derives no pleasure from usual peer interactions; generally avoids social contacts; child has no close friends 4 Pervasive lack of responsiveness to other people; child is completely unable to carry on normal social interactions 5 Other serious disorders in peer relations (specify) _____ 6 There is a statement that child has difficulty in peer relations but there is not enough information to determine the extent of the problem
30	<input type="checkbox"/>	31	<input type="checkbox"/>	124. Relationship with authority figures other than parents (e.g., teachers) (note this is not concerned with resistance to authority, but with ability to establish relationships with authority figures) 1 Not a problem 2 Mild problem 3 Moderate problem 4 Severe problem 5 There is a statement that child has problems relating to authority figures but there is not enough information to determine the extent of the problem
32	<input type="checkbox"/>	33	<input type="checkbox"/>	125. Other psychiatric symptoms (specify in detail) 1 None 2 Mild 3 Moderate 4 Severe _____
34	<input type="checkbox"/>	35	<input type="checkbox"/>	126. To what extent do the symptoms and problems identified above represent a deterioration from a previously higher level of functioning? 1 Chronic - symptoms have been present over an extended period, or there has been very gradual deterioration 2 Acute - child used to function at a significantly higher level; symptoms have a relatively sudden, recent onset 3 Unknown
36	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	.	<input type="checkbox"/> <input type="checkbox"/>	127. Primary psychiatric diagnosis _____ (to be coded in central office)

41 .

128. Secondary psychiatric diagnosis _____
(to be coded in central office)

Current psychotropic medications (to be coded in central office)

46

48

129. _____ Dosage _____

49

51

130. _____ Dosage _____

52

54

131. _____ Dosage _____

If child is on medication, write in child's weight. _____

AT TIME
OF
PLACEMENT
55

AT
PRESENT
TIME
56

132. Overall, what is the extent of the child's emotional problems or mental illness (see definitions)?
1 None or slight
2 Mild
3 Moderate
4 Severe

AT TIME
OF
PLACEMENT

57

AT
PRESENT
TIME

58

59

60

61 .

65

66

67

68

69

70

71

72

VII DEVELOPMENTAL DISABILITIES

133. If child has one or more diagnosed developmental disabilities, mark a 1 here and complete this section. If the child has no diagnosed developmental disabilities, mark a 0 here and skip this section.

134. Diagnosed mental retardation

- 1 No mental retardation
- 2 Mild mental retardation
- 3 Moderate mental retardation
- 4 Severe mental retardation
- 5 Profound mental retardation
- 6 Child has a diagnosis of mental retardation, but the level is not specified

135. Medical classification or etiology of retardation (to be coded centrally)
If unknown enter 999.9.

136. Epilepsy

- 1 None
- 2 Epileptic, but seizures fully controlled (no seizures in 3 months)
- 3 Mild problem (e.g., occasional petit mal seizures)
- 4 Moderate problem (e.g., occasional grand mal seizures or frequent petit mal seizures)
- 5 Severe problem (e.g., frequent grand mal seizures, occasional status epilepticus)

137. Cerebral palsy

- 1 None
- 2 Mild - child is capable of most normal functioning but requires assistance with some activities
- 3 Moderate - child is capable of some self-care skills, but requires assistance with some activities
- 4 Severe - child is not capable of performing any self-care skills except with extreme difficulty

138. Other neurological impairments

- 1 None
- 2 Child has diagnosis of other neurological impairments

139. Autism

- 1 Child is not diagnosed as autistic
- 2 Child has a diagnosis of autism

AT TIME OF PLACEMENT	AT PRESENT TIME
8 <input type="checkbox"/>	9 <input type="checkbox"/>
10 <input type="checkbox"/>	11 <input type="checkbox"/>
12 <input type="checkbox"/>	13 <input type="checkbox"/>
14 <input type="checkbox"/>	15 <input type="checkbox"/>
16 <input type="checkbox"/>	17 <input type="checkbox"/>

IX HEALTH PROBLEMS AND PHYSICAL DISABILITIES

148. If the child has physical disabilities or major chronic health care needs, mark a 1 here and complete this section. If the child does not have significant physical disabilities or major chronic health care needs, mark a 0 here and skip this section.

149. Vision
- 1 Full vision (with correction if necessary)
 - 2 Partial vision
 - 3 Legally blind, but has travel vision
 - 4 No functional vision

150. Hearing
- 1 Normal
 - 2 Mild hearing loss (20 to 50 db loss)
 - 3 Moderate hearing loss (50 to 80 db loss)
 - 4 Severe hearing loss (more than 80 db loss), essentially no functional hearing

151. Mobility
- 1 No mobility problems, mobility normal for age
 - 2 Child is unsteady or has significant limp or requires braces or support device, but can walk independently
 - 3 Child is in wheelchair (or equivalent), but can propel wheelchair independently
 - 4 Child confined to wheelchair and cannot propel chair independently or is bedfast

152. Speech
- 1 Normal for age
 - 2 Has significant speech problem, but can usually make self understood
 - 3 Has a speech problem to the extent that child is often not understood
 - 4 Has a speech problem to the extent that most oral communication is precluded, or else child is almost or always mute
 - 5 Little or no speech as a result of psychiatric symptoms or mental retardation

Other chronic health problems
Use the following codes for severity:

- 1 Problem present, but no interference with functioning
- 2 Mild interference with functioning
- 3 Moderate interference with functioning
- 4 Severe interference with functioning

- Problem codes
- 01 Musculoskeletal system
 - 02 Special sense and speech system
 - 03 Respiratory system
 - 04 Cardiovascular system
 - 05 Digestive system
 - 06 Genito-urinary system
 - 07 Hemic and lymphatic system (blood disorders)
 - 08 Endocrine system
 - 09 Multiple body systems
 - 10 Neurological
 - 11 Cancer (malignant neoplastic diseases)

SEVERITY	PROBLEM CODE
18 <input type="checkbox"/>	19 <input type="checkbox"/> <input type="checkbox"/>
21 <input type="checkbox"/>	22 <input type="checkbox"/> <input type="checkbox"/>
24 <input type="checkbox"/>	25 <input type="checkbox"/> <input type="checkbox"/>

153. Specify _____

154. Specify _____

155. Specify _____

Health procedures received (Do not include routine custodial care here, even though it is provided by a nurse. Only include those procedures which must be provided by a trained health professional. Exclude oral medication. Also, do not include services for conditions which will be cured within 60 days.)

- 1 No special health services received
- 2 Must see physician or other health professional for special procedures, but less than once a week
- 3 Must see physician or other health professional for special procedures, one to three times a week
- 4 Must see physician or other health professional for special procedures, four times a week or more
- 5 Requires procedures which can only be provided on an inpatient basis
- 6 Requires continual monitoring by professionals for serious health condition, or requires continuous life support equipment

27

156. Procedure 1 _____

28

157. Procedure 2 _____

29

158. Procedure 3 _____

30

159. Is child's medical condition unstable so that an RN must detect/evaluate need for modification of treatment/care on a daily basis?
 1 No
 2 Yes
 9 Unknown

AT TIME OF PLACEMENT
 31

AT PRESENT TIME
 32

160. Health needs affecting placement decisions
 1 None or mild
 2 Moderate - child has significant health care needs
 3 Severe - child requires daily inpatient attention from health professionals

33

34

161. Severe physical disability affecting placement decisions
 1 None, or mild
 2 Yes, child is blind or deaf
 3 Yes, other severe physical handicaps or disabilities
 4 Both 2 and 3 or both blind and deaf

X DELINQUENCY AND RELATED PROBLEMS

- 35
- 36
- 37
- 38
- 39
- 40
- 41
- 42
- 43
- 44
- 45
- 47
162. If child has one or more delinquency or PINS petitions or criminal arrests, mark a 1 here and complete this section. If the child has no petitions or criminal arrests, mark a 0 here and skip this section. For all questions, enter 8 if there are 8 or more.
163. Total number of PINS petitions
164. Total number of PINS adjudications
165. Total number of delinquency petitions and criminal charges
166. Total number of delinquency adjudications and Youthful Offender convictions, and criminal convictions other than JO
167. Number of Juvenile Offender convictions
168. Total number of times child was taken into custody with no petition filed
169. Total number of times that child has violated a condition of probation or failed to show up for a court appearance
170. Total number of the above delinquency petitions and criminal charges which were for violent offenses (See Appendix C)
171. Total number of the above delinquency adjudications and convictions which were for violent offenses
172. Age at first delinquency or PINS petition
173. Current legal status
- 01 None, no current adjudications
 - 02 Current PINS adjudication
 - 03 Current JD adjudication (not violent)
 - 04 Current JD adjudication for a violent offense (not restrictive placement)
 - 05 Current JD adjudication with restrictive placement
 - 06 Current criminal conviction (other than JO)
 - 07 Current Juvenile Offender conviction
 - 08 Current YO conviction
 - 09 PINS pending
 - 10 JD pending
 - 11 JO pending
 - 12 Other

XI CURRENT PROGRAMMING AND TREATMENT

Indicate the number of hours per week which the child typically spends in each of the following activities. Do not double count activities so that the sum of these numbers is the total number of hours of programming and treatment that the child receives in a week.

EDUCATION

49

174. School

51

175. Remedial tutoring outside of school in reading, math and other academic subjects

53

176. Other (specify) _____

MENTAL HEALTH SERVICES

55

177. Individual psychotherapy or counseling (with an individual with a master's degree or a doctoral degree in psychology, social work, or counseling)

57

178. Group psychotherapy or counseling (with an individual with a master's degree or a doctoral degree in psychology, social work, or counseling)

59

179. Creative arts therapy (art therapy, dance therapy, music therapy, etc., with a certified professional)

61

180. Individual or group counseling with an individual who is not a mental health or human services professional (BA or less)

63

181. Other (specify) _____

VOCATIONAL SERVICES

65

182. Prevocational training

67

183. Vocational training

69

184. Sheltered workshop or sheltered employment

71

185. Formal on-the-job training (for pay, include CETA)

73

186. Competitive employment

75

187. Volunteer work

77

188. Other vocational services (specify) _____

CARD 6 BEGINS HERE

1 6

HEALTH, SUPPORTIVE OR THERAPEUTIC SERVICES

6

189. Formal training in self-care skills or activities of daily living (only include formal scheduled programs which are a part of the individual's written treatment plan)

8

190. Physician visits (for chronic problems only)

10

191. Occupational therapy

12

192. Physical therapy

14

193. Speech therapy

16

194. Other (specify) _____

SERVICES TO FOSTER FAMILY (this section is only applicable for children living in family care)

18

195. Respite care

20

196. Homemaker/chore services

22

197. Counseling

24

198. Parenting training

26

199. Other (specify) _____

RECREATION

28

200. Recreational therapy (with certified professional)

30

201. Other formal recreational programs (Scouts, YMCA, etc.) which are regularly scheduled

32

202. Other (specify) _____

OTHER TREATMENT AND SERVICES

34

203. Counseling to natural family

36

204. Other (specify) _____

38

205. Other (specify) _____

40

206. Total number of hours of above programming (Questions 174 to 205 excluding 195-199, 203) which is not done in the residential environment

- 42
207. Is the child participating in a formal behavior modification or token environment program?
- 1 No
 - 2 Yes, for one or two specific skills or behaviors
 - 3 Yes, for many skills or behaviors or as a part of an overall token program
- 43
208. What level of supervision and restrictiveness is the child currently receiving?
- 1 No different than other children of the same age, i.e., permitted to leave residential environment unsupervised on a daily basis
 - 2 Sometimes permitted to leave residential environment, but at specified times, or only after notifying the staff exactly where he or she is going
 - 3 Permitted to leave residential environment unsupervised only to travel to and from school or other specific programs
 - 4 Not permitted to leave residential environment unsupervised, but does not require total supervision on the grounds or in the home
 - 5 Has 24 hour close supervision
- 44
209. Physical restrictions
- 1 None
 - 2 Doors sometimes locked to keep residents in
 - 3 Physical hardware restricting movement (e.g., fences, security screens, locked doors)

AT TIME OF PLACEMENT
45

AT PRESENT TIME
46

47 49

51 53

55 57

59 61

63

64

65 67

69 71

XII SUMMARY

210. Does/did child meet criteria for placement?
 1 Yes
 2 No, child meets criteria for return home
 3 No, child meets criteria for other out of home placement
 4 Insufficient information to make a judgment
211. If child should be returned home, what supportive services, if any, should be provided?
 01 Homemaker services
 02 Respite services
 03 Special education
 04 Psychotherapy or counseling for parent(s)
 05 Psychotherapy or counseling for child
 06 Training of parent(s) in parenting skills
 07 Day care
 08 After school recreation
 09 Vocational training
 10 Behavior modification
 11 Casework
 12 Day treatment
 13 Financial assistance
 14 Transportation
 15 Family counseling/therapy
 16 Other (specify) _____
 17 Other (specify) _____
212. Does child meet criteria for adoption?
 1 Yes
 2 No
213. Is the present facility now actively involved in trying to place the child?
 1 Yes
 2 No
 9 Unknown
214. If child does not meet criteria for return home or for present placement, for which facility type does the child meet the criteria? (Codes from Appendix A)
215. If you feel that the child should be placed in a facility type other than that for which he or she meets criteria, indicate the code here.

APPENDIX E

§655

74

§655. Order of protection.

The court may make an order of protection in assistance or as a condition of any other order made under this part. The order of protection may set forth reasonable conditions of behavior to be observed for a specific time by any petitioner or any respondent. Such an order may require a petitioner or a respondent

- (a) to stay away from the home, the other spouse or the child;
- (b) to permit a parent to visit the child at stated periods;
- (c) to abstain from offensive conduct against the child or against the other parent or against any person to whom custody of the child is awarded;
- (d) to give proper attention to the care of the home;
- (e) to refrain from acts of commission or omission that tend to make the home not a proper place for the child.

(E.J.J.S/23/80, Ch. 530, L. 1989)

PART 4 - GUARDIANSHIP

Sec.

- 661 Jurisdiction.
- 662 Rules of court.
- 663 Guardian of person to file copy of order of appointment.

§661. Jurisdiction.

The family court has like jurisdiction and authority as is now conferred on county and surrogates courts as concerns the guardianship of the person of a minor under the jurisdiction of the court.

§662. Rules of court.

Rules of court, not inconsistent with any law, may authorize the probation service to interview such persons and obtain such data as will aid the court in exercising its power under section six hundred sixty-one.

§663. Guardian of person to file copy of order of appointment.

Upon the appointment of guardian of the person of a minor as provided in section six hundred sixty-one of this act, the guardian shall file a certified copy of the order of his appointment with the clerk of the surrogate's court of the county in which he has been appointed.

ARTICLE 7 - PROCEEDINGS CONCERNING JUVENILE
DELINQUENCY AND WHETHER A PERSON IS IN
NEED OF SUPERVISION

PART 1 - JURISDICTION

Sec.

- 711 Purpose.
- 712 Definitions.
- 713 Jurisdiction.
- 714 Determination of age.
- 716 Substitution of petition.
- 717 Venue.
- 718 Return of runaway.

§ 711. Purpose.

The purpose of this article is to provide a due process of law (a) for considering a claim that a person is a juvenile delinquent or a person in need of supervision and (b) for devising an appropriate order of disposition for any person adjudged a juvenile delinquent or in need of supervision. In any juvenile delinquency proceeding under this article, the court shall consider the needs and best interests of the respondent as well as the need for protection of the community.

§ 712. Definitions.

As used in this article, the following terms shall have the following meanings:

(a) "Juvenile delinquent". A person over seven and less than sixteen years of age who, having done an act that would constitute a crime, (i) is not criminally responsible for such conduct by reason of infancy, or (ii) is the defendant in an action ordered removed from a criminal court to the family court pursuant to article seven hundred twenty-five of the criminal procedure law.

(Eff. 9/1/78, Ch. 481, L. 1978)

(b) "Person in need of supervision". A male less than sixteen years of age and a female less than eighteen years of age who does not attend school in accord with the provisions of part one of article sixty-five of the education law or who is incorrigible, ungovernable or habitually disobedient and beyond the lawful control of parent or other lawful authority or who violates the provisions of section 221.05 of the penal law.

(c) "Detention." The temporary care and maintenance away from their own homes of children held for or at the direction of the family court pending adjudication of alleged juvenile delinquency or need for supervision by such court or pending transfer to institutions or facilities to which placed by such court or while awaiting disposition by such court after adjudication or held pursuant to a securing order of a criminal court if the person named therein as principal is under sixteen. (Eff. 9/1/78, Ch. 481, L. 1978)

(d) "Secure detention facility". A facility characterized by physically restricting construction, hardware and procedures.

(e) "Non-secure detention facility". A facility characterized by the absence of physically restricting construction, hardware and procedures.

(f) "Fact-finding hearing". In the case of a petition to determine delinquency, a hearing to determine whether the respondent did the act or acts alleged in the petition which, if done by an adult, would constitute a crime. In the case of a petition to determine need for supervision, "fact-finding hearing" means a hearing to determine whether the respondent did the acts alleged to show that he violated a law or is incorrigible, ungovernable or habitually disobedient and beyond the control of his parents, guardian or legal custodian.

(g) "Dispositional hearing". In the case of a petition to determine delinquency, a hearing to determine whether the respondent requires supervision, treatment or confinement. In the case of a petition to determine need for supervision, "dispositional hearing" means a hearing to determine whether the respondent requires supervision or treatment.

(h) "Designated felony act". An act which, if done by an adult, would be a crime (i) defined in sections 125.27 (murder in the first degree); 125.25 (murder in the second degree); 135.25 (kid-

§712

76

napping in the first degree); or 150.20 (arson in the first degree) of the penal law committed by a person thirteen, fourteen or fifteen years of age; (ii) defined in sections 120.10 (assault in the first degree); 125.20 (manslaughter in the first degree); 130.35 (rape in the first degree); 130.50 (sodomy in the first degree); 135.20 (kidnapping in the second degree), but only where the abduction involved the use or threat of use of deadly physical force; 150.15 (arson in the second degree); or 160.15 (robbery in the first degree) of the penal law committed by a person thirteen, fourteen or fifteen years of age; (iii) defined in the penal law as an attempt to commit murder in the first or second degree or kidnapping in the first degree committed by a person thirteen, fourteen or fifteen years of age; (iv) defined in section 120.05 (assault in the second degree) or 160.10 (robbery in the second degree) of the penal law committed by a person fourteen or fifteen years of age but only where there has been a prior finding by a court that such person has previously committed an act which, if committed by an adult, would be the crime of assault in the second degree, robbery in the second degree, or any designated felony act specified in clause (i), (ii) or (iii) of this subdivision regardless of the age of such person at the time of the commission of the prior act; or (v) other than a misdemeanor, committed by a person at least seven but less than sixteen years of age, but only where there has been two prior findings by the court that such person has committed a prior act which, if committed by an adult would be a felony.

(Eff. 9/1/78, Ch. 478, L. 1978)

(i) "Designated class A felony act". A designated felony act defined in clause (i) of paragraph (h) of this section.

(j) "Secure facility". A residential facility in which a juvenile delinquent may be placed under this article, which is characterized by physically restricting construction, hardware and procedures, and is designated as a secure facility by the division for youth.

(k) "Restrictive placement". A placement pursuant to section seven hundred fifty-three-a.

§713. Jurisdiction.

The family court has exclusive original jurisdiction over any proceeding involving a person alleged to be a juvenile delinquent, subject to section seven hundred fifteen, or a person in need of supervision.

§714. Determination of age.

(a) In determining the jurisdiction of the court under section seven hundred thirteen the age of the respondent at the time the delinquent act allegedly was done or the need for supervision allegedly arose is controlling.

77

§718

(b) If the respondent is within the jurisdiction of the court, but the proceedings were initiated after the respondent's eighteenth birthday, the family court

(i) shall dismiss a petition to determine whether a person is in need of supervision, and

(ii) may dismiss a petition to determine whether a person is a juvenile delinquent.

§716. Substitution of petition.

(a) On its own motion and at any time in the proceedings, the court may substitute for a petition to determine delinquency a petition to determine whether a person is in need of supervision.

(b) On its own motion and at any time in the proceedings, the court may substitute a neglect petition under article three of this act for a petition to determine delinquency or for a petition to determine whether a person is in need of supervision.

§717. Venue.

Proceedings under this article are originated in the county in which the act or acts referred to in the petition allegedly occurred. On motion made on behalf of the respondent or by his parent or other person legally responsible for his care or on the court's motion, and for good cause shown, the court may transfer the proceedings to another county.

§718. Return of runaway.

(a) A peace officer, acting pursuant to his special duties, or a police officer may return to his parent or other person legally responsible for his care any male under the age of sixteen or female under the age of eighteen who has run away from home without just cause or who, in the reasonable opinion of the officer, appears to have run away from home without just cause. For purposes of this action, a police officer or peace officer may reasonably conclude that a child has run away from home when the child refuses to give his name or the name and address of his parent or other person legally responsible for his care or when the officer has reason to doubt that the name or address given are the actual name and address of the parent or other person legally responsible for the child's care.

(b) A peace officer, acting pursuant to his special duties, or a police officer is authorized to take a child who has run away from home or who, in the reasonable opinion of the officer, appears to have run away from home, to a facility certified for such purpose by the division for youth or to a facility approved by the state department of social services under section seven hundred twenty-four of this act. Any such facility receiving a child shall inform a parent or other person responsible for such child's care and the family court of its action.

§ 718

78

(c) If a child placed pursuant to this article in the custody of a commissioner of social services or an authorized agency shall run away from the custody of such commissioner or authorized agency, any peace officer, acting pursuant to his special duties, or police officer may apprehend, restrain, and return such child to such location as such commissioner shall direct or to such authorized agency and it shall be the duty of any such officer to assist any representative of the commissioner or agency to take into custody any such child upon the request of such representative. (*EJ*, 9/1/80, Ch. 843, L. 1980)

PART 2 - CUSTODY AND DETENTION

- Sec.
- 720 Detention.
 - 721 Custody by police officer or peace officer without a warrant.
 - 722 Custody by private person without a warrant.
 - 723 Duties of private person before and after taking into custody.
 - 724 Duties of police officer or peace officer after taking into custody or on delivery by private person.
 - 724-a Fingerprinting of certain alleged juvenile delinquents.
 - 724-b Fingerprinting; duties of the division of criminal justice services.
 - 725 Summons or warrant on failure to appear.
 - 726 Duty of facility receiving custody.
 - 727 Rules of court authorizing release before filing of petition.
 - 728 Discharge, release or detention by judge after hearing and before filing of petition in custody cases.
 - 729 Duration of detention before filing of petition or hearing.

§ 720. Detention.

1. A facility certified by the state division for youth as a juvenile detention facility must be operated in conformity with the regulations of the state division for youth and shall be subject to the visitation and inspection of the state board of social welfare. No child to whom the provisions of this act may apply, shall be detained in any prison, jail, lockup, or other place used for adults convicted of crime or under arrest and charged with crime without the approval of the state division for youth in the case of each child and the statement of its reasons therefor. (*EJ*, 7/24/78, Ch. 555, L. 1978)

2. The detention of a child under ten years of age in a secure detention facility shall not be directed under any of the provisions of this article.

3. Where the director of the state division for youth certifies that a county has available conveniently accessible and adequate non-secure detention facilities in conformance with the requirements of subdivision B of section two hundred eighteen-a of the county law or that the city of New York has available conveniently accessible and adequate non-secure detention facilities, a child alleged or adjudicated as a person in need of supervision may not be placed by that county or the city of New York in a secure detention facility, effective six months from the date of said certification. A copy of such certification shall be filed with the county executive, if there be one, otherwise with the chairman of the board of supervisors or, in the case of the city of New York, with the mayor thereof. The director shall forward copies of such certification to the director of the budget, chairman of the senate finance committee and the chairman of the assembly ways and means committee.

§ 721. Custody by police officer or peace officer without a warrant.

A peace officer or a police officer may take a person under the age of sixteen into custody without a warrant in cases in which he may arrest for a crime under article one hundred forty of the criminal procedure law. For purposes of this section, the term "crime" used in article one hundred forty of the criminal procedure law refers to an act which, if committed by an adult, would constitute a crime. *(Eff. 9/1/80, Ch. 843, L. 1980)*

§ 722. Custody by private person without a warrant.

A private person may take a person under the age of sixteen into custody in cases in which he may arrest another for a crime under section 140.30 of the criminal procedure law. For purposes of this section, the term "crime" refers to an act which, if committed by an adult, would constitute a crime.

§ 723. Duties of private person before and after taking into custody.

(a) Before taking into custody under section seven hundred twenty-two, a private person must inform the person to be taken into custody of the cause thereof and require him to submit, except where he is doing the act which if done by an adult would constitute a crime or when he is taken into custody on pursuit immediately after its commission.

(b) After taking into custody under section seven hundred twenty-two, a private person must take the person, without unnecessary delay, to his home, to a family court judge or deliver him to a peace officer, who is acting pursuant to his special duties, or a police officer. *(Eff. 9/1/80, Ch. 843, L. 1980)*

§ 724. Duties of police officer or peace officer after taking into custody or on delivery by private person.

(a) If a peace officer or a police officer takes into custody under section seven hundred twenty-one or if a person is delivered to him under section seven hundred twenty-three, the officer shall immediately notify the parent or other person legally responsible for his care, or the person with whom he is domiciled, that he has been taken into custody.

(b) After making every reasonable effort to give notice under paragraph (a), the officer shall

(i) release the child to the custody of his parent or other person legally responsible for his care upon the written promise, without security, of the person to whose custody the child

§724

80

is released that he will produce the child before the family court in that county at a time and place specified in writing; or

(ii) forthwith and with all reasonable speed take the child directly, and without his first being taken to the police station house, to the family court located in the county in which the act occasioning the taking into custody allegedly was done, unless the officer determines that it is necessary to question the child, in which case he may take the child to a facility designated by the appropriate appellate division of the supreme court as a suitable place for the questioning of children and there question him for a reasonable period of time; or

(iii) take the child to a place certified by the state division for youth as a juvenile detention facility for the reception of children.

(c) In the absence of special circumstances, the officer shall release the child in accord with paragraph (b) (i).

(d) In determining what is a "reasonable period of time" for questioning a child, the child's age and the presence or absence of his parents or other person legally responsible for his care shall be included among the relevant considerations. (*Eft. 9/1/80, Ch. 843, L. 1980*)

§724-a. Fingerprinting of certain alleged juvenile delinquents.

1. Following the arrest of a person alleged to be a juvenile delinquent, or the appearance in court of a person not arrested who is alleged to be a juvenile delinquent, the arresting officer or other appropriate police officer or agency shall take or cause to be taken fingerprints of the arrested person or respondent if: (a) the arrested person or respondent is eleven years of age or older and the act which is subject of the arrest or which is charged in the petition would, if committed by an adult, constitute a class A or B felony; or

(b) the arrested person or respondent is thirteen years of age or older and the act which is subject of the arrest or which is charged in the petition would, if committed by an adult, constitute a class C felony.

2. Whenever fingerprints are required to be taken pursuant to subdivision one of this section, the photograph and palmprints of the arrested person or respondent, as the case may be, may also be taken.

3. The taking of fingerprints, palmprints, photographs, and related information concerning the arrested person or respondent and the facts and circumstances of the acts charged in the juvenile delinquency proceeding shall be in accordance with standards established by the commissioner of the division of criminal justice services and by applicable provisions of this article.

4. Upon the taking of fingerprints pursuant to subdivision one of this section, the appropriate officer or agency shall, without unnecessary delay, forward such fingerprints to the division of criminal justice services and shall not retain such fingerprints or any copy thereof. Copies of photographs and palmprints taken pursuant to this section shall be kept confidential and only in the exclusive possession of such law enforcement agency, separate and apart from files of adults.

§ 724-b. Fingerprinting; duties of the division of criminal justice services.

1. Upon receipt of fingerprints taken pursuant to section seven hundred twenty-four-a of this chapter, the division of criminal justice services shall retain such fingerprints distinctly identifiable from adult criminal records except as provided in section seven hundred fifty-three-b of this act, and shall not release such fingerprints to a federal depository or to any person except as authorized by this act. The division shall promulgate regulations to protect the confidentiality of such fingerprints and related information and to prevent access thereto, by, and the distribution thereof to, persons not authorized by law.

2. Upon receipt of fingerprints taken pursuant to section seven hundred twenty-four-a of this chapter, the division of criminal justice services shall classify them, search its records for information concerning an adjudication of the person arrested or respondent or an arrest for juvenile delinquency which is pending and promptly transmit to such forwarding officer or agency a report containing all information on file with respect to such person's previous adjudications or arrests for juvenile delinquency which are pending, if any, or stating that the person arrested or respondent has no previous record according to its files.

3. Upon receipt of a report of the division of criminal justice services pursuant to this section, the recipient office or agency must promptly transmit two copies of such report to the family court in which the proceeding is pending and a copy thereof to the governmental authority presenting the petition for juvenile delinquency. The family court shall furnish a copy thereof to counsel for the respondent or to the respondent's law guardian.

§ 725. Summons or warrant on failure to appear.

The family court before which a person failed to produce a child pursuant to a written promise given under section seven hundred twenty-four may issue a summons requiring the child and the person who failed to produce him to appear at the court at a time and place specified in the summons or may issue a warrant for either or both of them, directing that either or both be

§ 725

82

brought to the court at a time and place specified in the warrant.

§ 726. Duty of facility receiving custody.

Any facility receiving a child under section seven hundred twenty-four (b) (iii) shall inform the parent or other person responsible for such child's care and the family court of its action and shall bring the child as soon as practicable to the family court in the county in which the act occasioning the taking into custody allegedly was done.

§ 727. Rules of court authorizing release before filing of petition.

(a) Rules of court shall authorize the probation service or the administrator responsible for operating a detention facility to release a child in custody before the filing of a petition to the custody of his parents or other relative, guardian or legal custodian when the events occasioning the taking into custody appear to involve a petition to determine whether a person is in need of supervision rather than a petition to determine whether a person is a juvenile delinquent or the events do not appear to satisfy the requirements of section seven hundred thirteen.

(b) Where practicable, rules of court shall authorize the probation service or the administrator responsible for operating a detention facility to release a child before the filing of a petition to the custody of his parents or other relative, guardian or legal custodian when the events occasioning the taking into custody appear to involve a petition to determine whether a person is a juvenile delinquent, unless there are special circumstances requiring his detention.

(c) When rules of court under this section authorize a release, the release may, but need not, be conditioned upon the giving of a recognizance in accord with sections seven hundred twenty-four (b) (i).

(d) If the probation service for any reason does not release a child under this section, the child shall promptly be brought before a judge of the court, if practicable and section seven hundred twenty-eight shall apply.

§ 728. Discharge, release or detention by judge after hearing and before filing of petition in custody cases.

(a) If a child in custody is brought before a judge of the family court before a petition is filed, the judge shall hold a hearing for the purpose of making a preliminary determination of whether the court appears to have jurisdiction over the child. At the com-

mencement of the hearing, the judge shall advise the child of his right to remain silent, his right to be represented by counsel of his own choosing, and of his right to have a law guardian assigned in accord with part four of article two of this act. He must also allow the child a reasonable time to send for his parents or other person legally responsible for his care, and for counsel, and adjourn the hearing for that purpose.

(b) After hearing, the judge shall order the release of the child to the custody of his parent or other person legally responsible for his care if:

(i) the court does not appear to have jurisdiction and the matter is not to be transferred to a criminal court under the judiciary law;

(ii) the events occasioning the taking into custody appear to involve a petition to determine whether a person is in need of supervision rather than a petition to determine whether a person is a juvenile delinquent; or

(iii) the events occasioning the taking into custody appear to involve a petition to determine whether a person is a juvenile delinquent, unless there is a substantial probability that he will not appear in court on the return date or unless there is a serious risk that he may before the return date do an act which if committed by an adult would be a crime.

(c) An order of release under this section may, but need not, be conditioned upon the giving of a recognizance in accord with sections seven hundred twenty-four (b) (i).

§ 729. Duration of detention before filing of petition or hearing.

No person may be detained under this article for more than seventy-two hours or the next day the court is in session, whichever is sooner, without a hearing under section seven hundred twenty-eight.

PART 3 - PRELIMINARY PROCEDURE

Sec.	
731	Originating juvenile delinquency proceeding.
732	Originating proceeding to adjudicate need for supervision.
733	Persons who may originate proceedings.
734	Rules of court for preliminary procedure.
734-a	Approving a petition in a juvenile delinquency proceeding.
735	Admissibility of statements made during preliminary conference.
736	Issuance of summons.
737	Service of summons.
738	Issuance of warrant for respondent or other person legally responsible for care.
739	Release or detention after filing of petition and prior to order of disposition.
740	Preliminary order of protection.

§ 731

84

§ 731. Originating juvenile delinquency proceeding.

1. A proceeding to adjudicate a person a juvenile delinquent is originated by the filing of a petition, alleging:

(a) the respondent did any act which, if done by an adult, would constitute a crime and specifying the time and place of its commission;

(b) the respondent was a person under sixteen years of age at the time of the alleged act; and

(c) the respondent requires supervision, treatment, or confinement.

2. If the petition alleges that the person committed a designated felony act, it shall so state, and the term "designated felony act petition" shall be prominently marked thereon. If all the allegations of a designated felony act are dismissed or withdrawn, the term "designated felony act petition" shall be stricken from the petition.

3. When an order of removal pursuant to article seven hundred twenty-five of the criminal procedure law is filed with the clerk of the court such order and the pleadings and proceedings transferred with it shall be and shall be deemed to be a petition filed pursuant to subdivision one of this section containing all of the allegations therein required notwithstanding that such allegations may not be set forth in the manner therein prescribed. Where the order or the grand jury request annexed to the order specifies an act that is a designated felony act, the clerk shall annex to the order a sufficient statement and marking to make it a "designated felony act petition".

(E.F. 9/1/78, Ch. 481, L. 1978)

§ 732. Originating proceeding to adjudicate need for supervision.

A proceeding to adjudicate a person to be in need of supervision is originated by the filing of a petition, alleging:

(a) the respondent is a habitual truant or is incorrigible, ungovernable, or habitually disobedient and beyond the lawful control of his parents, guardian or lawful custodian, and specifying the acts on which the allegations are based and the time and place they allegedly occurred;

(b) the respondent, if male, was under sixteen years of age and, if female, was under eighteen years of age at the time of the specified acts; and

(c) the respondent requires supervision or treatment.

§ 733. Persons who may originate proceedings.

1. The following persons may originate a proceeding under this article:

(a) a peace officer, acting pursuant to his special duties, or a police officer;

(b) the parent or other person legally responsible for his care;

(c) any person who has suffered injury as a result of the alleged activity of a person alleged to be a juvenile delinquent or in need of supervision, or a witness to such activity; or

(d) the recognized agents of any duly authorized agency, association, society or institution.

2. The provisions of subdivision one of this section do not apply to a proceeding originated by the filing of an order of removal pursuant to article seven hundred twenty-five of the criminal procedure law.

§ 734. Rules of court for preliminary procedure.

(a) Rules of court shall authorize and determine the circumstances under which the probation service may

(i) confer with any person seeking to file a petition, the potential respondent and other interested persons concerning the advisability of filing a petition under this article, and

(ii) attempt to adjust suitable cases before a petition is filed over which the court apparently would have jurisdiction; provided, however, that no cases in which the potential respondent is accused of having done a designated felony act may be adjusted without the prior written approval of a judge of the court; provided further however, that no case in which the potential respondent is accused of having done an act which, if done by an adult, would be a crime defined in section 120.05, (assault in the second degree), section 120.25, (reckless endangerment in the first degree), subdivision one of section 125.15, (manslaughter in the second degree), subdivision one of section 130.25, (rape in the third degree), subdivision one of section 130.40, (sodomy in the third degree), subdivision one or two of section 130.65, (sexual abuse in the first degree), section 135.65, (coercion in the first degree), section 140.20, (burglary in the third degree), section 140.25, (burglary in the second degree), section 140.30, (burglary in the first degree), section 145.12, (criminal mischief in the first degree), section 150.10, (arson in the third degree), section 160.05, (robbery in the third degree), section 160.10, (robbery in the second degree), subdivision two, three or four of section 265.02, (criminal possession of a weapon in the third degree), section 265.03, (criminal possession of a weapon in the second degree), or section 265.04, (criminal possession of a weapon in the first degree), of the penal law, may be adjusted without the prior written consent of the corporation counsel or county attorney where the potential respondent has previously had one or more adjustments on delinquency charges based on any act, which, if done by an adult, would be a crime specified in this paragraph. The probation service may make a recommendation regarding adjustment of the case to the corporation counsel or county attorney and provide such information, including any report made by the arresting officer and record of previous adjustments and arrests, as it shall deem relevant, provided, however, the probation service shall not transmit or otherwise communicate to the corporation counsel or county attorney any statement made by the potential respondent to a probation officer. *(Eff. 9/1/78, Ch. 473, L. 1978)*

(b) Subject to the provisions of section seven hundred thirty-four-a of this chapter, the probation service may not prevent any person who wishes to file a petition under this article from having access to the court for that purpose.

(c) Efforts at adjustment pursuant to rules of court under this section may not extend for a period of more than two months without leave of a judge of the court, who may extend the period for an additional sixty days.

(d) The probation service may not be authorized under this section to compel any person to appear at any conference, produce any papers, or visit any place.

(e) The probation service shall notify the family court whenever it adjusts a case in which the potential respondent's fingerprints were taken pursuant to section seven hundred twenty-four-a of this act in any manner other than the filing of a petition for juvenile delinquency for an act which, if committed by an adult, would constitute a felony, provided, however, in the case of a child eleven or

§ 734

86

twelve years of age, the family court shall be notified only if the act would constitute a class A or B felony. (Ejf.9/1/78,Ch.478,L.1978)

(f) The provisions of this section do not apply where the petition is an order of removal to the family court pursuant to article seven hundred twenty-five of the criminal procedure law.

(Ejf.9/1/78,Ch.481,L.1978)

§ 734-a. Approving a petition in a juvenile delinquency proceeding.

(a) Except as provided in subdivision (b), no juvenile delinquency petition may be filed under this article unless the corporation counsel or county attorney has approved such petition. Such approval of the petition shall be indicated by the signature of the corporation counsel or county attorney thereon.

(b) Where an agreement has been entered into between the district attorney and the county attorney of a county or between the corporation counsel of the city of New York and the district attorney of any county in such city pursuant to section two hundred fifty-four-a of this act, no petition alleging the commission of a designated felony act may be filed unless the district attorney has approved such petition. Approval of the petition shall be indicated by the signature of the district attorney thereon.

(c) The corporation counsel, county attorney or district attorney may in his discretion decline to approve a juvenile delinquency petition. In exercising such discretion consideration shall be given to the form and sufficiency of the petition and the sufficiency of the available evidence. If the corporation counsel, county attorney or district attorney declines to approve a petition he shall state his reasons therefor in writing. Such statement shall be signed by the corporation counsel, county attorney or district attorney who declined to approve the petition and shall be filed in his office. In addition, when the district attorney has declined to approve the petition, a copy of such statement shall be provided to the appropriate corporation counsel or county attorney.

* (d) The corporation counsel, county attorney or district attorney shall exercise his discretion under this section within thirty days after the date the petition was submitted for his approval. Any petition which has not been approved pursuant to this section, within such time period or within any lesser period of time required to comply with section seven hundred twenty-nine of this act, shall be deemed approved. (Ejf.9/1/78,Ch.512,L.1978)

(d) The provisions of this section do not apply where the petition is an order of removal to the family court pursuant to article seven hundred twenty-five of the criminal procedure law.

(Ejf.9/1/78,Ch.481,L.1978)

§ 735. Admissibility of statements made during preliminary conference.

No statement made during a preliminary conference may be admitted into evidence at a fact-finding hearing or, if the proceeding is transferred to a criminal court, at any time prior to a conviction.

§ 736. Issuance of summons.

On the filing of a petition under this article, the court may cause a copy of the petition and a summons to be issued, requiring the respondent and his parent or other person legally responsible for his care, or with whom he is domiciled, to appear at the court at a time and place named to answer the petition. The summons shall be signed by the court or by the clerk or deputy clerk of the court. If those on whom a summons must be served are before the court at the time of the filing of a petition, the provisions of part four shall be followed.

*so in original

87

§ 739

§ 737. Service of summons.

(a) Service of a summons and petition shall be made by delivery of a true copy thereof to the person summoned at least twenty-four hours before the time stated therein for appearance. If so requested by one acting on behalf of the respondent or by a parent or other person legally responsible for his care, the court shall not proceed with the hearing or proceeding earlier than three days after such service.

(b) If after reasonable effort, personal service is not made, the court may at any stage in the proceedings make an order providing for substituted service in the manner provided for substituted service in civil process in courts of record.

§ 738. Issuance of warrant for respondent or other person legally responsible for care.

The court may issue a warrant, directing that the respondent or other person legally responsible for his care or with whom he is domiciled be brought before the court, when a petition is filed with the court under this article and it appears that

- (a) the summons cannot be served; or
- (b) the respondent or other person has refused to obey the summons; or
- (c) the respondent or other person is likely to leave the jurisdiction; or
- (d) a summons, in the court's opinion, would be ineffectual; or
- (e) a respondent on bail or on parole has failed to appear.

§ 739. Release or detention after filing of petition and prior to order of disposition.

(a) After the filing of a petition under section seven hundred thirty-one or seven hundred thirty-two, the court in its discretion may release the respondent or direct his detention. In exercising its discretion under this section, the court shall not direct detention unless it finds and states the facts and reasons for so finding that unless the respondent is detained:

- (i) there is a substantial probability that he will not appear in court on the return date; or
- (ii) there is a serious risk that he may before the return date do an act which if committed by an adult would constitute a crime.

(b) Unless the respondent waives a determination that probable cause exists to believe that he is a juvenile delinquent or a person in need of supervision, no detention under this section may last more than three days (i) unless the court finds, pursuant to the evidentiary standards applicable to a hearing on a felony complaint in a criminal court, that such probable cause exists, or (ii) unless special circumstances exist, in which cases such detention may be extended not more than an additional three days exclusive of Saturdays, Sundays and public holidays.

(c) Where the petition consists of an order of removal pursuant to article seven hundred twenty-five of the criminal procedure law, the petition shall be deemed to be based upon a determination that probable cause exists to believe the respondent is a juvenile delinquent and the respondent shall not be entitled to any further inquiry on the subject of whether probable cause exists. After the filing of any such petition the court must, however, exercise independent, de novo discretion with respect to release or detention as set forth in subdivision (a) of this section; provided, however, that where a criminal court has made a securing order and the respondent is not in detention pursuant to that securing order, the court, in

§ 739

88

addition to any alternative authorized by subdivision (a) of this section, but applying the criteria set forth in that subdivision, may continue the securing order or take any other action with respect to the securing order the criminal court might have taken if the action had not been removed.

§ 740. Preliminary order of protection.

Upon the filing of a petition under this article the court, for good cause shown, may issue a temporary order of protection which may contain any of the provisions authorized on the making of an order of protection under section seven hundred fifty-nine.

PART 4 - HEARINGS

Sec.

- 741 Notice of rights; general provision.
- 742 Judge to preside in juvenile delinquency proceedings.
- 743 Appearances at juvenile delinquency dispositional hearings.
- 744 Evidence in fact-finding hearings; required quantum.
- 745 Evidence in dispositional hearings; required quantum of proof.
- 746 Sequence of hearings.
- 747 Time of fact-finding hearing.
- 748 Adjournment of fact-finding hearing.
- 749 Adjournment after fact-finding hearing or during dispositional hearing.
- 750 Probation reports; probation investigation and diagnostic assessment.

§ 741. Notice of rights; general provision.

(a) At the initial appearance of a respondent in a proceeding and at the commencement of any hearing under this article, the respondent and his parent or other person legally responsible for his care shall be advised of the respondent's right to remain silent and of his right to be represented by counsel chosen by him or his parent or other person legally responsible for his care, or by a law guardian assigned by the court under part four of article two. Provided, however, that in the event of the failure of the respondent's parent or other person legally responsible for his care to appear, after reasonable and substantial effort has been made to notify such parent or responsible person of the commencement of the proceeding and such initial appearance, the court shall appoint a law guardian and shall, unless inappropriate also appoint a guardian ad litem for such respondent, and in such event, shall inform the respondent of such rights in the presence of such law guardian and any guardian ad litem.

(b) The general public may be excluded from any hearing under this article and only such persons and the representatives of authorized agencies admitted thereto as have a direct interest in the case.

(c) At any hearing under this article, the court shall not be prevented from proceeding by the absence of the respondent's parent or other person responsible for his care if reasonable and substantial effort has been made to notify such parent or responsible person of the occurrence of the hearing and if the respondent and his law guardian are present. The court shall, unless inappropriate, also appoint a guardian ad litem who shall be present at such hearing and any subsequent hearing.

§ 742. Judge to preside in juvenile delinquency proceedings.

1. In any juvenile delinquency proceeding under this article, the judge who presides at the commencement of the fact-finding hearing shall continue to preside at the fact-finding hearing or any adjournment thereof, and at any other subsequent hearing in the

89

§746

proceeding. However, where the judge cannot preside

(i) by reason of illness, disability, vacation, or no longer being a judge of the court, or is removed from the proceeding by reason of bias, prejudice or similar grounds; or

(ii) in cases heard outside the city of New York, if it is not practicable for the judge to preside; the rules of the family court shall provide for the assignment of the proceeding to another judge of the court.

2. The provisions of this section shall not be waived.

§743. **Appearances at juvenile delinquency dispositional hearings.**

In any juvenile delinquency proceeding under this article, the counsel presenting the petition shall have prior written notice of all dispositional hearings, and shall have the opportunity to participate therein, including but not limited to the right to present evidence of available resources and to be heard regarding the availability and advisability of each disposition provided for by law.

§744. **Evidence in fact-finding hearings; required quantum.**

(a) Only evidence that is competent, material and relevant may be admitted in a fact-finding hearing.

(b) Any determination at the conclusion of a fact-finding hearing that a respondent did an act or acts must be based on proof beyond a reasonable doubt. For this purpose, an uncorroborated confession made out of court by a respondent is not sufficient.

(c) An order of removal pursuant to a direction authorized by sections 220.10, 310.85 and 330.25 of the criminal procedure law constitutes proof beyond a reasonable doubt and a determination that the respondent did the act or acts specified therein in accordance with subdivision five of section 725.05 of the criminal procedure law.

(Eff. 9/1/78, Ch. 481, L. 1978)

§745. **Evidence in dispositional hearings; required quantum of proof.**

(a) Only evidence that is material and relevant may be admitted during a dispositional hearing.

(b) An adjudication at the conclusion of a dispositional hearing must be based on a preponderance of the evidence.

§746. **Sequence of hearings.**

(a) Upon completion of the fact-finding hearing the dispositional hearing may commence immediately after the required findings are made.

(b) Where the proceeding was commenced by the filing of an order of removal pursuant to a direction authorized by sections 220.10, 310.85 and 330.25 of the criminal procedure law, the requirements of a fact finding hearing shall be deemed to have been satisfied upon the filing of the order and no further fact finding hearing need be held; provided, however, that where any specification required by subdivision five of section 725.05 of the criminal procedure law is not clear, the court may examine such records or hold such hearing as it deems necessary to clarify said specification. Where the specification or specifications are clear, the dispositional hearing may commence immediately. *(Eff. 9/1/78, Ch. 481, L. 1978)*

§ 747

90

§ 747. Time of fact-finding hearing.

A fact-finding hearing shall commence not more than three days after the filing of a petition under this article if the respondent is in detention. However, a fact-finding hearing to determine whether such respondent committed an act, which would be a class A, B or C felony if committed by an adult may commence no later than fourteen days after the filing of the petition.

§ 748. Adjournment of fact-finding hearing.

(a) If the respondent is in detention, the court may adjourn a fact-finding hearing

(i) on its own motion or on motion of the petitioner for good cause shown for not more than three days, provided, however, that if the petition alleges a homicide or an assault by the respondent on a person incapacitated from attending court as a result thereof, the court may adjourn the hearing for a reasonable length of time;

(ii) on motion on behalf of the respondent or by his parent or other person legally responsible for his care for good cause shown, for a reasonable period of time.

(b) Successive motions to adjourn a fact-finding hearing may be granted only under special circumstances.

(c) The court shall state on the record the reason for any adjournment of the fact-finding hearing.

§ 749. Adjournment after fact-finding hearing or during dispositional hearing.

(a) Upon or after a fact-finding hearing, the court may, upon its own motion or upon a motion of a party to the proceeding, order that the proceeding be "adjourned in contemplation of dismissal." An adjournment in contemplation of dismissal is an adjournment of the proceeding, for a period not to exceed six months with a view to ultimate dismissal of the petition in furtherance of justice. Upon issuing such an order, upon such permissible terms and conditions as the rules of court shall define, the court must release the individual. Upon application of the petitioner, or upon the court's own motion, made at any time during the duration of the order, the court may restore the matter to the calendar. If the proceeding is not so restored, the petition is at the expiration of the ordered, deemed to have been dismissed by the court in furtherance of justice.

(b) On its own motion, the court may adjourn the proceedings on conclusion of a fact-finding hearing or during a dispositional hearing to enable it to make inquiry into the surroundings, conditions and capacities of the respondent. An adjournment on the court's motion may not be for a period of more than ten days if the respondent is detained, in which case not more than a total of two such adjournments may be granted in the absence of special circumstances. If the respondent is not detained, an adjournment

may be for a reasonable time, but the total number of adjourned days may not exceed two months.

(c) On motion on behalf of the respondent or by his parent or other person legally responsible for his care, the court may adjourn the proceedings on conclusion of a fact finding hearing or during a dispositional hearing for a reasonable period of time.

(d) Where the petition alleges that the respondent has committed a designated felony act:

(i) the court shall not order an adjournment in contemplation of dismissal under this section;

(ii) an adjournment under subdivision (b) of this section may be for a period of up to thirty days if the respondent is detained, and no additional adjournments may be granted in the absence of special circumstances, except as provided in subdivision four of section seven hundred fifty. The court shall state on the record the facts constituting such special circumstances, which may include, but not be limited to, delays in receipt of probation reports or diagnostic assessments resulting from the inability of the probation service or any person, hospital, clinic or institution to furnish such reports or assessment within the time originally designated by the court. If an additional adjournment is granted on a finding of special circumstances while the respondent is in detention, where a restrictive placement is subsequently ordered, time spent by the respondent in detention during such additional adjournment shall be credited and applied against the term of secure confinement ordered by the court pursuant to subparagraph (ii) of paragraph a of either subdivision three or four of section seven hundred fifty-three-a.

§ 750. Probation reports; probation investigation and diagnostic assessment.

1. All reports or memoranda prepared or obtained by the probation service shall be deemed confidential information furnished to the court and shall be subject to disclosure solely in accordance with this section or as otherwise provided for by law. Such reports or memoranda shall not be furnished to the court prior to the completion of the fact-finding hearing and the making of the required findings.

2. After the completion of the fact-finding hearing and the making of the required findings and prior to the dispositional hearing, the reports or memoranda prepared or obtained by the probation service and furnished to the court shall be made available by the court for examination by the child's law guardian or counsel or by

§750

92

the respondent if he is not represented by a law guardian or other counsel. Except as provided in subdivision four, in its discretion the court may except from disclosure a part or parts of the reports or memoranda which are not relevant to a proper disposition, or sources of information which have been obtained on a promise of confidentiality, or any other portion thereof, disclosure of which would not be in the interest of justice. In all cases where a part or parts of the reports or memoranda are not disclosed, the court shall state for the record that a part or parts of the reports or memoranda have been excepted and the reasons for its action. The action of the court excepting information from disclosure shall be subject to review on any appeal from the order of disposition. If such reports or memoranda are made available to respondent or his law guardian or counsel, they shall also be made available to the counsel presenting the petition.

3. Following a determination that a respondent has committed a designated felony act and prior to the initial dispositional hearing, the judge shall order a probation investigation and diagnostic assessment. The probation investigation shall include, but not be limited to, the history of the juvenile including previous conduct with particular reference to any previous findings by a court that such respondent committed an act defined as a designated felony act in subdivision (h) of section seven hundred twelve of this article regardless of the age of the respondent at the time of commission of such act, the family situation, any previous psychological and psychiatric reports, school adjustment, previous social assistance provided by voluntary or public agencies and the response of the juvenile to such assistance. The diagnostic assessment shall include, but not be limited to, psychological tests and psychiatric interviews to determine mental capacity and achievement, emotional stability and mental disabilities. It shall include a clinical assessment of the nature and intensity of impulses and controls of the juvenile, and of the situational factors that may have contributed to the act or acts. When feasible, expert opinion shall be rendered as to the risk presented by the juvenile to others or himself, with a recommendation as to the need for a restrictive placement.

(Eff. 9/1/78, Ch. 478, L. 1978)

4. Where the respondent is found to have committed a designated felony act, all diagnostic assessments and probation investigation reports shall be made available to the court and to counsel presenting the petition and for the respondent at least five court days prior to the commencement of the dispositional hearing. The respective attorneys shall also have the right to examine the makers of all such materials. They shall also have the right to an adjournment for a reasonable time in order to produce additional evidence, including expert testimony.

PART 5 - ORDERS

Sec.	
751	Order dismissing petition.
752	Finding.
753	Disposition on adjudication of juvenile delinquency.
753-a	Designated felony act; restrictive placement.
753-b	Retention and destruction of fingerprints of persons alleged to be juvenile delinquents.
754	Disposition on adjudication of person in need of supervision.
755	Suspended judgment.
756	Placement.
757	Probation.
758-a	Restitution.
759	Order of protection.
760	Transfer of juvenile delinquents.

§ 751. Order dismissing petition.

If the allegations of a petition under this article are not established, the court shall dismiss the petition.

§ 752. Findings.

If the allegations of a petition under this article are established in accord with part three, the court shall enter an order finding that the respondent is a juvenile delinquent or a person in need of supervision. The order shall state the grounds for the finding and the facts upon which it is based. In the case of a finding that the respondent is a juvenile delinquent, the order shall specify the section or sections of the penal law or other law under which the act or acts so stated would constitute a crime if done by an adult. If the respondent is found to have committed a designated felony act, the order shall so state.

§ 753. Disposition on adjudication of juvenile delinquency.

1. Upon an adjudication of juvenile delinquency, the court shall enter an order of disposition:

(a) Suspending judgment in accord with section seven hundred fifty-five;

(b) Continuing the proceeding and placing the respondent in accord with section seven hundred fifty-six;

(c) Putting the respondent on probation in accord with section seven hundred fifty-seven;

(d) Continuing the proceeding and placing the respondent under a restrictive placement in accord with section seven hundred fifty-three-a of this article; or

(e) Placing the respondent in accordance with the provisions of section seven hundred sixty.

§753

94

2. The order shall state the court's reasons for the particular disposition, including, in the case of a restrictive placement pursuant to section seven hundred fifty-three-a, the specific findings of fact required in such section.

§753-a. Designated felony acts: restrictive placement.

1. Where the respondent is found to have committed a designated felony act, the order of disposition shall be made within twenty days of the conclusion of the dispositional hearing and shall include a finding, based on a preponderance of the evidence, as to whether, for the purposes of this article, the respondent does or does not require a restrictive placement under this section, in connection with which the court shall make specific written findings of fact as to each of the elements set forth in paragraphs (a) through (e) in subdivision two of this section as related to the particular respondent. If the court finds that a restrictive placement under this section is not required, the order of disposition shall be as provided in section seven hundred fifty-three, not including paragraph (d) of subdivision one. If the court finds that a restrictive placement is required, it shall continue the proceeding and enter an order of disposition for a restrictive placement. Every order under this section shall be a dispositional order, shall be made after a dispositional hearing and shall state the grounds for the order.

2. In determining whether a restrictive placement is required, the court shall consider:

- (a) the needs and best interests of the respondent;
- (b) the record and background of the respondent, including but not limited to the information disclosed in the probation investigation and diagnostic assessment;
- (c) the nature and circumstances of the offense, including whether any injury involved was inflicted by the respondent or another participant;
- (d) the need for protection of the community; and
- (e) the age and physical condition of the victim.

2-a. Notwithstanding the provisions of subdivision two of this section, the court shall order a restrictive placement in any case where the respondent is found to have committed a designated felony act in which the respondent inflicted serious physical injury, as that term is defined in subdivision ten of section 10.00 of the penal law, upon another person who is sixty-two years of age or more.

3. When the order is for a restrictive placement in the case of a youth found to have committed a designated class A felony act,

(a) the order shall provide:

(i) The respondent shall be placed with the division for youth for an initial period of five years.

(ii) The respondent shall initially be confined in a secure facility for a period set by the order, to be not less than twelve nor more than eighteen months provided, however, where the order of the court is made in compliance with subdivision five of this section, the respondent shall initially be confined in a secure facility for eighteen months. *(Eff. 9/1/78, Ch. 478, L. 1978)*

(iii) After the period set under clause (ii) of this paragraph, the respondent shall be placed in a residential facility for a period of twelve months.

(iv) The respondent may not be released from a secure facility or transferred to a non-secure facility during the period provided in clause (ii) of this paragraph, nor may the respondent be released from a residential facility during the period provided in clause (iii) of this paragraph. No home visits shall be permitted during the period of secure confinement set by the court order or one year, whichever is less, except for emergency visits for medical treatment or severe illness or death in the family. All home visits must be accompanied home visits (A) while a youth is confined in a secure facility, whether such confinement is pursuant to a court order or otherwise; (B) while a youth is confined in a non-secure residential facility within six months after confinement in a secure facility; and (C) while a youth is confined in a non-secure residential facility in excess of six months after confinement in a secure facility unless two accompanied home visits have already occurred. An "accompanied home visit" shall mean a home visit during which the youth shall be accompanied at all times while outside the secure or residential facility by appropriate personnel of the division for youth designated pursuant to regulations of the director of the division. *(Eff. 8/19/78, Ch. 510, L. 1978)*

(b) Notwithstanding any other provision of law, during the first twelve months of the respondent's placement, no motion, hearing or order may be made, held or granted pursuant to part six of this article; provided, however, that during such period a motion to vacate the order may be made pursuant to section seven hundred sixty-two of this act, but only upon grounds set forth in section 440.10 of the criminal procedure law.

(c) During the placement or any extension thereof:

(i) After the expiration of the period provided in clause three of paragraph (a) of this subdivision, the respondent shall not be released from a residential facility without the written approval of the director of the division for youth or his or her design-

§753-a

96

ated deputy director.

(ii) The respondent shall be subject to intensive supervision whenever not in a secure or residential facility.

(iii) The respondent shall not be discharged from the custody of the division for youth, unless a motion therefor under part six of this article is granted by the court, which motion shall not be made prior to the expiration of three years of the placement.

(iv) Unless otherwise specified in the order, the division shall report in writing to the court not less than once every six months during the placement on the status, adjustment and progress of the respondent.

(d) Upon the expiration of the initial period of placement, or any extension thereof, the placement may be extended, on a motion of any party, the division for youth or the court, after a dispositional hearing, for an additional period of twelve months, but no initial placement or extension of placement under this section may continue beyond the respondent's twenty-first birthday.

(e) The court may also make an order pursuant to subdivision two of section seven hundred sixty.

4. When the order is for a restrictive placement in the case of a youth found to have committed a designated felony act, other than a designated class A felony act,

(a) the order shall provide:

(i) The respondent shall be placed with the division for youth for an initial period of three years.

(ii) The respondent shall initially be confined in a secure facility for a period set by the order, to be not less than six nor more than twelve months.

(iii) After the period set under clause (ii) of this paragraph, the respondent shall be placed in a residential facility for a period set by the order, to be not less than six nor more than twelve months.

(iv) The respondent may not be released from a secure facility or transferred to a non-secure facility during the period provided by the court pursuant to clause (ii) of this paragraph, nor may the respondent be released from a residential facility during the period provided by the court pursuant to clause (iii) of this paragraph. No home visits shall be permitted during the period of secure confinement set by the court order or one year, whichever is less, except for emergency visits for medical treatment or severe illness or death in the family. All home visits must be accompanied home visits (A) while a youth is confined in a secure facility, whether such confinement is pursuant to a court

96A

§ 753-a

order or otherwise; (B) while a youth is confined in a non-secure residential facility within six months after confinement in a secure facility; and (C) while a youth is confined in a non-secure residential facility in excess of six months after confinement in a secure facility unless two accompanied home visits have already occurred. An "accompanied home visit" shall mean a home visit during which the youth shall be accompanied at all times while outside the secure or residential facility by appropriate personnel of the division for youth designated pursuant to regulations of the director of the division.

(Eff. 8/19/78, Ch. 510, L. 1978)

(b) Notwithstanding any other provision of law, during the first six months of the respondent's placement, no motion, hearing or order may be made, held or granted pursuant to part six of this article; provided, however, that during such period a motion to vacate the order may be made pursuant to section seven hundred sixty-two of this act, but only upon grounds set forth in section 440.10 of the criminal procedure law.

(c) During the placement or any extension thereof:

(i) After the expiration of the period provided in clause (iii) of paragraph (a) of this subdivision, the respondent shall not be released from a residential facility without the written approval of the director of the division for youth or his or her designated deputy director.

(ii) The respondent shall be subject to intensive supervision whenever not in a secure or residential facility.

(iii) The respondent shall not be discharged from the custody of the division for youth.

(iv) Unless otherwise specified in the order, the division shall report in writing to the court not less than once every six months during the placement on the status, adjustment and progress of the respondent.

(d) Upon the expiration of the initial period of placement or any extension thereof, the placement may be extended, on motion of any party, the division for youth or the court, after a dispositional hearing, for an additional period of twelve months, but no initial placement or extension of placement under this section may continue beyond the respondent's twenty-first birthday.

(e) The court may also make an order pursuant to subdivision two of section seven hundred sixty.

5. When the order is for a restrictive placement in the case of a youth found to have committed any designated felony act and

such youth has been found by a court to have committed a designated felony act on a prior occasion, regardless of the age of such youth at the time of commission of such prior act, the order of the court shall be made pursuant to subdivision three of this section.

6. The division for youth shall retain the power to continue the confinement of the youth in a secure or other residential facility beyond the periods specified by the court, within the term of the placement.

(E][9/1/78, Ch. 478, L. 1978)

§ 753-b. Retention and destruction of fingerprints of persons alleged to be juvenile delinquents.

1. If a person whose fingerprints were taken pursuant to section seven hundred twenty-four-a of this act is adjudicated to be a juvenile delinquent for an act which if committed by an adult would constitute a felony, the family court shall forward or cause to be forwarded to the division of criminal justice services notification of such adjudication and such related information as may be required by such division, provided, however, in the case of a child eleven or twelve years of age such notification shall be provided, only if the act upon which the adjudication is based would constitute a class A or B felony.

2. If a person whose fingerprints, palmprints or photographs were taken pursuant to section seven hundred twenty-four-a of this act has had all allegations of juvenile delinquency finally disposed of in any manner other than an adjudication of juvenile delinquency for an act which if committed by an adult would constitute a felony, but in the case of acts committed when such child was eleven or twelve years of age would constitute a class A or B felony only, the family court shall enter an order directing that all such fingerprints, palmprints, photographs, and copies thereof, and all information relating to such allegations obtained by the division of criminal justice services pursuant to section seven hundred twenty-four-a of this act shall be destroyed forthwith. Such order shall be served by the clerk of the court upon the commissioner of the division of criminal justice services and upon the heads of all police departments and law enforcement agencies having copies of such records, who shall implement the order without unnecessary delay.

3. If a person fingerprinted pursuant to section seven hundred twenty-four-a of this act and subsequently adjudicated a juvenile delinquent for an act which if committed by an adult would constitute a felony, but in the case of acts committed when such child was eleven or twelve years of age would constitute a class A or B felony only, is subsequently convicted of a crime, all fingerprints and related information obtained by the division of criminal justice services pursuant to such section and not destroyed pursuant to subdivision two or four of this section shall become part of such division's permanent adult criminal record for that person, notwithstanding section seven hundred eighty-three or seven hundred eighty-four of this act.

4. When a person fingerprinted pursuant to section seven hundred twenty-four-a of this act and subsequently adjudicated a juvenile

§ 753-b

98

delinquent for an act which if committed by an adult would constitute a felony, but in the case of acts committed when such child was eleven or twelve years of age would constitute a class A or B felony only reaches the age of twenty-one, or has been discharged from placement under this act for at least three years, whichever occurs later, and has no criminal convictions or pending criminal actions which ultimately terminate in a criminal conviction, all fingerprints, palmprints, photographs and related information and copies thereof obtained pursuant to section seven hundred twenty-four-a in the possession of the division of criminal justice services, any police department, law enforcement agency or any other agency shall be destroyed forthwith. The division of criminal justice services shall notify the agency or agencies which forwarded fingerprints to such division pursuant to section seven hundred twenty-four-a of this act of their obligation to destroy those records in their possession. In the case of a pending criminal action which does not terminate in a criminal conviction, such records shall be destroyed forthwith upon such termination.

(Eff. 9/1/78, Ch. 478, L. 1978)

§ 754. Disposition on adjudication of person in need of supervision.

1. Upon an adjudication of person in need of supervision, the court shall enter an order of disposition:

- (a) Discharging the respondent with warning;
- (b) Suspending judgment in accord with section seven hundred fifty-five;
- (c) Continuing the proceeding and placing the respondent in accord with section seven hundred fifty-six; or
- (d) Putting the respondent on probation in accord with section seven hundred fifty-seven.

2. The order shall state the court's reasons for the particular disposition.

§ 755. Suspended judgment.

(a) Rules of court shall define permissible terms and conditions of a suspended judgment. The court may order as a condition of a suspended judgment restitution or services for public good pursuant to section seven hundred fifty-eight-a.

(b) The maximum duration of any term or condition of a suspended judgment is one year, unless the court finds at the conclusion of that period that exceptional circumstances require an additional period of one year.

§ 756. Placement.

(a) (i) For purposes of sections seven hundred fifty-three and seven hundred fifty-four, the court may place the child in its own home or in the custody of a suitable relative or other suitable private person or a commissioner of social services or the division for youth pursuant to article nineteen-G of the executive law, subject to the orders of the court.

(ii) Where the child is placed with the commissioner of social services, the court may direct the commissioner to place the child with an authorized agency or class of authorized agencies. Unless

the dispositional order provides otherwise, the court so directing shall include one of the following alternatives to apply in the event that the commissioner is unable to so place the child:

(1) the commissioner shall apply to the court for an order to stay, modify, set aside, or vacate such directive pursuant to the provisions of section seven hundred sixty-two or seven hundred sixty-three of this act; or

(2) the commissioner shall return the child to the family court for a new dispositional hearing and order.

(iii) Where the child is placed with the division for youth, the court shall, unless it directs the division to place the child with an authorized agency or class of authorized agency pursuant to paragraph (iv) hereof authorize the division to do one of the following:

(1) place a child adjudicated as a juvenile delinquent in a secure facility without a further hearing at any time or from time to time during the first sixty days of residency in division for youth facilities. Notwithstanding the discretion of the division to place the child in a secure facility at any time during the first sixty days of residency in a division for youth facility, the child may be placed in a non-secure facility. In the event that the division desires to transfer a child to a secure facility at any time after the first sixty days of residency in division facilities, a hearing shall be held pursuant to subdivision three of section five hundred fifteen-a of the executive law.

(2) Place a child adjudicated as a juvenile delinquent in a school or center pursuant to the provisions of sections five hundred ten and five hundred eleven of the executive law. The child may be transferred by the division to a secure facility after a hearing is held pursuant to subdivision three of section five hundred fifteen-a of the executive law; provided, however, that during the first sixty days of residency in division facilities, the child shall not be transferred to a secure facility unless he has committed an act or acts which are exceptionally dangerous to himself or others.

(3) place a child adjudicated either as a juvenile delinquent or as a person in need of supervision in a youth center pursuant to the provisions of section five hundred two of the executive law. No child placed pursuant to this subparagraph may be transferred by the division for youth to a secure facility.

§ 756

99A

(iv) Where the child is placed with the division for youth, the court may direct or authorize the division to place the child with an authorized agency or class of authorized agencies and, in such case, it shall include one of the following alternatives to apply in the event the division is unable to so place the child, or in the event the placement with the authorized agency is discontinued:

(1) the division shall apply to the court for an order to stay, modify, set aside or vacate such directive pursuant to the provisions of sections seven hundred sixty-two or seven hundred sixty-three of this act; or

(2) the division shall return the child to the family court for a new dispositional hearing and order. *(Eff. 9/1/78, Ch. 478, L. 1978)*

(b) Placements under this section may be for an initial period of eighteen months and the court in its discretion may, at the expiration of such period, make successive extensions for additional periods of one year each; provided, however, upon an adjudication of juvenile delinquency after a finding that the child committed an act which, if done by an adult, would constitute a misdemeanor as defined in the penal law, such placement may be for a maximum initial period of one year. The place in which or the person with which the child has been placed under this section shall submit a report at the end of the year of placement, making recommendations and giving such supporting data as is appropriate. The court on its own motion may at the conclusion of any period of placement hold a hearing concerning the need for continuing the placement. In its discretion, the court may recommend restitution or require services for public good pursuant to section seven hundred fifty-eight-a of this act in conjunction with an order of placement.

(Eff. 9/1/78, Ch. 478, L. 1978)

(c) Successive extensions may be granted, but no placement may be made or continued under this section beyond the child's eighteenth birthday without his or her consent and in no event past his or her twenty-first birthday.

99-B

§ 757

(d) If the court places a child with the division for youth pursuant to subdivision (a) of this section after finding that such child committed an act which, if done by an adult, would constitute a felony as defined in the penal law, the court may, in its discretion, further order that such child shall be confined in a residential facility for a minimum period set by the order, not to exceed six months.

(Eff. 9/1/78, Ch. 478, L. 1978)

§ 757. Probation.

(a) Rules of court shall define permissible terms and conditions of probation.

(b) The maximum period of probation in the case of a person adjudicated a juvenile delinquent shall not exceed two years and in the case of a person adjudicated in need of supervision shall not exceed one year. If the court finds at the conclusion of the original period that exceptional circumstances require an additional year of probation, the court may continue probation for an additional year.

(c) The court may order as a condition of probation restitution or services for public good pursuant to section seven hundred-fifty-eight-a.

§758-a

100

§758-a. Restitution.

1. Rules of court shall define permissible terms and conditions of restitution or services for public good as set forth in this section.
2. In cases involving acts of infants over ten and less than sixteen years of age, the court may
 - (a) recommend as a condition of placement, or order as a condition of probation or suspended judgment, restitution in an amount representing a fair and reasonable cost to replace the property or repair the damage caused by the infant, not, however, to exceed one thousand dollars. In the case of a placement, the court may recommend that the infant pay out of his or her own funds or earnings the amount of replacement or damage, either in a lump sum or in periodic payments in amounts set by the agency with which he is placed, and in the case of probation or suspended judgment, the court may require that the infant pay out of his or her own funds or earnings the amount of replacement or damage, either in a lump sum or in periodic payments in amounts set by the court; or
 - (b) Order as a condition of placement, probation or suspended judgment, services for the public good, taking into consideration the age and physical condition of the infant.
3. If the court recommends restitution or requires services for the public good in conjunction with an order of placement pursuant to sections seven hundred fifty-three-a or seven hundred fifty-six, the placement shall be made only to an authorized agency, including the division for youth, which has adopted rules and regulations for the supervision of such a program, which rules and regulations (except in the case of the division for youth) shall be subject to the approval of the office of court administration in consultation with the board of social welfare. Such rules and regulations shall include, but not be limited to provisions (i) assuring that the conditions of work, including wages, meet the standards therefor prescribed pursuant to the labor law; (ii) affording coverage to the child under the workman's compensation law as an employee of such agency, department, division or institution; (iii) assuring that the entity receiving such services shall not utilize the same to replace its regular employees; and (iv) providing for reports to the court not less frequently than every six months, unless the order provides otherwise.
4. If the court requires restitution or services for the public good as a condition of probation or suspended judgment, it shall provide that an agency or person supervise the restitution or services and that such agency or person report to the court not less frequently than every six months, unless the order provides otherwise.

5. The court, upon receipt of the reports provided for in subdivision three or four of this section may, on its own motion or the motion of any part or the agency, hold a hearing to determine whether the placement should be altered or modified.

§ 759. Order of Protection.

The court may make an order of protection in assistance or as a condition of any order issued under this article. The order of protection may set forth reasonable conditions of behavior to be observed for a specified time by a person who is before the court and is a parent or other person legally responsible for the child's care or the spouse of the parent or other person legally responsible for the child's care, or respondent or both. Such an order may require any such person

- (a) to stay away from the home of the other spouse or the child;
- (b) to permit a parent to visit the child at stated periods;
- (c) to abstain from offensive conduct against the child or against the other parent or against any person to whom custody of the child is awarded;
- (d) to give proper attention to the care of the home;

(e) to refrain from acts of commission or omission that tend to make the home not a proper place for the child. The court may also award custody of the child, during the term of the order of protection to either parent, or to an appropriate relative within the second degree. Nothing in this section gives the court power to place or board out any child to an institution or agency. In making orders of protection, the court shall so act as to insure that in the care, protection, discipline and guardianship of the child his religious faith shall be preserved and protected.

(f) to participate in family counseling or other professional counseling activities conducted by an authorized person or an authorized agency to which the child has been referred or placed, including the division for youth, deemed necessary for the rehabilitation of the child, provided that such family counseling or other counseling activity is not contrary to such person's religious beliefs.

§ 760. Transfer of juvenile delinquents.

1. Upon an adjudication of juvenile delinquency under this article, if the court also finds at a dispositional hearing pursuant to section seven hundred forty-five that the juvenile has a mental illness, mental retardation or developmental disability as defined in section 1.03 of the mental hygiene law, which is likely to result in serious harm to himself or others, the court may issue an order

§ 760

102

placing such juvenile with the division for youth. Any such order shall direct the temporary transfer for admission of the respondent to the custody of either the commissioner of mental health or the commissioner of mental retardation and developmental disabilities who shall arrange the admission of the respondent to the appropriate facility of the department of mental hygiene. Persons temporarily transferred to such custody under this provision may be retained for care and treatment for a period of up to one year and whenever appropriate shall be transferred back to the division for youth pursuant to the provisions of subdivision four of section five hundred seventeen of the executive law. Within thirty days of such transfer back, application shall be made by the division for youth to the placing court to conduct a further dispositional hearing at which the court may make any order authorized under clauses a through c of section seven hundred fifty-three, except that the period of any further order of disposition shall take into account the period of placement hereunder. Likelihood to result in serious harm shall mean (1) substantial risk of physical harm to himself as manifested by threats or attempts at suicide or serious bodily harm or other conduct demonstrating he is dangerous to himself or (2) a substantial risk of physical harm to other persons as manifested by homicidal or other violent behavior by which others are placed in reasonable fear of serious bodily harm.

2. (a) Where the order of disposition is for a restrictive placement under section seven hundred fifty-three-a of this article; if the court at the dispositional hearing finds that the respondent has a mental illness, mental retardation or developmental disability as defined in section 1.03 of the mental hygiene law, which is likely to result in serious harm to himself or others, the court may, as part of the order of disposition, direct the temporary transfer, for a period of up to one year, of the respondent to the custody of the commissioner of mental health or of mental retardation and developmental disabilities who shall arrange for the admission of the respondent to an appropriate facility under his jurisdiction within thirty days of such order. The director of the facility so designated by the commissioner shall accept such respondent for admission.

(b) Persons transferred to the office of mental health or of mental retardation and developmental disabilities, pursuant to this subdivision, shall be retained by such office for care and treatment for the period designated by the court. At any time prior to the expiration of such period, if the director of the facility determines that the child is no longer mentally ill or no longer in need of active treatment, the responsible office shall make application to the family court for an order transferring the child back to the division for youth. Not more than thirty days before the expiration of such period, there shall be a dispositional hearing, at which time the court may:

103

§761

(i) extend the temporary transfer of the respondent for an additional period of up to one year to the custody of the commissioner of the office of mental health or the office of mental retardation and developmental disabilities pursuant to this subdivision; or

(ii) continue the restrictive placement of the respondent in the custody of the division for youth.

(c) During such temporary transfer, the respondent shall continue to be under restrictive placement with the division for youth. Whenever the respondent is transferred back to the division, the conditions of the placement as set forth in section seven hundred fifty three-a of this article shall apply. Time spent by the respondent in the custody of the commissioner of the office of mental health or the office of mental retardation and developmental disabilities shall be credited and applied towards the period of secure and residential placement as the case may be.

3. No dispositional hearing at which proof of a mental disability as defined in section 1.03 of the mental hygiene law is to be offered shall be completed until the mental health information service and the commissioner of mental health or the commissioner of mental retardation and developmental disabilities, as appropriate, have been notified and afforded an opportunity to be heard at such dispositional hearing.

4. No order of disposition placing the respondent in accordance with this section shall be entered except upon a preponderance of competent evidence which shall include the testimony of two examining physicians as provided in section two hundred fifty-one. (Ej. 7/20/78, Ch. 511, L. 1978)

PART 6 - NEW HEARING AND RECONSIDERATION OF ORDERS

Sec.

- 761 New hearing.
- 762 Staying, modifying, setting aside or vacating order.
- 763 Notice of motion.
- 764 Petition to terminate placement.
- 765 Service of petition; answer.
- 766 Examination of petition and answer; hearing.
- 767 Orders on hearing.
- 768 Successive petitions.

§761. New hearing.

On its own motion or on motion of any interested person acting on behalf of the respondent, the court may for good cause grant a new fact-finding or dispositional hearing under this article.

§ 762

104

§ 762. Staying, modifying, setting aside or vacating order.

For good cause, the court on its own motion or on motion of any interested person acting on behalf of the respondent may stay execution of, arrest, set aside, modify or vacate any order issued in the course of a proceeding under this article.

§ 763. Notice of motion.

Notice of motion under sections seven hundred sixty-one or seven hundred sixty-two, including the court's own motion, shall be served upon parties and any agency or institution having custody of the child not less than seven days prior to the return date of the motion. The persons on whom the notice of motion is served shall answer the motion not less than two days before the return date. On examining the motion and answer and, in its discretion, after hearing argument, the court shall enter an order, granting or denying the motion.

§ 764. Petition to terminate placement.

Any parent or guardian or duly authorized agency or next friend of a person placed under sections seven hundred fifty-three-a or seven hundred fifty-six may petition to the court for an order terminating the placement. The petition must be verified and must show:

(a) except in the case of a person placed pursuant to section seven hundred fifty-three-a, that an application for release of the respondent was made to the duly authorized agency with which the child was placed;

(b) except in the case of a person placed pursuant to section seven hundred fifty-three-a, that the application was denied or was not granted within thirty days from the day application was made; and

(c) the grounds for the petition.

§ 765. Service of petition; answer.

A copy of a petition under section seven hundred sixty-four shall be served promptly upon the duly authorized agency or the institution having custody of the person, whose duty it is to file an answer to the petition within five days from the day of service.

§ 766. Examination of petition and answer; hearing.

The court shall promptly examine the petition and answer. If the court concludes that a hearing should be had, it may proceed upon due notice to all concerned to hear the facts and determine whether continued placement serves the purposes of this article.

105

§ 771

If the court concludes that a hearing need not be had, it shall enter an order granting or denying the petition.

§ 767. Orders on hearing.

(a) If the court determines after hearing that continued placement serves the purposes of this article, it shall deny the petition. The court may, on its own motion, reduce the duration of the placement, change the agency in which the child is placed, or direct the agency to make such other arrangements for the person's care and welfare as the facts of the case may require.

(b) If the court determines after hearing that continued placement does not serve the purposes of this article, the court shall discharge the person from the custody of the agency and may place the person on probation or under the supervision of the court.

§ 768. Successive petitions.

If a petition under section seven hundred sixty-four is denied, it may not be renewed for a period of ninety days after the denial, unless the order of denial permits renewal at an earlier time.

PART 7 - COMPLIANCE WITH ORDERS

Sec.

- 771 Discontinuation of treatment by agency or institution.
- 772 Action on return from agency or institution.
- 773 Petition for transfer for incorrigibility.
- 774 Action on petition for transfer.
- 775 Order on hearing.
- 776 Failure to comply with terms and conditions of suspended judgment.
- 777 Failure to comply with terms of placement at home.
- 778 Failure to comply with terms of placement in authorized agency.
- 779 Failure to comply with terms of probation.
- 780 Failure to comply with order of protection.

§ 771. Discontinuation of treatment by agency or institution.

If an authorized agency in which a person is placed under section seven hundred fifty-six

(a) discontinues or suspends its work; or

(b) is unwilling to continue to care for the person for the reason that support by the state of New York or one of its political subdivisions has been discontinued; or

(c) so fundamentally alters its program that the person can no longer benefit from it, the person shall be returned by the agency to the court which entered the order of placement.

§772

106

§772. Action on return from agency or institution.

If a person is returned to the court under section seven hundred seventy-one, the court may make any order that might have been made at the time the order of placement was made, except that the maximum duration authorized for any such order shall be decreased by the time spent in placement.

§773. Petition for transfer for incorrigibility.

Any institution, society or agency, except a state training school, in which a person was placed under section seven hundred fifty-six may petition to the court which made the order of placement for transfer of that person to a society or agency, governed or controlled by persons of the same religious faith or persuasion as that of the child, where practicable, or, if not practicable, to some other suitable institution, or to some other suitable institution on the ground that such person

(a) is incorrigible and that his or her presence is seriously detrimental to the welfare of the applicant institution, society, agency or other persons in its care, or

(b) after placement by the court was released on parole or probation from such institution, society or agency and a term or condition of the release was willfully violated. The petition shall be verified by an officer of the applicant institution, society or agency and shall specify the act or acts bringing the person within this section.

§774. Action on petition for transfer.

On receiving a petition under section seven hundred seventy-three, the court may proceed under sections seven hundred thirty-seven, seven hundred thirty-eight or seven hundred thirty-nine with respect to the issuance of a summons or warrant and sections seven hundred twenty-seven and seven hundred twenty-nine govern questions of detention and failure to comply with a promise to appear. Due notice of the petition and a copy of the petition shall also be served personally or by mail upon the office of the locality chargeable for the support of the person involved and upon the person involved and his parents and other persons.

§775. Order on hearing.

(a) After hearing a petition under section seven hundred seventy-three, the court may:

(i) dismiss the petition;

(ii) grant the petition, making such placement, if the court was authorized to make such placement upon the original adjudication; or

(iii) terminate the prior order of placement and either dis-

charge the respondent or place him on probation.

(b) If the court grants the petition and orders placement, the respondent shall thereupon be transferred to the custody of the person, agency or institution provided by the court's order.

§ 776. Failure to comply with terms and conditions of suspended judgment.

If a respondent is brought before the court for failure to comply with reasonable terms and conditions of a suspended judgment issued under this article and if, after hearing, the court is satisfied by competent proof that the respondent failed to comply with such terms and conditions, the court may revoke the suspension of judgment and proceed to make any order that might have been made at the time judgment was suspended.

§ 777. Failure to comply with terms of placement at home.

If a person placed in his own home subject to orders of the court leaves home without the court's permission, he may be brought before the court and if, after hearing, the court is satisfied by competent proof that the respondent left home without just cause, the court may revoke the order of placement and proceed to make any order that might have been made at the time the order of placement was made. It may also continue the order of placement and, on due notice and after hearing, enter an order of protection for the duration of the placement.

§ 778. Failure to comply with terms of placement in authorized agency.

If a person is placed in the custody of a suitable institution in accord with section seven hundred fifty-six and leaves the institution without permission of the superintendent or person in charge and without permission of the court, and if, after hearing, the court is satisfied by competent proof that the respondent left the institution without just cause, the court may revoke the order of placement and proceed to make any order that might have been made at the time the order of placement was made, or any order authorized under sections seven hundred fifty-six or paragraph (a) of section seven hundred fifty-eight.

§ 779. Failure to comply with terms of probation.

If a respondent is brought before the court for failure to comply with reasonable terms and conditions of an order of probation issued under this article and if, after hearing, the court is satisfied by competent proof that the respondent without just cause failed to comply with such terms and conditions, the court may revoke

§779.

108

the order of probation and proceed to make any order that might have been made at the time the order of probation was entered.

§780. Failure to comply with order of protection.

If any person is brought before the court for failure to comply with the terms and conditions of an order of protection properly issued under this article and applicable to him and if, after hearing, the court is satisfied by competent proof that that person without just cause failed to comply with such terms and conditions, the court may modify or revoke the order of protection, or commit said person, if he willfully violated the order, to jail for a term not to exceed six months, or both. The court may suspend an order of commitment under this section on condition that the said person comply with the order of protection.

PART 8 - EFFECT OF PROCEEDINGS

Sec.

781 Nature of adjudication.

782 Effect of adjudication.

782-a Transfer of records and information to institutions and agencies.

783 Use of record in other court.

783-a Consolidation of records within a city having a population of one million or more.

784 Use of police records.

§781. Nature of adjudication.

No adjudication under this article may be denominated a conviction, and no person adjudicated a juvenile delinquent or a person in need of supervision under this article shall be denominated a criminal by reason of such adjudication.

§782. Effect of adjudication.

No adjudication under this article shall operate as a forfeiture of any right or privilege or disqualify any person from subsequently holding public office or receiving any license granted by public authority.

§782-a. Transfer of records and information to institutions and agencies.

Whenever a person is placed with an institution suitable for the placement of a person adjudicated delinquent or in need of supervision maintained by the state or any subdivision thereof or to an authorized agency including the division for youth, the family court so placing such person shall forthwith transmit a copy of the orders of the family court pursuant to section seven hundred fifty-two and either seven hundred fifty-three, seven hundred fifty-three-a or seven hundred fifty-four of this article, and of the probation report and all other relevant evaluative records in the

possession of the family court and probation department related to such child, including but not limited to any diagnostic, educational, medical, psychological and psychiatric records with respect to such person to such institution or agency, notwithstanding any contrary provision of law.

§ 783. Use of record in other court.

Neither the fact that a person was before the family court under this article for a hearing nor any confession, admission or statement made by him to the court or to any officer thereof in any stage of the proceeding is admissible as evidence against him or his interests in any other court. Another court, in imposing sentence upon an adult after conviction, may receive and consider the records and information on file with the family court concerning such person when he was a child.

§ 783-a. Consolidation of records within a city having a population of one million or more.

Notwithstanding any other provision of law, in a city having a population of one million or more, an index of the records of the local probation departments located in the counties comprising such city for proceedings under article seven shall be consolidated and filed in a central office for use by the family court and local probation service in each such county. After consultation with the state administrative judge, the state director of probation shall specify the information to be contained in such index and the organization of such consolidated file.

§ 784. Use of police records.

All police records relating to the arrest and disposition of any person under this article shall be kept in files separate and apart from the arrests of adults and shall be withheld from public inspection, but such records shall be open to inspection upon good cause shown by the parent, guardian, next friend or attorney of that person upon the written order of a judge of the family court in the county in which the order was made or, if the person is subsequently convicted of a crime, of a judge of the court in which he was convicted.

APPENDIX F

§ 3204. Instruction required

1. Place of instruction. A minor required to attend upon instruction by the provisions of part one of this article may attend at a public school or elsewhere. The requirements of this section shall apply to such a minor, irrespective of the place of instruction.

2. Quality and language of instruction; text-books. Instruction may be given only by a competent teacher. In the teaching of the subjects of instruction prescribed by this section, English shall be the language of instruction, and text-books used shall be written in English, except that for a period of three years from the date of enrollment in school, pupils who, by reason of foreign birth, ancestry or otherwise, experience difficulty in reading and understanding English, may, in the discretion of the board of education, board of trustees or trustee, be instructed in all subjects in their native language and in English. Instruction given to a minor elsewhere than at a public school shall be at least substantially equivalent to the instruction given to minors of like age and attainments at the public schools of the city or district where the minor resides.

2-a. Bilingual instruction in schools. 1. The governing board of any school district is hereby empowered to determine the circumstances and necessity wherein instruction shall be given bilingually. The said governing board shall design the necessary procedures and acquire the necessary training materials and equipment to meet the special educational needs of children of limited English speaking ability through programs designed to accomplish the following:

- a. bilingual education;
- b. to impart to students a knowledge of the history and culture associated with their languages;
- c. to establish closer cooperation between the school and the home;
- d. to provide early childhood educational programs related to the purposes of this section and designed to improve the potential for profitable learning activities by children;
- e. to provide adult education programs related to the purposes of this section, particularly for parents of children participating in bilingual programs;
- f. to provide programs designed for dropouts or potential dropouts having need of bilingual programs;
- g. to provide programs to be conducted by accredited trade, vocational or technical schools; and
- h. to provide other activities deemed desirable to further the purposes of this section.

2. Any duly authorized local educational agency or agencies is hereby empowered to make application for any grant or grants in furtherance of this section under Title VII Public Law 90-247 as enacted by the United States Congress January second, nineteen hundred sixty-eight.

3. Courses of study. a. (1) The course of study for the first eight years of full time public day schools shall provide for instruction in at least the twelve common school branches of arithmetic, reading, spelling, writing, the English language, geography, United States history, civics, hygiene, physical training, the history of New York state and science.

(2) The courses of study and of specialised training beyond the first eight years of full time public day schools shall provide for instruction in at least the English language and its use, in

civics, hygiene, physical training, and American history including the principles of government proclaimed in the Declaration of Independence and established by the constitution of the United States.

(3) The courses of study beyond the first eight years of full time public day schools may provide a program for a course in "communism and its methods and its destructive effects".

b. For part time day schools. The course of study of a part time public day school shall include such subjects as will enlarge the civic and vocational intelligence and skill of the minors required to attend.

c. For evening schools. In a public evening school instruction shall be given in at least speaking, reading, and writing English.

d. For parental schools. In a parental school provision shall be made for vocational training and for instruction in other subjects appropriate to the minor's age and attainments.

e. Changes in courses of study. The state education department shall have power to alter the subjects of instruction as prescribed in this section.

4. Length of school sessions. a. A full time day school or class, except as otherwise prescribed, shall be in session for not less than one hundred ninety days each year, inclusive of legal holidays that occur during the term of said school and exclusive of Saturdays.

b. A part time day school or class shall be in session each year for at least four hours of each week during which the full time day schools are in session.

c. Evening schools shall be in session each year as follows:

(1) In cities having a population of one hundred thousand or more, on at least one hundred nights;

(2) In cities having a population of fifty thousand but less than one hundred thousand, on at least seventy-five nights;

(3) In each other city, and in each school district where twenty or more minors from seventeen to twenty-one years of age are required to attend upon evening instruction, on at least fifty nights.

5. Subject to rules and regulations of the board of regents, a pupil may, consistent with the requirements of public education and public health, be excused from such study of health and hygiene as conflicts with the religion of his parents or guardian. Such conflict must be certified by a proper representative of their religion as defined by section two of the religious corporations law.

L.1947, c. 820; amended L.1950, cc. 47, 135; L.1951, c. 124; L.1952, c. 539; L.1953, c. 14; L.1961, c. 662; L.1968, c. 304; L.1970, c. 967, §§ 2, 3, eff. Sept. 1, 1970.

§ 3204. Instruction required

1. Place of instruction. A minor required to attend upon instruction by the provisions of part one of this article may attend at a public school or elsewhere. The requirements of this section shall apply to such a minor, irrespective of the place of instruction.

2. Quality and language of instruction; text-books. Instruction may be given only by a competent teacher. In the teaching of the subjects of instruction prescribed by this section, English shall be the language of instruction, and text-books used shall be written in English, except that for a period of three years, which period may be extended by the commissioner with respect to individual pupils, upon application therefor by the appropriate school authorities, to a period not in excess of six years, from the date of enrollment in school, pupils who, by reason of foreign birth, ancestry or otherwise, experience difficulty in reading and understanding English, may, in the discretion of the board of education, board of trustees or trustee, be instructed in all subjects in their native language and in English. Instructions given to a minor elsewhere than at a public school shall be at least substantially equivalent to the instruction given to minors of like age and attainments at the public schools of the city or district where the minor resides.

{See main volume for text of 2-a and 3}

4. Length of school sessions. a. A full time day school or class, except as otherwise prescribed, shall be in session for not less than one hundred ninety days each year, inclusive of legal holidays that occur during the term of said school and exclusive of Saturdays.

b. A part time day school or class will be in session each year for at least four hours of each week during which the full time day schools are in session.

c. Evening schools shall be in session each year as follows:

(1) In cities having a population of one hundred thousand or more, on at least one hundred nights;

(2) In cities having a population of fifty thousand but less than one hundred thousand, on at least seventy-five nights;

(3) In each other city, and in each school district where twenty or more persons from seventeen to twenty-one years of age are required to attend upon evening instruction, on at least fifty nights.

{See main volume for text of 5}

As amended L.1974, c. 919, § 9; L.1974, c. 1052, § 1.

§ 3205. Attendance of minors upon full time day instruction

1. a. In each school district of the state, each minor from six to sixteen years of age shall attend upon full time instruction.

b. Each minor from six to sixteen years of age on an Indian reservation shall attend upon full time day instruction.

2. Exceptions. a. A minor who has completed a four-year high school course of study shall not be subject to the provisions

of part one of this article in respect to required attendance upon instruction.

b. A minor for whom application for a full-time employment certificate has been made and who is eligible therefor may, though unemployed, be permitted to attend part time school not less than twenty hours per week instead of full time school.

3. In each city of the state and in union free school districts having a population of more than forty-five hundred inhabitants and employing a superintendent of schools, the board of education shall have power to require minors from sixteen to seventeen years of age who are not employed to attend upon full time day instruction.

L.1947, c. 820; amended L.1959, c. 262, § 1; L.1966, c. 975, § 17; L.1968, c. 100; L.1969, c. 296, §§ 1, 2, eff. July 1, 1969

§ 3211. Records of attendance upon instruction

1. Who shall keep such record. The teacher of every minor required by the provisions of part one of this article to attend upon instruction, or any other school district employee as may

be designated by the commissioner of education under section three thousand twenty-four of this chapter, shall keep an accurate record of the attendance and absence of such minor. Such record shall be in such form as may be prescribed by the commissioner of education.

2. Certificates of attendance to be presumptive evidence. A duly certified transcript of the record of attendance and absence of a child which has been kept, as provided in this section, shall be accepted as presumptive evidence of the attendance of such child in any proceeding brought under the provisions of part one of this article.

3. Inspection of records of attendance. An attendance officer, or any other duly authorized representative of the school authorities, may at any time during school hours, demand the production of the records of attendance of minors required to be kept by the provisions of part one of this article, and may inspect or copy the same and make all proper inquiries of a teacher or principal concerning the records and the attendance of such minors.

4. Duties of principal or person in charge of the instruction of a minor. The principal of a school, or other person in charge of the instruction upon which a minor attends, as provided by part one of this article, shall cause the record of his attendance to be kept and produced and all appropriate inquiries in relation thereto answered as hereinbefore required. He shall give prompt notification in writing to the school authorities of the city or district of the discharge or transfer of any such minor from attendance upon instruction, stating the date of the discharge, its cause, the name of the minor, his date of birth, his place of residence prior to and following discharge, if such place of residence be known, and the name of the person in parental relation to the minor.

L.1947, c. 820; amended L.1962, c. 521, § 3, eff. July 1, 1962.

§ 3211. Records of attendance upon instruction

Index to Notes

Construction with other laws	1/2
Registration of pupils	1
Transcy proceedings	2

1/2. Construction with other laws

The term "competent evidence" in Family Court Act § 714 relating to admission of evidence in fact-finding hearings includes evidence specified in this section providing that a duly certified transcript of record of attendance and absence of child shall be accepted as presumptive evidence of attendance of such child in any proceeding, and the Education Law § 3211 has not been superseded by Family Court Act § 741. In re R., 1974, 79 Misc.2d 329, 357 N.Y.S.2d 1001.

2. Transcy proceedings

Transcripts of teacher's record of attendance and absence of child have the sufficient indicia of reliability for admission in transcy proceedings under the "person in need of supervision" clause of Family Court Act § 711 et seq., and court's reliance on transcript does not deprive child of constitutional rights to confrontation. In re R., 1974, 79 Misc.2d 329, 357 N.Y.S.2d 1001.

Admission of transcript of teacher's attendance record, in transcy proceedings under the "person in need of supervision" clause of Family Court Act § 711 et seq. is not improper on theory that the teacher's roll book should be produced in court. Id.

§ 3213. Supervisors of attendance; attendance teachers; attendance officers; appointment, compensation, powers and duties

1. Appointment, removal, compensation and supervision. a. To the end that children shall not suffer through unnecessary failure to attend school for any cause whatsoever, it shall be the duty of each attendance teacher and each attendance supervisor to secure for every child his right to educational opportunities which will enable him to develop his fullest potentialities for education, physical, social and spiritual growth as an individual and to provide for the school adjustment of any non-attendant child in cooperation with school authorities, special school services and community and social agencies.

The school authorities of each city school district, union free school district, central school district, central high school district, or common school district whose limits include in whole or in part an incorporated village, shall appoint and may remove one or more supervisors of attendance or attendance teachers of such district. A supervisor of attendance shall be appointed in accordance with the civil service law and rules, unless he or she is a licensed attendance teacher or a teacher licensed to teach in New York state, with such further qualifications as the board of regents shall establish. On and after July first, nineteen hundred fifty-five no full-time supervisor of attendance shall be

appointed unless he or she holds a license as attendance teacher. Such supervisors of attendance and those holding full-time positions who are similarly licensed teachers or who hold attendance teacher licenses shall be assigned to the step in the salary schedule of the school district commensurate with the salary being paid such supervisors or teachers. Such persons shall be paid thereafter in accordance with such schedule. If the amount of salary received on said July first, nineteen hundred fifty-five is less than the minimum step of the salary schedule, such supervisor or teacher shall be paid until June thirtieth, nineteen hundred fifty-six at the rate of the first step and in accordance with the schedule thereafter.

No supervisor of attendance or attendance teacher shall be appointed who is not twenty-one years of age and in proper physical condition.

In the establishment of an eligible list advanced education related to attendance service shall be taken into consideration in the grading of the candidates. Experience in teaching, in social service and welfare work, and in business or in the professional field shall likewise be taken into consideration.

Paragraph a of subdivision one of this section shall apply to a city in which attendance supervisors are appointed from an eligible list now prepared by a board of examiners.

Supervisors of attendance in a city having a board of examiners shall be licensed as attendance teachers only when they comply with the regulations for such license as established by the commissioner of education and any additional requirements which may be established by the board of examiners.

The board of education shall fix the compensation of part-time supervisors of attendance and prescribe their duties not inconsistent with part one of this article and make rules and regulations for the performance thereof. The superintendent of schools or district superintendent of schools shall supervise the enforcement of part one of this article within such city or school district.

APPENDIX G

CONTENT ANALYSES

CATEGORIZATION CODING SHEET FOR
 ARTICLE 7 -- FAMILY COURT ACT -- CH 686 - 1962
 AMENDED 19 AUGUST 1978

		<u>JD</u>	<u>PINS</u>
<u>PART I--JURISDICTION</u>			
Section:			
711	<u>Purpose</u>		
	-- Needs of Respondent	x	x
	-- Protection of Community	x	--
712	<u>Definitions</u>		
	-- Criminal Behavior	x	--
	-- Detention	x	x
	-- Fact Finding Hearing	x	x
	-- Dispositional Hearing to Determine Needs of Respondent:		
	-- Supervision	x	x
	-- Treatment	x	x
	-- Confinement	x	--
713	<u>Jurisdiction</u>	x	x
716	<u>Substitution of Petition</u>		x
718	<u>Return of Runaway</u>	x	x
<u>PART II--CUSTODY AND DETENTION</u>			
Section:			
720	<u>Detention</u>	x	x

Section:		<u>JD</u>	<u>PINS</u>
721	<u>Custody by Police Officer or Peace Officer Without a Warrant</u>	x	x
722	<u>Custody by a Private Person Without a Warrant</u>	x	x
724	<u>Fingerprinting of Certain Alleged Juvenile Delinquents</u>	x	--
725	<u>Summons or Warrant on Failure to Appear</u>	x	x
727	<u>Rules of Court Authorizing Release Before Filing of Petition</u>	x	x
728	<u>Discharge Release or Detention by Judge After Hearing and Before Filing of Petition in Custody Cases</u>	x	x
729	<u>Duration of Detention Before Filing of Petition or Hearing</u>	x	x

PART III--PRELIMINARY PROCEDURE

Section:			
731	<u>Originating Juvenile Delinquency Proceeding</u>		
732	<u>Originating Proceeding to Adjudicate Need for Supervision</u>		
	-- Criminal Behavior	x	--
733	<u>Persons Who May Originate Proceedings</u>	x	x
734	<u>Rules of Court for Preliminary Procedure</u>	x	--
734a	<u>Approving a Petition in a Juvenile Delinquency Proceeding</u>	x	--
739	<u>Release or Detention After Filing of Petition and Prior to Order to Disposition</u>	x	x

JD PINS

PART IV--HEARINGS

Section:

741	<u>Notice of Rights; General Provision</u>	x	x
-----	--	---	---

PART V--ORDERS

Section:

752	<u>Findings</u>	x	x
753	<u>Disposition on Adjudication of Juvenile Delinquency</u>		
754	<u>Disposition on Adjudication of Person In Need of Supervision</u>		
a)	<u>Suspending Judgement</u>	x	x
b)	<u>Continuing Proceeding and Placing Respondent in Accord with Section 756</u>	x	x
c)	<u>Putting Respondent on Probation in Accord with Section 757</u>	x	x
d)	<u>Placing the Respondent in Accordance with the Provisions of Section 760</u>	x	--
e)	<u>Discharging the Respondent with Warning</u>	--	x
755	<u>Suspended Judgement</u>	x	x
756	<u>Placement</u>		
	-- Secure Facility	x	--
	-- Other Than Secure Facility	x	x
	-- Transfer to a Secure Facility	x	--
	-- Transfer to an Agency Other Than a Secure Facility	x	x

Section:		<u>JD</u>	<u>PINS</u>
757	<u>Probation</u>		
	-- Maximum Period--2 years	x	--
	-- Maximum Period--1 year	--	x
758a	<u>Restitution</u>	x	x
759	<u>Order of Protection</u>	x	x
760	<u>Transfer of Juvenile Delinquents</u>		
	-- Mental Health	x	--
	-- Mental Retardation	x	--

PART VI--NEW HEARING AND RECONSIDERATION OF ORDERS

Section:

761	<u>New Hearing</u>	x	x
762	<u>Staying, Modifying, Setting Aside or Vacating Order</u>	x	x
763	<u>Notice of Motion</u>	x	x
764	<u>Petition to Terminate Placement</u>	x	x

PART VII--COMPLIANCE WITH ORDERS

Section:

771	<u>Discontinuation of Treatment by Agency</u>		
	-- Return to Court for Action		
773	<u>Petition for Transfer for Incorrigibility</u>		
	-- State Training Schools*	x	--
	-- Other Than State Training Schools	x	x

*PINS are not placed in State Training Schools by law.

PART VIII--EFFECT OF PROCEEDINGS

Section:

		<u>JD</u>	<u>PINS</u>
781	<u>Nature of Adjudication</u>	x	x
782	<u>Effect of Adjudication</u>	x	x
782a	<u>Transfer of Records and Information to Institutions and Agencies</u>	x	x
783	<u>Use of Record in Court</u>	x	x
784	<u>Use of Police Records</u>	x	x

Page Totals

1	11	9
2	12	8
3	11	9
4	11	8
5	5	5
	<u>50</u>	<u>39</u>
GRAND TOTAL:	50	39
		76%

APPENDIX H

EVOLUTION OF THE NEW YORK STATE DIVISION FOR YOUTH
AS THE STATE'S JUVENILE JUSTICE AND
CHILD CARE AGENCY

Since the establishment as the Temporary State Youth Commission in 1945, with responsibilities in the area of providing technical and financial support to youth programs in communities across the State, the Division for Youth has evolved into an umbrella agency providing a wide range of programs and services for all young people. Chapter 881 of the Laws of 1960 created a new program aimed at juvenile delinquency and youth problems. One important aspect of this program was the creation of a Division for Youth in the Executive Department.

Legislation enacted in 1971 transferred, effective July 1971, the State Training School System from the Department of Social Services to the Division for Youth. This transfer reflected the State's decision to consolidate all youth-related activities into a single agency to provide maximum coordination of the State's responsibilities for youth programs.

The New York State Training School System had at the time (1971) twelve training schools that provided care and treatment for children placed or committed as delinquent or as PINS*. The training school system grew out of a need for more institutional care by local communities throughout the State. Four of the nine institutions that served New

*Persons in Need of Supervision.

York City were established by statute, were run by superintendents and had a Board of Visitors (appointed by the Governor) and were charged with the responsibility to report regularly on the condition of the schools. The remaining five were established as annexes to the schools, rather than by statute. The schools at that time were Amenia, Brookwood, Goshen, Highland, Hudson, Otisville, Overbrook, South Kortright and Warwick, Tryon, Industry and New Hampton.

Budget slashes by the State Legislature precipitated the transfer of the training school system from the Department of Social Services to the Division for Youth, a much smaller agency located in the Executive Department of State government. The transfer was linked to the phrase "The Canary swallowed the Cat."

Prior to the transfer, the Division was responsible only for youths in the age group fifteen to seventeen, who were admitted to residential facilities at the discretion of the Division. Thus, the Division's major new responsibilities included the rehabilitation of all youth adjudicated as juvenile delinquents or persons in need of supervision between the ages of seven and seventeen, who were placed or committed to the agency by the Family Courts.

The new program of the Division for Youth was conceived in the light of the multitude of other institutional resources in New York State provided by many private agencies. The services of the Division were established so as not to duplicate, overlap or compete with these programs. The institutional program of the Division for Youth was designed to provide the State with a flexible, aggressive, experimental

set of resources to demonstrate and evaluate new techniques in the area of youth services and delinquency prevention.

The Laws of 1960 (Chapter 880) also provided for:

. . . the establishment of Youth Opportunity and Youth Rehabilitation Centers for the care, treatment, education, rehabilitation and guidance of youth who have reached the age of fifteen years but have not reached the age of eighteen years and whose behavior indicates they will benefit from the programs offered at such centers.

Youth could be enrolled in an Opportunity Center without a court procedure but upon written consent of a duly authorized agency, as well as parental consent via a voluntary referral process. Youth could be referred to the Rehabilitation Center phase through courts pending final disposition of their cases or as a condition of probation following adjudication. There were four proposed types of programs within the Opportunity and Rehabilitation phases: the Youth Division Camp Program, the Short Term Adolescent Residential Treatment Program (START), the Youth Division Home Program and the Reporting and Aftercare Program.

The year 1973 proved to be significant in the areas of legislative reform and legal actions taken against DFY. Effective July 1973, the Executive Law of the State of New York provided for the designation of all DFY facilities into two types, Title II or Title III. Title II facilities were those types of programs that the agency had operationalized prior to the merger and were non-institutional and/or community-oriented in nature (Camps, STARTS, Group Homes and Youth Development Centers). Title III became the designation for the training

schools and centers previously under DSS jurisdiction. This further had an impact on the potential placement for a youngster. A Title III PINS or JD designation could conceivably be placed in either a Title III or Title II facility but a Title II PINS or JD designation could only be placed in a Title II program.

A legal action was taken against DFY in the form of a State Court of Appeals ruling (In re Ellery C.), which prohibited the co-mingling of institutionalized Title III PINS and JD youth. This ruling necessitated the designation of the HUDSON, Highland and Tryon Schools as PINS facilities and Warwick and Industry as JD facilities.

PINS deinstitutionalization gained momentum as a new administration came to the agency. Emphasis was placed on the creation of community-based alternative programs, an increase in the use of private and voluntary agencies, the development of program options made possible by the Alternatives Grant from LEAA. All of this was highlighted by the ever-increasing need to provide secure placements within the agency for the Title III JDs and designated felons with restrictive placements.

With the aforementioned as background data, if one were to summarize the function of the Division for Youth, the following description would probably be an accurate assessment.

Part of the Executive Branch of State Government, the Division for Youth today has responsibility in the areas of youth rehabilitation, youth development and delinquency prevention, relationships to

voluntary child-caring agencies, youth detention services, foster care, community involvement and community education.

The Division for Youth provides a broad range of residential and non-residential youth rehabilitation programs for youths mainly between the ages of twelve to seventeen who are in need of supportive services and innovative intervention, including formative and constructive living experiences, education and basic employment orientation, and professional treatment and counseling services.

Boys and girls in--or in the brink of--trouble come under the care of the Division in the following ways:

1. Through placement by the Family Courts after adjudication as a "Person in Need of Supervision (PINS)" or as a "Juvenile Delinquent (JD)";
2. Upon referral by the Family Courts and the adolescent sections of adult courts as a condition of probation;
or
3. Voluntarily upon referral by duly authorized public or private agencies.

Settings in which these youths are placed by the Division range from family foster care and small seven-bed urban homes to the larger self-contained schools at Industry and Tryon and locked facilities like Goshen and Brookwood. With varying program emphasis for each type of facility, each designed to best serve particular categories of young people, the Division is able to provide appropriate intervention services to all young people who come into its care.

The second major area of Division for Youth activity is the Youth Development/Delinquency Prevention Program which makes available some \$17.5 million in State aid for the development and expansion of a wide range of locally administered youth recreation and youth service programs. In 1976, some 1,262 municipalities offered youth programs in conjunction with the Division for Youth. The Division also regulates and reimburses for juvenile detention services at the local level, and reimburses for care of juvenile delinquent and PINS children by voluntary agencies.

Development of a Program Level System

During the 1970s, the Division for Youth operated a variety of innovative residential treatment programs for youth including Group Homes, START Centers, Youth Development Centers, Camps, Training Schools, and Secure Centers. While any set of programs, especially those of a facility nature, can be expected to change somewhat over time, this process has been greatly accelerated in DFY due to the rapid deinstitutionalization which the Division undertook in the 1970s and the resultant redesign of a variety of existing DFY facilities. In addition, new programs and facilities have been added to the current program structure. This has resulted in the current situation wherein a single budget program may contain a wide disparity of facility types and thus, where analysis of activities, resources, expenditures, and needs are difficult to discuss or for the outsider to understand. The new configuration outlined below has been developed over the past year and responds to current needs within the Division.

This program level reorganization created a total of four sub-programs within Rehabilitative Services, including: (1) Secure Services; (2) Limited Secure Services; (3) Non-Community Based Services; and (4) Community-Based Services. Within these sub-groups, the Division's resources for youth have been further divided into a Level System which has meaning and significance for a variety of fiscal, research and evaluation, placement and operational decisions and undertakings.

Secure Services. The Secure Services Program is comprised of a single level of facilities which provide intensive, secure services for youth placed with the Division.

Level I--Secure Centers. Youth admitted to the secure centers are adjudicated either as Title III Juvenile Delinquents by the Family Courts or as Juvenile Offenders by the Adult Courts. JDs may be admitted to secure centers in the following ways:

1. All youth placed as restrictive JDs pursuant to the Juvenile Justice Reform Act of 1976 must be initially placed in a secure facility for a term specified in the court order.
2. Pursuant to Section 756 of the Family Court Act, the court may authorize the Division to place a youth at a secure facility without further hearing during the first sixty days of residency in DFY facilities.
3. Youth may be transferred from Level II facilities to Secure Centers after an appropriate hearing if the youth has shown himself to be exceptionally dangerous to himself or to other persons, or has demonstrated a pattern of behavior that he needs a more structured setting.

Limited Secure Services. Facilities in the limited secure services program are divided into two levels of operational purposes within the Division. The facilities in this program and the services available therein vary significantly. The common denominator is the fact that all facilities in this program must provide virtually all of their program services for youth on grounds but they are characterized by a less secure nature than that which exists in Level I facilities.

Level II--Limited Secure Centers. All youth admitted to facilities in this level are adjudicated Title III Juvenile Delinquents by the Family Courts. Furthermore, these youth are deemed to require removal from the community and placement in a facility which can restrict their access and movement.

Youth placed in Level II facilities are almost always serious juvenile delinquents who require intensive programs in order to succeed. It is assumed that, on the average, the youth will remain in Level II facilities for approximately twelve months and will, in many cases, require transfer to less secure resources as transitional steps to the community.

Facilities in Level II represent the widest variety within any of the levels within DFY. Facilities in this level range from 120 bed training schools to 20 bed centers. In most cases, these facilities are located in rural areas. In those cases where Level II facilities are located in urban areas, the buildings are of a much higher security capability than those facilities located in rural areas.

Level III--Special Residential Centers. Youth placed in the Special Residential Centers have been adjudicated by the Family Courts

as either Juvenile Delinquents or PINS. They are deemed to require a program which restricts their access to the community, and one which has special educational or clinical resources available within it.

The objective of the Special Residential Centers in DFY are to provide appropriate rehabilitative services to youth with specific educational and/or mental health needs, and limited access to the community with appropriate secure focus to prevent these youth from absconding. The length of stay for youth in these facilities is expected to average fifteen months.

Community-Based Services. The Community-Based Services Program is comprised of Levels V, VI, and VII. All of these programs are characterized by their dependence on community resources in order to provide the entire array of services required for the youth placed in these programs.

Level V--Youth Development Centers. Initially conceived as alternative intervention for youth with drug-related problems, the Youth Development Centers have evolved to serve a more varied clientele. Designed to provide services to youth in a community setting but with limited access to the community and with continuous staff support, the Youth Development Centers now play an increasing role in providing services to youth on return from out-of-community placements. In addition, the Youth Development Centers continue to serve youth from the local community as initial intervention strategies in the juvenile justice system. The adjudication status of youth in the YDCs has changed significantly over the years from one of predominantly non-adjudicated

youth to a current population where most youth served are adjudicated Juvenile Delinquents.

Level VI--Community Facilities. Youth admitted to the group homes may be adjudicated JDs, PINS, YOs, placed as condition of probation, or in some few cases not adjudicated, but placed pursuant to Section 358a of the Social Services Law. As in the case of the Youth Development Centers, youth placed in Division group homes fall into two general groups--initial placements as diversions from the non-community bases or more institutional aspects of the system and youth returning to the community from these non-community based settings. In all cases, these youth do not require rigid security arrangements at this point in their placement as this is not possible in group home settings.

Level VII--Alternative Home Resources. The alternative home resources level includes a variety of resources for youth who cannot or should not return to their own homes. These resources are in almost all cases transitional for youth who have been served in other DFY settings and who will not be returning to their own homes. In some relatively few cases, youth may be admitted directly to placements in this level. Youth placed in settings in the alternative home resources area may be adjudicated as JDs, PINS or Youthful Offenders, or may be non-adjudicated but placed pursuant to Section 358a of the Social Services Law as benefitting from removal from their homes.

The bulk of resources available in this area are the Division funded foster care and independent living programs, as well as some alternative residential placements available through cooperative placements with private child-care agencies.

APPENDIX I

NEW YORK DIVISION FOR YOUTH
THE JUVENILE CONTACT SYSTEM: WHAT IT IS AND WHAT IT DOES

The Juvenile Contact System (JCS) is a computer assisted client data base on youth served by the Division for Youth. The system contains information gathered at three points in the service process: (1) demographic and legal information collected at initial referral, (2) personal, family and social information collected through intake assessment interviews and consultations, and (3) tracking information that marks and records the service location of youth in care, including transfers, releases and absences.

JCS is maintained by the Statistics and Survey Unit of the Division for Youth in its central office at 84 Holland Avenue, Albany, New York. Through the cooperation of all facilities and case service units, the Statistics and Survey group collects more than 50,000 paper forms per year on 5,000 cases in care.

FORMS

Prior to July, 1974, DFY operated with 32 separate case forms to record admissions, transfers, releases and discharges. Another series of narrative reports guided case services and progress. These forms were carried over from two sources -- one from the record system of the Department of Social Services which had operated the Title III training schools before 1971, and another from DFY which had run the Title II facilities before the amalgamation in 1971.

The inauguration of JCS in July, 1974, reduced the paper forms to eight and put both Title II and Title III services under one recording system. During 1977, these forms were further simplified and reduced to two forms -- an Intake Face Sheet and a Movement Form. Paperwork routines were also simplified at that time. In the spring of 1978, the Intake Assessment Form was added to record youth's social, legal, educational and health history providing a data base for initial placement planning. In July of 1979, a standardized case planning instrument, Problem Orientated Service Planning (POSP) was initiated to increase the usefulness of service plans as well as to maximize accountability for the degree to which these plans are carried out. Paperwork routines were consolidated into basically 4 JCS forms at this time.

JCS forms are designed for simplicity of layout and clarity of content. The forms are intended to anticipate reporting requirements from the State sector aspects of the Child Care Review Service (CCRS), operated by State Department Social Services. When DFY comes under the statutory reporting obligations of CCRS, the needed case information from the JCS data base will be transmitted into the CCRS system via computer interface and telecommunications, thereby minimizing demands that may be made on DFY field staff for this information. Other outside reporting requirements are built into the JCS forms wherever possible.

FILES

Paper files are maintained at the JCS office on all cases in service. These files contain copies of the intake, assessment, POSP and movement forms as well as supporting documentation and narratives. Computer files are constructed from the incoming material. The most basic of these files, all of

which are written in COBOL, is the Master File -- a collection of incoming demographics and a changeable item on current status and location. An admissions file stacks up, in chronological order, all initial and subsequent admissions and transfers to services and programs. A separate file is maintained on day services. An absence file records the type and date of each absence. Admissions and absences are combined into a population billing file. Recently, a composite file was created out of parts of all the existing files. This composite -- the analysis file -- will allow the expeditious production of reports that combine information from a variety of basic files.

REPORTS

Computer generated reports are produced from the JCS data to serve a variety of purposes:

- individual case reports and profiles to aid case management and the delivery of case services;
- application forms that are computer generated to secure additional support or services for eligible cases;
- management control reports to review program services and population flow;
- chargeback bills and interim case service reports to local counties;
- analytic reports as research material for program evaluation;
- case listings and movement histories to act as ready access case files; and,
- internal editing reports to screen incoming information for accuracy and to supplement the clerical function in maintaining the data base.

A more detailed list of some of the reports outlined above follows.

LISTING OF REGULAR JCS REPORTS

<u>JCS I.O.</u>	<u>TITLE AND DESCRIPTION</u>
DFYLOG	MASTER CASE LOAD. This report lists all youth who are now or who have been active in the Division for Youth. It provides basic descriptive data for each youth and reports on current status. The report is produced weekly. Contains names, confidential.
DFYR01	MONTHLY FACILITY ROSTER. This report lists the current populations of all residential units as of the last day of the reporting month. It describes some basic characteristics of each youth and summarizes these characteristics for the facility and the Division as a whole. Contains names, confidential.
DFYR04	MONTHLY COUNSELING WORKER CASE LOAD. This report provides each Youth Service Worker with an end-of-the-month status report of all those youth for whom the worker is the Case Manager. It lists basic characteristics of each youth, current location and provides a summary of the youth on the caseload. Contains names, confidential.
DFYB37	BILLABLE AND NON-BILLABLE DAYS OF CARE. This report is provided to each Social Services District (County) on a monthly basis. It describes the location and movement of youth for whom the county is responsible and alerts the County to the number of billable days of service provided by the Division. Contains names, confidential.
DFYR01	DAY SERVICE ROSTER. This report lists the current populations of all day service programs. Contains names, confidential.
DFYJ47 (Replaced by DFYJP31 DFYJP32)	REHABILITATIVE SERVICES POPULATION REPORT. This report records the admission and release activity of all residential services over a specified period (weekly and monthly) and summarizes ethnicity and adjudication of the registered populations.
DFYJ36	ADJUDICATION BY SEX BY FACILITY. This report provides a current summary of each facility in terms of the sex and adjudication of its under-care population. This report is produced weekly.
DFYJ33	FACILITY POPULATION BY AGE. This report summarizes the ages of youth currently active in each Division facility. Types of facilities (i.e., Camps) are also summarized to facilitate comparison between types of Division programs as well as individual facilities. This report is produced weekly.
DFYJ40	FACILITY YOUTH PROFILE. This report provides a detailed listing of major demographic characteristics for each youth currently under care in a given facility. Confidential. This report is produced weekly.

LISTING OF REGULAR JCS REPORTS
(continued)

<u>JCS I.D.</u>	<u>TITLE AND DESCRIPTION</u>
DFYR04	YOUTH REFERRED PRIOR TO FINAL DISPOSITION. This report provides each YST worker with an end-of-the-month status report on all cases listed as referred prior to final disposition on his case-load. It provides a "reminder" for YST workers to update the legal status of pertinent cases.
DFYJ91	PLACEMENT EXPIRATION SCHEDULE. This report provides YST workers with an end-of-the-month status report on all cases due to expire within a 60 day period. This allows YST workers to make the necessary court action if extension of placement will be sought.
DFYJ87	EXTENSION OF PLACEMENT FOR UNAUTHORIZED ABSENCE - TITLE III AWOLS. This report provides YST workers with an accurate end of month status report on the illegal absences of Title III juveniles in Title III facilities for updating purposes.
DFYJ48	CLASSIFIED CASE REPORT. This report lists classified cases by facility and summarizes regional case load. This report is confidential and distribution is extremely limited. This report is produced monthly.
DFYB31	QUARTERLY CHARGE BACK BILL. This report is distributed through the Finance Unit to the local Social Services Districts as the statement of charges for services rendered by the Division during the previous quarter. Contains names, confidential.
DFYJ45	FACILITY MONTHLY ADMISSION-RELEASE HISTORY. This report lists the movements of each youth within Division facilities for the specified period. It also summarizes the legal status, sex and ethnicity of the listed youth. Upon request, this report may be expanded to cover any time period required. Contains names, confidential.
DFYR03	MONTHLY COUNTY ROSTER. This report lists the current status of all youth at the end of a given month by the responsible county of New York State. It contains, again, a number of descriptive characteristics for each youth, present location, and a summary for the county as a whole of these characteristics. Contains names, confidential.
DFYJ37	ADJUDICATION BY SEX BY COUNTY. This report summarizes the current distribution of youth currently in facility in terms of sex and adjudication for each county.
DFYB43	ADJUDICATION BY SEX, COUNTY BY FACILITY. This report summarizes the current population of individual facilities in terms of the sex, responsible county and adjudications of the youth under care.

LISTING OF REGULAR JCS REPORTS
(continued)

<u>JCS I.D.</u>	<u>TITLE AND DESCRIPTION</u>
DFYC06	YOUTH CLIENT PROFILE. This report may be listed in terms of the Youth Service Worker, the Facility or the individual youth. It provides a detailed list of characteristics for each youth according to the requirements of the requestor (Worker, facility, etc.). Confidential.
DFYJ43	NEW ADMISSIONS (Specify period) BY FACILITY BY SEX, ETHNICITY, JURISDICTION, AND ADJUDICATION. This report summarizes new admissions to a given facility over a specified length of time in terms of sex, ethnicity and legal status.
DFYJ44	NEW ADMISSIONS (Specify period) BY FACILITY BY SEX, ETHNICITY BY AGE. This report summarizes new admissions to a given facility over a specified length of time in terms of sex, ethnicity and age.
DFYJ30	NEW ADMISSIONS (specify period) BY COUNTY BY JURISDICTION/ADJUDICATION, SERVED IN AND OUT OF REGION. This report summarizes admissions by responsible county over a specified time period by legal status and whether the youth was placed within or outside of the Division for Youth Region from which the youth originated.
DFYJ41	NEW ADMISSIONS (Specify period) BY COUNTY BY SEX, ETHNICITY, JURISDICTION/ADJUDICATION. This report summarizes, over the specified period, new admissions from a given county by sex, ethnicity, jurisdiction and adjudication of youth for whom the county is responsible.
DFYJ38	AGE BY COUNTY. This report summarizes the current distribution of youth in Division programs by their age and their responsible county. Counties are listed by their location within Division defined Regions.
DFYB44	INTER-FACILITY MOVEMENT. This report summarizes the changes in program locations of all active youth over a specified period of time, in terms of service unit sent from and service unit sent to. Consultation with JCS staff is advised for the use of this report.
DFYB40	MONTHLY ADMISSIONS BY FACILITY. This report lists monthly admissions to given facilities and summarizes characteristics of the youth admitted. Confidential.
DFYB41	MONTHLY RELEASES BY FACILITY. This report lists all transfers, releases, and discharges from a given facility during a given month. It also summarizes these transactions. Confidential.
DFYB42	FACILITY ADMISSIONS BY COUNTY BY ADJUDICATION. This report summarizes all admissions to a given facility over time by the responsible county and current adjudication.

LISTING OF REGULAR JCS REPORTS
(continued)

<u>JCS I.O.</u>	<u>TITLE AND DESCRIPTION</u>
OFYB50	QUARTERLY FACILITY ADMISSIONS BY JURISDICTION/ADJUDICATION. This report summarizes new admissions to given facilities by the jurisdiction and adjudication of the youth admitted for quarterly periods over a two year period.
OFYJ31	YOUTH ADMISSION HISTORY. This report lists every reported admission and transfer, release or discharge reported for every youth registered with the Division. Confidential.
OFYJ32	YOUTH ABSENCE HISTORY. This report lists every temporary absence from a Division program recorded for every youth registered in Division programs. Confidential.
OFYB34	POPULATION AND BILLING HISTORY. This report provides a complete history of every admission, absence and transfer, release or discharge for every youth registered with the Division. Confidential.
DFYB33	UNCLOSED ABSENCE REPORT. This report lists all youth who are reported as temporarily absent from Division programs and who have not returned for more than thirty days. The report may be used as an alert to various facility directors and program managers. Confidential.
DFYJ51	REFERRAL AGENCY BY FACILITY BY ADJUDICATION. Summarizes the referral source and adjudications of current facility populations.
OFYR02	YOUTH SERVICES ROSTER BY COUNTY. Lists by name cases under care by responsible county. Provides separate listing of cases placed within last 30 days, those currently in residential service for more than 30 days, cases in community based counseling supervision and cases discharged from DFY supervision within the last 30 days. Supplies name, OFY case number, address, counseling worker, current service and admission date to that service. Circulated to counties weekly and monthly. Confidential. Contains case names and worker names.
DFYJ91	PLACEMENT EXPIRATION SCHEDULE REPORT. Lists by name cases that are to expire from placement within two months, within one month, cases that have expired and cases on which we have no known expiration date. Sent to YST Coordinators for follow-up at the YST level. Presented monthly. Confidential. Contains case names and counselor names.
OFY Form 2329-2330	YOUTH PROFILE. Two page computer printout of information on each case; prints Intake Face Sheet information, Intake Assessment information and lists last seven movement transactions. Serves as a turnaround correction form to update the file with new or corrected information. Sent to YST upon opening the case and after each update. Confidential. Contains names.

LISTING OF REGULAR JCS REPORTS
(continued)

- DFYJ77 LONG TERM ABSENCE REPORT. Lists by name cases that have been absent from services for 30 or more days. Separate lists for different categories of absence, including AWOLs. Summaries by Region; Statewide total, with subtotals by absence type. Weekly distribution with number summary only. Monthly distribution as adjunct to Rehabilitative Services Population Report (DFYJ47), includes names. Confidential.
- DFYJP32 FACILITY PROGRAM: POPULATION REPORT. This report replaces DFYJ-47. The new report contains case movement information, starting and ending populations, facility capacity, absences, sex, adjudication of population and home region summarized and grouped by Region and District. Produced weekly and monthly. Contains final Friday update, including expiration status.
- DFYJP31 YOUTH SERVICE TEAM CASELOAD REPORT. This report contains the starting and ending caseloads by team, summarized and grouped by Region and District. Indicates types and number of movements into and out of Team caseload during Reporting Period. Summarizes service location of cases; indicates AWOL status and classifiable offenses, if any. Adjudication and expiration status summarized.

The Juvenile Contact System

SPECIAL REPORTS AND SERVICES

In addition to those reports whose basic programming is in the computer library, JCS is capable of supplying specially requested analyses. The JCS staff will offer its services in the development of a variety of analytic reports and will work with individual requestors to provide useful information from the computer data file. Most of these special reports are created using SPSS computer software -- a generalizable report and analysis program.

Some examples of recent special reports are listed below.

SPSS Reports on File (run as requested; presented here as examples of reports available).

Facility Length of Stay for 1978, 1976, 1977, 1978
 Admissions to Facility, including transfers and aftercare re-admissions, for 1975, 1976, 1977, 1978
 Quarterly Admissions by Program Type, 1975-1978
 Transfer Patterns by Degree of Security, 1975, 1976, 1977, 1978 by Region
 Facility Length of Stay by Program Type -- mean stay in months for cases released per quarter, 1975-1978 to date
 Mean Length of Stay per Facility, by Quarter, 1975-1978 to date
 Mean Length of Stay per Program Type by Adjudication Status, by Quarter, 1975-1978
 Mean Length of Stay per Facility by Adjudication Status, by Quarter, 1975-1978
 Runaways by Program Type, by Quarter, 1975-1978
 Runaways by Facility, by Quarter, 1975-1978
 Runaways by Program Type by Adjudication Status, by Quarter, 1975-1978
 Runaways by Facility by Adjudication Status, by Quarter, 1975-1978
 Admissions and Transfer Patterns, including recidivators and aftercare re-admissions, 1976-1978 to date, by Adjudicated Status
 New Admissions by Adjudication Status examined by Chi-Square test for significance (1976-1977)
 Length of Absence while on Absence Status
 Population of Facilities on any given Day - Past or Current
 Offense Background of Incoming Cases and of Current Population
 Transfer Patterns among Facilities and Counseling

DATA ITEMS

The list below contains all data items currently available within the JCS computer system.

Basic Youth Characteristics

Name
 Case Number
 Address
 State
 Zip Code

Responsible County (Region, District)
 Date of Birth (Age)
 Social Security Number
 Sex
 Ethnicity

Basic Youth Characteristics (continued)

Religion
 Current Living Arrangement (at intake)
 Adjudication
 Jurisdiction
 Legally Responsible Relatives' Social Security Number

Phone Number
 Offense Code
 Placement Type (for Classified or Restrictive cases)
 Usual Living Arrangement
 County of Residence

Last Grade Completed
 Parent-Guardian Name
 Parent Social Security Number
 Reported Social Service Assistance Eligibility
 Classification Date

Declassification Date
 Verified Social Service Assistance Eligibility
 Social Service Assistance Case Name and Number
 Social Service Assistance Eligible Date
 Social Service Assistance Close Date

Social Service Assistance Medicaid Number
 Title XX Eligible Date
 Head of Household Name
 Head of Household Address
 Head of Household State

Head of Household Zip Code
 Head of Household Relation to Youth
 Head of Household Marital Status
 Head of Household Phone Number
 Application Indicators (Medicaid, Title XX, School Lunch, ADC/FC)

Foster Parent
 Youth Fostercare Level
 Judicial Determination Date
 Date Social Service Assistance Eligibility Last Updated

Placement Activities

Referral Agency
 Placement & Expiration Dates
 DFY Placement Dates
 Placement Worker

Assessment Information

School Status
 Academic Performance
 Test Scores
 Tests Given
 Achievement Scores

Assessment Information (continued)

Employment status
 Number of court contacts
 Court adjudication and disposition history (up to 7 occurrences)
 Number of out of home placements
 Out of home placement history (up to 5 occurrences)

Psychological/psychiatric assessments made?
 On medication?
 Activity limitations
 Substance abuse
 Times hospitalized

Other health problems (18 items)
 Physical aggression/passiveness rating
 Verbal aggression/passiveness rating
 Self-esteem rating
 Personal responsibility rating

Authority relationships rating
 Leader/follower rating
 Peer relation rating
 Number of persons in household
 Number of family members not in household

Usual household type
 Marital status of heads of household
 Language spoken in home
 Family ethnicity
 Housing problems

Primary source of family income
 Earned annual family income

(Note: The items in the Assessment data group are supplemented by guided narratives in each of the sub-sections. The narrative information is stored in case folders in central office and in the field.)

DFY Services Provided

Counseling Worker (Region, District, Team Number)
 Type of Charge (State or Local Responsibility for billing)
 Current DFY Responsible Unit (Region, District)
 Current Admission Type (i.e., transfer, readmission)
 Current Admission Date

Current Expiration Date
 Previous DFY Responsible Unit
 All Absence Transactions, Absence Types, Dates
 All Admission Transactions (including Day Service)
 Extension of Placement

Transfer/Release/Discharge, Dates, Types, Units (including Day Service)

PLANS FOR SYSTEM ENHANCEMENT

In conjunction with Rehabilitative Services, the JCS unit is designing and conducting a 3 month staff activity study of Youth Service Team operations. This study will describe YST operations and will specify those areas of services that may be under utilized due to pressure of other activities. A series of operations reports and budget requests will flow from this study. Date expected: May, 1980.

For the long run, the YST activity study will be used to test the feasibility of a permanent and on-going YST activity from which could be summarized in worker case load reports for case management and staff supervision purposes. Date expected for operations: September, 1980.

Prepared by: Statistics and Survey Unit 11/79

II.

SUMMARY OF JCS TRANSACTIONS

1. A case is opened by telephoning JCS Central Office (518 - 473-0447) with basic youth information, (name, DOB, county and counseling worker identification code). A centralized 6 digit case number will be assigned. Youths previously in a Division Program will retain their original case number.
2. The Intake Face Sheet (DFY 2300) is to be filled out when a youth is referred to DFY. (Detailed instructions follow; see attached form.) This form is usually handled by the YST.
3. The Intake Assessment Data Supplements (DFY 2320 thru DFY 2328 inclusive) are usually completed by YST workers within 2 weeks of the initial referral date. (Detailed instructions follow with attached forms.)
4. At admission to a facility or service, cases are recorded via Notice of Youth Movement, Section A DFY 2302-A (Detailed instructions follow with attached form.)
5. Upon an absence from a facility or service, cases are recorded via Notice of Youth Movement, Section B. (See attached form.)
6. When transferred from a facility or service, cases are recorded on Notice of Youth Movement, Section C. (See attached form.)
7. When released to aftercare or discharged from DFY, cases are recorded on Notice of Youth Movement, Section C. (See attached form.)

Distribution - Copies go to facility, YST, District Office and the Statistics and Survey Unit in Central Office.

Cover Sheet - A cover sheet is provided to list all enclosed forms in a weekly shipment to Statistics and Survey.

Case Manager - In order to assign or reassign cases to YST workers a Case Manager Assignment or Change form (DFY 23D3) must be completed by the YST Team Supervisor. (See attached form and instructions.)

Problem Oriented Service Forms (POSP)

An initial and 30 day problem list is to be compiled at the onset of services. Subsequent quarterly reviews will be carried for each case in service. Both problem lists and progress reports are entered on the various forms in the Problem Oriented Service Plan (POSP.) A cover sheet of problems and outcomes is provided to summarize the more detailed narrative statements. (See attached forms and instructions.)



NEW YORK STATE EXECUTIVE DEPARTMENT
DIVISION FOR YOUTH

MEMORANDUM

III

TO: JCS Users
FROM: Statistics and Survey Unit
RE: Case Reporting Forms

The Statistics and Survey Unit collects case information from DFY teams and facilities. This information, reported by means of special case recording forms, is processed into a variety of computerized case histories and program reports. The quality and usefulness of these reports is in direct relation to the accuracy and timeliness of the initial case recording received from the teams and facilities.

Your cooperation in case recording is appreciated. To assist that recording, the following summary is provided.

Transaction Forms

1. At referral, cases are recorded on the Intake Face Sheet (DFY Form 2300). This is usually performed by the Youth Service Teams.
2. At intake, cases are interviewed and recorded using the Intake Assessment Data Supplements (DFY Forms 2320-2328, inclusive.) The YST's usually perform this assessment function.
3. At admission to facility, cases are recorded via the Notice of Youth Movement, Section A (DFY Form 2302-A). This form is the responsibility of the receiving facility at time of admission.
4. On the occasion of any temporary absence from facility, the date of the absence and the reason for absence is recorded on the Notice of Youth Movement, Section B (DFY Form 2302-B). This is the responsibility of the facility from which the absence occurred. Note that both legitimate and unauthorized absences must be recorded in this manner.
5. On the occasion of a return from a temporary absence of any kind, or when one type of temporary absence changes into another type, this return or closure must be reported via the Notice of Youth Movement, Section B (DFY Form 2302-B). Note that a typical absence usually requires one form upon the leaving date and another upon return. If an absence such as a home visit turns into a failure to return, the first absence -- home visit -- must be closed out and another absence initiated via the proper form to indicate a new type of absence, such as an overstay from a legitimate visit. It is important that the correct type of absence is on file on the proper dates.
6. On transfer from one residential facility to another, the sending facility must file and distribute a Notice of Youth Movement, Section C (DFY Form 2302-C). The receiving facility will fill out a Notice of Youth Movement, Section A (DFY Form 2302-A), as in item 3

JCS Users

above. Similarly, transfers among aftercare units and foster care units also require that the sending unit generate a Form 2302-C, while the receiving unit sends out Form 2302-A.

7. At release to aftercare, the sending facility must fill out the appropriate categories in the Notice of Youth Movement, Section C (DFY Form 2302-C), while the receiving counseling unit reports via the Notice of Youth Movement, Section A (DFY Form 2302-A).
8. When discharged from DFY responsibility, the case transaction must be reported by the Service wherein the youth was most recently registered. This is usually one of the aftercare counseling units. Discharges are registered on the Notice of Youth Movement, Section C (DFY Form 2302-C).

Distribution

Each of the 4-part forms has a set of distribution instructions printed across the bottom of each page. The Statistics and Survey unit always receives a copy, facilities and YST's exchanges copies, and the local District office receives a copy.

Cover Sheet

The copies for the Statistics and Survey unit are to be batched and mailed each Friday. A cover sheet is provided to list the contents of each Friday's batch. (See Team or Facility Report of Weekly Activity: Cover Sheet -- DFY Form 2305). In order to have your facility accurately represented in weekly and monthly reports, it is essential that forms be mailed out regularly each Friday. We further require that the Cover Sheet be mailed each Friday, even on those weeks where there might not have been any case transaction activity. Logs of weekly mailings are kept and summarized for the Rehab Director and Regional Managers.

Reports

There are about 35 regular computer reports produced weekly and monthly from the information compiled from the individual case transaction forms. Another 100 special analytic reports are produced each year from these data. As an operating facility, you will be most interested in the regular receipt of weekly and monthly population and capacity reports, long term absence reports, monthly case rosters, monthly admission and release activity listings, and monthly absence and return listings. A summary case profile is available on each youth, highlighting background and service information.

A number of additional reports are in various stages of planning and development. We hope, in this forthcoming year, to be able to classify facility case loads by incoming problems among the youth, by degree of intensity of service, by type of service plan and degree of realization of that plan.

All these current and proposed reports require the cooperation of teams and facilities to insure that the data upon which the reports are based are as accurate and as up to date as possible. Your cooperation in this effort will be appreciated.

IV

JCS USERS' GUIDE
GLOSSARY

Abscondance	Leaving DFY facility without authorization. Runaway from facility and failure to return from a home visit are both termed abscondance. Formerly A.W.O.L.
Acceptance	Decision by a facility director or unit supervisor to admit a youth. Acceptance precedes admission and each is indicated by a separate transaction form.
A.C.D.	Adjourned; Contemplation of Dismissal of the petition against the youth by the Court; a postponement of legal action by the Judge.
Adjudication	Court assigned youth status - P.I.N.S., J.O., Restrictive J.D., J.O., Y.O., etc.
Admission	By Facility, Fostercare Residence, or Counseling Unit; arrival at a specific unit of the Division; the only way in which billable services are provided to the client. Constitutes admission to DFY.
Aftercare	Services provided by DFY Counseling Workers to a youth after his/her release from a DFY facility. Also see: Counseling.
Aftercare Worker	See Counseling Worker
Alert Report	A type of JCS computer report which anticipates events and alerts JCS users to them, e.g., upcoming expirations of placement, or youths who have been discharged and who will need counseling services.
Arrival Date	Physical appearance of youth at DFY unit; the admission date which initiates billing at that unit's rate.
AWOL	No longer in use. See Abscondance.
Billing	The process by which DFY calculates the cost of maintaining youths in program and issues notice of same to the Social Service District or other entity responsible for payment to New York State.
Case Number	A six-digit number unique to each youth and assigned upon referral to DFY. Formerly "log number" for Title II youths.
Central Office	DFY offices in Albany at 84 Holland Avenue.
Condition of Probation	Referral of the youth by the court to DFY, as a condition of probationary status with the stipulation that the youth cooperate with the DFY.
C.O.P.	Condition of Probation, abbreviated.

Counseling	A DFY unit which is part of Placement and Counseling; a series of services provided by DFY Counseling Workers, especially after release from a residential program. Also see: Aftercare.
Counseling Worker	Staff member of the Placement and Counseling Unit who is responsible for contacting and providing services to youths primarily after release from a DFY facility.
Data Base	The total body of JCS data items on all youths system-wide.
Direct Admission	A method of admitting a youth to a facility program either by (a) Placement of a youth by the court to a facility or (b) Direct admission to a facility by the facility director without the involvement of a Placement worker.
Discharge	The process by which a client is severed from DFY; no services are provided.
Expiration of Placement	The "normal" ending of youth's placement to DFY because of the completion of the term stipulated by the court.
Extension of Placement	A legal action taken by the court to increase the term of a youth's placement with DFY.
Facility	A unit of DFY in which youths are housed - e.g., a Camp, Urban Home, Foster Home, S.T.A.R.T., Youth Development Center, or State Training School.
Fostercare	A DFY Unit; and the services provided by DFY in which the youth is placed with a State family in a private home.
Fostercare Counseling	The service provided by Fostercare Workers to youths after they are released from Fostercare residential facilities.
Guardian	The person who is accountable for the youth and to whom the youth is accountable under the law. Also see: Legally Responsible Relative.
I.O.	The identifying code number of a Placement and Counseling Worker (3 digits) a facility or other DFY Unit (4 digits) used for ordering a youth's transaction history in a symbolic way for computer storage and report production.
Input	Data received from the field on source documents, which will be keypunched and put on computer tape.
Instrument	A source document; another term applied to any vehicle for data collection.
Intake	The process by which a youth is assessed for possible entry into a program where he/she receives DFY services.

Intake Worker	See Placement Worker.
Interstate Compact Youth	A youth under DFY supervision, whose origin is out-of-state; or a youth under the care of an agency in another state who originated with DFY; for whom services are provided on a reciprocal basis.
Law Guardian	Legal representative of youth in Court.
Legally Responsible Relative	Person who is accountable for the youth and to whom the youth is accountable under the law, usually a parent. LRR, abbreviated. Also see: Guardian.
Log Number	See: Case Number.
mm/dd/yy	Abbreviation for month, day, year, each category being a two-digit number, e.g., 05/02/74=May 2, 1974. This is the required format for all JCS source document dates.
Output	Statistics, listings, etc., of data coming off the data base.
P.O. Worker	Probation Officer, a court-linked person providing services to a youth prior to DFY admission. Not to be confused with Parole Officer.
Placement	A court action assigning supervision of a youth to DFY for a specified period of time.
Placement and Counseling	DFY Unit responsible for the intake/admission, community aspects of residential care, and post-residential service delivery to youths.
Placement Date	The day a youth's <u>legal</u> placement with DFY commences.
Placement Worker	A staff member from the Placement and Counseling Unit who conducts the initial interview with a youth and is instrumental in securing his/her admission to a DFY program.
Quarterly Bill	A cost breakdown issued every three months to Social Service Districts responsible for payment for each youth under our supervision.
Re-admission	Movement of a youth from Counseling status to a facility.
Referral	A written evaluation submitted by a court or a social agency or a contract with any other agent whereby services of DFY are requested.
Referral Date	(a) To DFY Placement Office The day a youth is first brought to the attention of the Placement Office via referral; the date a referral is received by a Placement Worker,

Referral Date (continued)	(b) To Facility The day a youth is brought to the attention of a potentially accepting facility.
Referral (Placement) Agency or Agent	The contact who brings the youth to the attention of DFY, e.g., Family Court, Parent, Mental Hygiene, or the family and youth.
Release	The process by which a youth is moved from DFY residential care to Counseling.
Remand	In detention facility awaiting decision.
Re-Opening	The status of a case referred to DFY within 3 months of previous date of decision, and has no change in legal status. Does not apply to cases previously admitted; applied at intake level only.
Responsible County	One of 62 county subdivisions of the State of New York in which the youth legally resides and which will be held liable for the assumption of the youth's cost of care. Also referred to as Social Service District or SS District.
Runaway	A youth's unauthorized departure from a residential facility, or failure to return from home visit.
State Aid Unit	Unit in DFY Budget and Finance responsible for the coordination of billing to and receiving payment from the Social Service Districts.
Social Service District	See: Responsible County.
Source Document	A JCS form received from the field which contains specific information about a particular youth.
Statistical and Survey Unit	That unit within DFY's Research, Program Evaluation and Planning Unit which is involved in data handling and processing for administration, research, planning and evaluation. Address: 84 Holland Avenue, Albany, New York 12208. This unit manages all JCS data.
Temporary Absence	A status assigned to youths away from their admitting facility but who are expected to return. (Legitimate as well as unauthorized absences.)
Termination of Placement	A court action by which the previous assignment of the youth's supervision to DFY is ended.
Transaction	A group of data items applied to youth's record, usually represented by a source document, e.g., admission, transfer, discharge, change of address, and expiration of placement are transactions.

Transaction History	Entire record of a youth from referrals through discharge as represented by the data on the input forms.
Transfer	The movement of a youth from one DFY residential facility to another facility.
Type of Charge	Indicator of the bearer of responsibility for a youth's care, usually the county (a "local" charge), occasionally the State (a "State" charge).
Unit	One program subdivision of DFY each facility, Foster-care, Placement, Counseling, and Fostercare Counseling are Units.
Update	The process by which obsolete data is replaced by new information on the computer file; the old data may or may not be deleted.
Vacatement of Placement	A court action in which the court relinquishes jurisdiction over the youth and, thus, removes that youth from DFY supervision.
Voluntary	Youth status indicating a non-court connected referral and admission to DFY includes Probation Intake cases, cases where there are no charges pending, or charges are being dropped.
Voluntary 358A	Formal Court finding for otherwise Voluntary placements of more than 30 days (refer to SSL 358A).
Youth's Counselor	Staff member of a facility assigned to youth while in facility; not to be confused with Counseling Worker of the Placement and Counseling Unit.

APPENDIX J

CITIZENS' COMMITTEE FOR CHILDREN OF NEW YORK, INC.

June 5, 1976

DRAFT STATUTE FOR
FAMILY IN NEED OF COURT ASSISTANCE

ARTICLE 11 - Proceedings concerning Family in Need of Assistance.

Section 1. Purpose--The purpose of this article is to provide a due process of law under which the Family Court can consider a claim that a child and that child's family needs an order of disposition.

Section 2: Definitions.

(A) "Family in Need of Court Assistance" means a family:

- (1) In which there is a minor under 16 years of age who does not attend school in accord with the provision of Part 1, Article 65, of the Education Law, or
- (2) In which there is a minor under 18 years of age, who is incorrigible, ungovernable, or habitually disobedient and beyond the lawful control of parent or other lawful authority, or
- (3) In which there is a minor under 18 years of age
 - (a) whose physical, mental, or emotional condition has been impaired or is in imminent danger of becoming impaired as a result of the failure of his parent or other person legally responsible for his care to exercise a minimum degree of care
 - (1) in supplying the child with adequate food, clothing, shelter, or education in accordance with the provisions of Part 1 of Article 65 of the

Education Law, or medical, dental, optometrical or surgical care, though financially able to do so or offered financial or other reasonable means to do so; or

(2) in providing the child with proper supervision or guardianship, by unreasonably inflicting or allowing to be inflicted harm, or a substantial risk thereof, including the infliction of excessive corporal punishment; or by using a drug or drugs; or by using alcoholic beverages to the extent that he loses self-control of his actions; or by any other acts of a similarly serious nature requiring the aid of the court; or

(b) who has been abandoned by his parents or other person legally responsible for his care.

- (B) "Family" means the parent or parents, including foster parent; other person living in the same household with the child at the time the petition is drawn; other persons including agencies legally responsible for the care of the children; the custodian or custodians of the children; any other child with the same parent, foster parent, other custodian; and any other child living in the same household.
- (C) "Child" means any person alleged to be a member of the Family in Need of Court Assistance who is under the age of 18.
- (D) "To adjust" means to help the persons involved either by providing adequate service or advice or by referring elsewhere for the purpose of obtaining adequate service and advice.
- (E) "Respondent" means every member of the Family in Need of Court Assistance or any members thereof whom the petitioner may deem suitable in the initiation of the proceeding or whom the court may deem suitable thereafter.
- (F) "Fact-Finding Hearing" means a hearing to determine whether the respondent did the act or acts alleged in the petition necessary to show the respondent is a Family in Need of Court Assistance.
- (G) "Dispositional Hearing" means a hearing to determine whether the respondent or the petitioner, if a member of the Family in Need of Court Assistance, requires services which may include but are not limited to supervision, treatment, or confinement and, if so, what order of disposition should be made.

Section 3. Originating a proceeding to determine whether there is a Family in Need of Court Assistance.

- (A) A proceeding under this article is originated by the filing of a petition in which facts are alleged sufficient to establish that there is a "Family in Need of Court Assistance" before the court.

Section 4. Persons who may originate proceedings.

The following persons may originate a proceeding under this article:

- (a) A peace officer;
- (b) A member of the family alleged to be a Family in Need of Court Assistance;
- (c) Any person who has suffered injury as a result of the alleged activity of any member of a family alleged to be a Family in Need of Court Assistance;
- (d) Any person who is a witness to injurious activity of a member of a family alleged to be a Family in Need of Court Assistance;
- (e) Recognized agents of any duly authorized agency, association, society or institution.

Section 5. Rules of court for preliminary procedures.

- (A) Rules of court may authorize the probation service:
- (1) To confer with any persons seeking to file a petition, all members of the alleged Family in Need of Court Assistance, and other interested persons concerning the advisability of filing a petition under this Article, and
- (2) To attempt to adjust suitable cases before a petition is filed over which the court apparently would have jurisdiction.
- (B) The probation service may not prevent any person who wishes to file a petition under this Article from filing a petition.
- (C) Efforts at adjustment pursuant to rules of court under this section may not extend for a period of more than 30 days without leave of the judges of the court, who may extend the period for an additional 30 days.

- (D) The probation service may not be authorized under this section to compel any person to appear at any conference, produce any papers, or visit any place but must attempt to obtain cooperation voluntarily.
- (E) The probation service shall inform every person with whom the service confers that the person may insist upon a petition being filed.

Section 6. Admissibility of statements made during preliminary conference.

No statement made or reports by probation service developed during a preliminary conference may be admitted into evidence at a fact-finding hearing.

Section 7. Commencement of the action.

- (A) On the filing of a petition under this article, the court shall provide for service of the summons and petition on the respondents. If any respondent is a child, a copy of the petition and summons shall be delivered to the respondent's parent or other person legally responsible for his care or with whom he is domiciled, to appear at the court at a time and place named to answer the petition.
- (B) Service of a summons and petition shall be made by delivery of a true copy thereof to the person summoned at least 72 hours before the time stated therein for appearance unless the court orders a shorter time for service on good cause shown.
- (C) If after reasonable effort, personal service is not made, the court may at any stage in the proceeding make an order providing for a different method of service in accordance with the Civil Practice Law and Rules.

Section 8. Issuance of warrant.

The court may issue a warrant directing that the respondent be brought before the court when a petition is filed with the court and it appears that the respondent has refused to obey the summons, may leave the jurisdiction, or a child may be endangered by delay.

Section 9. Release or detention of minor respondents after filing of petition and prior to order of disposition.

After a filing of a petition under this Article, the court in its discretion may release the respondent or direct the detention of the respondent in a facility if there is a substantial probability that the minor respondent will not appear in court on the return date.

Section 10. Notice of rights.

- (A) At the commencement of any hearing under this Article, the respondent shall be advised of the respondent's right to remain silent and of the respondent's right to be represented by counsel chosen by the respondent or appointed by the court for the family or any members thereof. Either a law guardian or guardians shall be assigned or other assignment shall be made by the court as permitted by law.
- (B) At the commencement of any hearing under this Article, the petitioner shall be advised of the petitioner's right to be represented by counsel chosen by the petitioner or appointed by the court, and of the Court's power to include the petitioner in its final disposition when the petitioner is a member of the alleged Family in Need of Court Assistance.

Section 11. Evidence; required proof.

- (A) Only evidence that is competent, material and relevant may be admitted in a hearing.
- (B) Any determination at the conclusion of a fact-finding hearing must be based upon proof beyond a reasonable doubt where allegations are related to the school law or that a child is incorrigible, ungovernable, or habitually disobedient and beyond the lawful control of parent or other lawful authority.
- (C) Any determination at the conclusion of a fact-finding hearing based upon other allegations must be based on a preponderance of the evidence.
- (D) Proof that the child's condition is of such a nature as would originally not exist except by reason of the acts or the omissions to act of the respondent shall be prima facie evidence of a Family in Need of Court Assistance.
- (E) Proof of the abuse or neglect of one child shall be admissible evidence on the issue of whether there is a Family in Need of Court Assistance, but it shall not by itself form conclusive proof for a finding of a Family in Need of Court Assistance.

- (F) Proof that a child or a respondent parent, foster parent, or custodian repeatedly uses a drug, to the extent that it has or would ordinarily have the effect of producing in the user thereof a substantial state of stupor, unconsciousness, intoxication, hallucination, disorientation, or incompetence, or a substantial impairment of judgement, or a substantial manifestation of irrationality, shall be prima facie evidence that such child is a member of a Family in Need of Court Assistance.
- (G) Any writing, record or photograph, whether in the form of an entry in a book or otherwise, made as a memorandum or record of any condition, act, transaction, occurrence or event relating to a child who is a member of a Family in Need of Court Assistance of any hospital or any other public or private agency shall be admissible in evidence in proof of that condition, act, transaction, occurrence, or event, if the judge finds that it was made in the regular course of the business of any hospital, or any other public or private agency and that it was in the regular course of such business to make it, at the time of the act, transaction, occurrence or event, or within a reasonable time thereafter. A certification by the head of or by a responsible employee of the hospital or agency that the writing, record or photograph is the full and complete record of said condition, act, transaction, occurrence or event and that it was made in the regular course of such business to make it, at the time of the condition, act, transaction, occurrence or event, or within a reasonable time thereafter, shall be prima facie evidence of the facts contained in such certification. A certification by someone other than the head of the hospital or agency shall be accompanied by a photocopy of a delegation of authority signed by both the head of the hospital or agency and by such other employee. All other circumstances of the making of the memorandum, record or photograph, including lack of personal knowledge of the maker, may be proved to affect its weight, but they shall not affect its admissibility; and
- (H) any report filed pursuant to Section 383a of the Social Services Law shall be admissible in evidence; and
- (I) previous statements made by the child relating to any allegations of abuse or neglect shall be admissible in evidence; provided, however, that no such statement, if uncorroborated, shall be sufficient to make a fact-finding of a Family in Need of Court Assistance; and
- (J) neither the privilege attaching to confidential communications between husband and wife, as set forth in Section 4502 of the Civil Practice Law and Rules, nor the physician-patient and

related privileges, as set forth in Section 4504 of the Civil Practice Law and Rules, nor the social worker-client privilege as set forth in Section 4508 of the Civil Practice Law and Rules shall be a ground for excluding evidence which otherwise would be admissible.

- (K) Proof of the "Impairment of Emotional Health" or "Impairment of Mental or Emotional Condition" as a result of the unwillingness or inability of the respondent to exercise a minimum degree of care toward a child may include competent opinion or expert testimony and may include proof that such impairment lessened during a period when the child was in the care, custody or supervision of a person or agency other than the respondent.

Section 12. Sequence of hearings.

- (A) Upon completion of the fact-finding hearings, the dispositional hearing may commence immediately after the required findings are made.
- (B) Reports prepared by the probation service or a duly authorized association, agency, society or institution for use by the court at any time for the making of an order of disposition shall be deemed confidential information which may not be furnished to the court prior to the completion of a fact-finding hearing. Such reports shall be made available during the dispositional phase to the law guardian, counsel, or other appropriate person, except that the court may withhold all or part of such reports from any person on the basis of good cause stated on the record.

ORDER OF DISPOSITION

Section 13. If the allegations of a petition under this article are not established, or if the court concludes that its aid is not required on the record before the court, the court shall dismiss the petition and state the grounds for its dismissal.

Section 14. If the allegations under this article are established, the court shall enter an order finding that the family before it is in need of court assistance, and shall state the grounds for the finding.

Section 15. At the conclusion of a dispositional hearing, the Court may enter an order of disposition:

- (a) suspending judgement in accordance with Section 16;
- (b) placing a minor petitioner or respondent in accordance with Section 17;
- (c) placing the petitioner or respondent under supervision in accordance with Section 18; or
- (d) making an Order of Protection in accordance with Section 19.

The court shall state the grounds for any disposition made under this section.

Section 16. Suspended Judgement.

The maximum duration of any term or condition of a suspended judgement is one year unless the court finds at the conclusion of that period upon a hearing that exceptional circumstances require an extension thereof for an additional year. The case shall appear on the court calendar for dismissal at the end of the original period of suspended judgement or extension thereof.

Section 17. Placement.

- (A) For the purposes of Section 16, the court may place the child of a Family in Need of Court Assistance in the custody of a suitable relative or other suitable person or of a commissioner of social services, or of an authorized agency, society or in an institution suitable for placement.
- (B) Placements under this section may be for an initial period of no more than one year, and the court may in its discretion at the expiration of the placement period, upon a hearing, make successive extensions for periods of no more than one year. The place in which or the person with whom the child has been placed shall submit a report no less than thirty days before the end of any full year of placement making recommendations and giving such supportive data as is appropriate, except that no such report shall be required from a relative. The court on its own motion or upon the motion of any member of the Family in Need of Court Assistance near the conclusion of any period of placement may hold a hearing concerning the need for continuing the placement.

- (C) No placement may be made under this section beyond a child's eighteenth birthday.
- (D) Any placement may be combined with an order of supervision.

Section 18. Supervision.

- (A) If the order of disposition releases a child to the custody of a parent or other person legally responsible for the child's care at the time of the filing of the petition, the court may place the person to whose custody the child is released under supervision of a child protective agency, a social services official, probation department or any duly authorized agency or may enter an order of protection under Section 19.
- (B) If the order of disposition places any other adult under supervision, that person may be placed under the supervision of a child protective agency, a social services official, probation department or any duly authorized agency.
- (C) The agency or person directed to supervise shall submit a report to court no less than thirty days before the end of any full year of supervision making recommendations and giving such supportive data as is appropriate.
- (D) Rules of court shall define permissible terms and conditions of supervision under this section. The duration of any period of supervision shall be for an initial period of no more than one year, and the court may at the expiration of that period upon a hearing and for good causes shown, make successive extensions of such supervision of up to one year each.

Section 19. Order of Protection.

The court may make an order of protection in assistance or as a condition of any order under this article. The order of protection may set forth reasonable conditions of behavior to be observed for a specified time by respondent. Such an order may require any such respondent

- (a) to stay away from the home or any member of a Family in Need of Court Assistance;
- (b) to permit any member of a Family in Need of Court Assistance to visit the child at stated periods;
- (c) to abstain from certain conduct in relation to the home or a member of a Family in Need of Court Assistance or any person who has been granted custody;

- (d) to give proper attention to the care of the home.

NEW HEARINGS AND RECONSIDERATION OF ORDERS

Section 20. Modifying, Setting Aside, or Vacating Order.

For good cause shown and after due notice, the court on its own motion or on the motion of any interested person, including any person responsible for the child's care, may modify, set aside, or vacate any order issued in the course of a proceeding under this article.

Section 21. Petition to Terminate or Extend Placement.

Any interested person acting on behalf of a child placed under Section 17, including the child, may petition the court for an order terminating or extending the placement.

The petition must be verified and must state:

- (a) the reasons for requesting termination or extension;
- (b) the person with whom or place where the child will be living after an affirmative decision on the petition;
- (c) if a petition for termination, whether an application for termination was made to the person with whom or place where the child was placed;
- (d) if a petition for termination, whether an application for termination was denied or was not granted within thirty days from the date the application was made.

Section 22. Service of the Petition and Its Answer.

A copy of the petition described in Section 21 shall be served upon each duly authorized agency or institution responsible for the child's care and the child. Each served agency or institution shall file an answer to the petition within five days from the date of service.

If the petition is for an order extending the placement, said petition shall also be served upon the respondent in the petition leading to the child's placement, and said respondent may answer the petition and may appear at a scheduled hearing.

Section 23. Hearing.

The court shall promptly examine the documents served under Section 22 to determine whether a hearing should be held. If the court decides that a hearing should be held, it may proceed upon notice to all served with the petition and any other persons the court deems proper. If the court decides that a hearing need not be held to determine whether continued placement serves the purposes of this article, it shall enter an order granting or denying the petition and stating the reasons therefor.

RELATION TO ARTICLE 10

Section 24. Emergency Removal of a Child.

If a peace officer or other authorized person believes it necessary to remove a child from the place where the child is residing prior to a filing or determination of a Family in Need of Court Assistance Petition, the procedures applicable in an Article 10 proceeding shall be available for use in a proceeding under this Article.

