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# THE ROLE OF THE FEDERAL GOVERNMENT IN JUVENILE DELINQUENCY PREVENTION: HISTORICAL AND CONTEMPORARY PERSPECTIVES\*

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## I. INTRODUCTION

In 1960, Congress had not passed a single act dealing specifically with juvenile delinquency prevention.<sup>1</sup> Twenty years later, seven cabinet-level departments and two federal agencies provided direct financial assistance to forty-five juvenile delinquency-related programs.<sup>2</sup> Indeed, by the early 1980's, federal grants-in-aid had become such an integral part of the nation's youth services apparatus that a Department of Justice report concluded that government withdrawal would jeopardize the

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<sup>1</sup> Prior to the Juvenile Delinquency and Youth Offenses Control Act of 1961, 18 U.S.C. § 5031 (1976), two other federal acts dealing with the juvenile justice system but not addressing prevention were passed—the Federal Juvenile Delinquency Act of 1938, 18 U.S.C. § 921 (1940), and the Federal Youth Corrections Act of 1950, 18 U.S.C. § 5005 (1976).

<sup>2</sup> The seven federal departments administering delinquency prevention-related grants in 1980 were Agriculture, Education, Health and Human Services (formerly Health, Education, and Welfare), Housing and Urban Development, Interior, Justice, and Labor. The two federal agencies were the Community Services Administration and ACTION. *See* OFFICE OF JUVENILE JUSTICE & DELINQUENCY PREVENTION, U.S. DEP'T OF JUSTICE, FIFTH ANALYSIS AND EVALUATION OF FEDERAL DELINQUENCY PROGRAMS (1980).

existence of most subsidized programs.<sup>3</sup> Such withdrawal is currently under consideration by an Administration frustrated and angry with the insignificant decreases in juvenile delinquency achieved despite the generous expenditures allocated over the past two decades for federal programs.

The historical factors stimulating federal commitment to delinquency prevention, as well as those contributing to current demands for federal withdrawal, are the primary concern of this Article. By utilizing historical methodology, Part II traces federal involvement in juvenile justice issues through four evolutionary periods:

1. from colonial times to 1908, the federal government left juvenile delinquency problems to philanthropic charities, states, and localities;
2. from 1909 to 1932, the federal government began assisting child serving professionals, sponsoring national youth-related conferences, and collecting and disseminating national research data on youth;
3. from 1933 to 1960, federal legislators reacted to youth and family needs with short-term policies and discussion forums for improving conditions affecting youths' lives;
4. from 1961 to 1980, Congress enacted a series of federal mandates to reform and augment the juvenile justice system, provide community prevention and diversion programs, and create rehabilitative alternatives to institutionalization.

Secondarily, this Article explores public dissatisfaction with prevention program results. Part III examines recent efforts to translate prevention theory into practice. While recognizing past failures of individual delinquency prevention treatment programs, this Article recommends federal support for promising new prevention programs designed to modify family, school, and peer group policies and practices negatively affecting youth. It further suggests that the federal government's involvement in proactive prevention theories and programs has had insufficient time to evolve, undergo long-term evaluations, or counteract centuries of public and private punitive and rehabilitative reactions to delinquent behavior.

Such an assertion necessitates an understanding of what does and does not constitute prevention. Unfortunately, a consensual definition accepted by policymakers, practitioners, and theorists has never materialized. The debate centers around two questions: who should be prevented from committing what types of behavior, and when should prevention occur—before or after misbehavior? Without consensual answers to these questions, any prevention analysis must caution the reader about judgmental selection. Due to this Article's focus on federal involvement in delinquency prevention, this author chose the definition

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<sup>3</sup> G. JOHNSON, T. BIRD, J. LITTLE & S. BEVILLE, *DELINQUENCY PREVENTION: THEORIES AND STRATEGIES* 1 (1979).

most often adopted by the U.S. Department of Justice's Office of Juvenile Justice and Delinquency Prevention:

Delinquency prevention . . . refers to activities *designed* (as distinct from intended or hoped) to reduce the incidence of delinquent *acts* (as distinct from arrests), and directed to youth who are not being dealt with as a result of contact with the juvenile justice system (thus excluding activities that are very clearly reactions to trouble).<sup>4</sup>

Thus, prevention efforts discussed herein include activities designed to reduce delinquent actions *before* official contact with the juvenile justice system. Hence, prevention theories and programs must not be confused with rehabilitation theories and programs occurring *after* entanglement with the system. While neither theory currently enjoys widespread popularity, few persons recognize the very real differences between prevention and rehabilitation: "Rehabilitation is the result of any planned intervention that reduces an offender's further criminal activity, whether that reduction is mediated by personality, behavior, abilities, attitudes, values, or other factors."<sup>5</sup> Prevention programs are *proactive* efforts to reduce delinquent acts prior to their commission. Since rehabilitation programs are *reactive* delinquency reduction endeavors conducted after initial misbehavior, they are beyond the scope of this study.<sup>6</sup>

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<sup>4</sup> G. JOHNSON, T. BIRD, J. W. LITTLE & S. BEVILLE, *supra* note 3, at s-1 (emphasis added).

<sup>5</sup> L. SECHREST, S. WHITE, & E. BROWN, *THE REHABILITATION OF CRIMINAL OFFENDERS: PROBLEMS & PROSPECTS* 4-5 (1979).

<sup>6</sup> Currently, policymakers and practitioners are engaged in a heated debate about rehabilitation's efficacy. Building upon the promises of rehabilitation as espoused in 1959, reformers hoped to change criminal offenders' behavior, making them productive members of society. Allen, *Criminal Justice, Legal Values, and the Rehabilitative Ideal*, 50 J. CRIM. L. CRIMINOLOGY & POLICE SCI. 226 (1959). Shortly thereafter, many studies examined rehabilitation programs and found disappointing results. Three recent studies concluded that both institutionalized and non-institutionalized rehabilitation efforts did not appreciably alter recidivism patterns. See D. GREENBERG, *CORRECTIONS & PUNISHMENT* (1977); D. LIPTON, R. MARTINSON & J. WILKS, *THE EFFECTIVENESS OF CORRECTIONAL TREATMENT: A SURVEY OF TREATMENT EVALUATION STUDIES* (1975); Bailey, *Correctional Outcome: An Evaluation of 100 Reports*, 57 J. CRIM. L. CRIMINOLOGY & POLICE SCI. 153 (1966).

In 1977 the Panel on Research and Rehabilitation Techniques was established under the aegis of the Law Enforcement Assistance Administration (LEAA) Committee on Research "to determine whether the available research warranted the conclusion that criminal offenders could be successfully rehabilitated" and "to suggest as specifically as possible directions for both program development and research." S. MARTIN, L. SECHREST & R. REDNER, *NEW DIRECTIONS IN THE REHABILITATION OF CRIMINAL OFFENDERS* vii, viii (1981). While its two resulting studies, published in 1979 and 1981, determined past evaluations were "reasonably accurate," they did not reach the same pessimistic conclusion. Instead, the panel found "[t]hat *existing* studies cannot yield useful knowledge about the effects of correctional rehabilitation." *Id.* at 9 (emphasis added). The panel's final report stated:

[T]he scientific approach we recommend requires the commitment of substantial sums of money to the acquisition of knowledge and demands patience from policy makers who must make decisions regarding the crime problem in the interim. Nevertheless, the panel

The ensuing analysis uncovers a pattern of incremental federal commitment to juvenile justice programs and issues in general, and a very recent commitment to prevention programs, as defined herein, in particular. While delinquency was a societal problem characteristic of each historical period, policymakers and practitioners responded with reactive punitive and rehabilitation treatments for over 350 years. It was not until the 1960's that proactive prevention programs gained widespread credence and large-scale federal support.

Less than twenty years later, however, prevention theories had fallen from the public's grace. While suggesting decreased federal commitment of resources, many citizens and policymakers concurrently demanded that states revise their statutes to include punitive treatment for juvenile offenders.<sup>7</sup> By the 1980's, the federal role had come full circle, moving from no involvement in juvenile justice, to incremental assistance, to massive federal subsidization of prevention efforts, and finally to a proposed de-escalation of federal support.

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believes that a sustained research effort offers the best hope in the long run for the development of an effective crime control policy. Better research does *not* assure more successful programs, but more programs without such a sustained research effort are likely to lead to continuation of our uncoordinated and noncumulative crime control policies, which have been dictated principally by social fads and political expediency. Without such research, past failures are more likely to be repeated and occasionally successful programs are unlikely to be capitalized on because the factors that account for failure and success are insufficiently understood.

*Id.* at 12 (emphasis added).

<sup>7</sup> Suggestions for statutory revisions have focused increasingly on waiver provisions for removing more serious juvenile offenders from the juvenile justice system and treating them as adults. Efforts to try such offenders in adult courts have taken three legislative avenues over the last decade. First, state legislatures may mandate that a particular class of offenders must be tried as adults: Delaware requires that juveniles accused of murder be heard in the criminal courts, DEL. LAWS tit. 10 § 938 (1982 Supp.); Connecticut requires the transfer to criminal court of any youth 14 or over who commits murder or who is a recidivist Class A or B felony offender, CONN. GEN. STAT. ANN. § 46b-126 (West 1983 Supp.); and Nevada automatically transfers to adult court youths 16 years or over who commit murder or attempted murder. NEV. REV. STAT. § 62.080 (1979).

Second, state legislatures may delegate such decision-making authority to the prosecutor, grand jury, or criminal court: Nebraska delegates such discretion to the prosecutor, NEB. REV. STAT. § 43-202.01 (1978); Minnesota requires the prosecutor to provide "clear and convincing evidence" that juvenile court jurisdiction should be waived, MINN. STAT. § 260.125(2)(d) (1980); and Michigan provides that a youth over 15 years of age accused of any felony, may be tried as an adult, MICH. STAT. ANN. § 27.3178 (598.4) (1976).

Third, state legislatures may designate restrictive custody proceedings: Georgia's Designated Felony Act, applicable to youths 13 years or older who have committed one of 10 designated violent acts, does not allow the youth to be discharged from the Division of Youth Services without a court-granted motion made after at least three years of custody. A final example is New York's recent statute combining mandatory waiver and sentencing approaches: the 1976 Designated Felony Act requires minimum periods of secure placement for adjudicated juveniles. N.Y. JUD. LAW § 753(a) (McKinney 1983). For an excellent article discussing these options and providing an in-depth case study of Minnesota's waiver provisions, see Feld, *Juvenile Court Legislative Reform and the Serious Young Offender: Dismantling the Rehabilitative Ideal*, 65 MINN. L. REV. 167 (1981).

While it is not the intention of this Article to assert that prevention programs are the panacea to juvenile delinquency problems, it does caution against premature abandonment of the prevention theory and method. Proactive prevention programs began receiving federal assistance just twenty years ago. These recent efforts have been charged with creating, organizing, and dispensing new proactive theories and strategies that contradict traditional reactive approaches used for over three centuries. Policymakers, armed with a clear understanding of historical federal involvement with delinquency prevention, may be in a better position to evaluate the successes and failures of such efforts, and to determine future federal involvement in prevention.

## II. HISTORICAL PERIODS OF FEDERAL INVOLVEMENT IN JUVENILE DELINQUENCY PREVENTION

Although the federal government was not directly involved in delinquency prevention programs until the 1960's, nineteenth century policymakers gradually expressed interest in and assumed some responsibility for general juvenile justice issues. Initial public efforts, however, began at the local and state levels. Not until the twentieth century did the federal government move into the juvenile justice arena.

### A. COLONIAL TIMES TO 1908

While colonists did not deny the existence of youthful misconduct, they made no efforts to prevent such behavior. Since children were considered evil by nature, it was believed that punishment should be wisely administered by family members, thereby eliminating the need for widespread, legally-defined sanctions.<sup>8</sup>

The strains of nineteenth century urbanization contributed to the gradual breakdown of the American family, the colonial era's mainstay of individual and collective control.<sup>9</sup> Consequently, external public and private authorities assumed most coercive and punitive responsibilities. Responding to the challenge was a group of Jacksonian Era philanthro-

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<sup>8</sup> See generally P. ARIES, *CENTURIES OF CHILDHOOD* (1962); R. BREMNER, *1 CHILDREN & YOUTH IN AMERICA: A DOCUMENTARY HISTORY* (1970); A. CALHOUN, *A SOCIAL HISTORY OF THE AMERICAN FAMILY FROM COLONIAL TIMES TO THE PRESENT* (1917); P. GREVEN, *THE PROTESTANT TEMPERAMENT: PATTERNS OF CHILD-REARING, RELIGIOUS EXPERIENCE, AND THE SELF IN EARLY AMERICA* (1977); E. POWERS, *CRIME & PUNISHMENT IN EARLY MASSACHUSETTS* (1966); W. SANDERS, *JUVENILE OFFENDERS FOR A THOUSAND YEARS* (1970); Illick, *Childrearing in Seventeenth Century England and America*, in *THE HISTORY OF CHILDHOOD* 303 (L. DeMause ed. 1974); Teitlebaum & Harris, *Some Historical Perspectives on Governmental Regulation of Children and Parents*, in L. TEITLEBAUM & A. GOUGH, *BEYOND CONTROL: STATUS OFFENDERS IN THE JUVENILE COURT* (1977); Walzer, *A Period of Ambivalence: Eighteenth Century American Childhood*, in *THE HISTORY OF CHILDHOOD*, *supra*, at 351.

<sup>9</sup> See generally E. SHORTER, *THE MAKING OF THE MODERN FAMILY* (1977).

pists who organized New York's Society for the Reformation of Juvenile Delinquents in 1823.<sup>10</sup> Believing delinquency to be an outgrowth of poverty and immorality, members of the nation's first philanthropic delinquency reform organization lobbied the New York state legislature for a new, publicly sponsored treatment method—the House of Refuge.

Opening its doors to New York City youth in 1825, Refuge sponsors claimed a revolutionary new approach to help troubled youth. By institutionalizing misbehaving children, reformers hoped to save misbehaving youth within custodial boundaries. Despite such expectations, Refuge founders built the system upon paternalistic, middle class philosophical foundations that encouraged punishing children who deviated from societal standards.<sup>11</sup> While institutionalization was a new systemic response, its punitive, reactive ideology was borrowed from the colonists.

Although post-Civil War reformers did not abandon institutionalization, they revised punitive Jacksonian goals. Custodial facilities became optimistic vehicles for saving, rather than punishing, offenders. Held in 1870, the nation's first Prison Congress furthered the rehabilitation ideal in its "Declaration of Principles," claiming that individual offenders could be rehabilitated through educational and industrial training; that any punishment should be administered according to offender needs rather than the seriousness of the offense; and that indeterminate sentencing should be applied to give prisoners incentive to participate in their own rehabilitation.<sup>12</sup>

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<sup>10</sup> A number of books and articles have been written about nineteenth and early twentieth century reformers and their youth-serving goals. See generally J. HAWES, CHILDREN IN URBAN SOCIETY: JUVENILE DELINQUENCY IN NINETEENTH-CENTURY AMERICA (1971); J. KETT, RITES OF PASSAGE: ADOLESCENCE IN AMERICA, 1780 TO THE PRESENT (1977); R. PICKETT, HOUSE OF REFUGE: ORIGINS OF JUVENILE REFORM IN NEW YORK STATE, 1815-1857 (1969); A. PLATT, THE CHILD SAVERS (1969); D. ROTHMAN, THE DISCOVERY OF THE ASYLUM: SOCIAL ORDER AND DISORDER IN THE NEW REPUBLIC (1971); E. RYERSON, THE BEST-LAID PLANS: AMERICA'S JUVENILE COURT EXPERIMENT (1978); S. SCHLOSSMAN, LOVE AND THE AMERICAN DELINQUENT: THE THEORY AND PRACTICE OF "PROGRESSIVE" JUVENILE JUSTICE, 1825-1920 (1977); Kett, *Adolescence and Youth in 19th Century America*, in THE FAMILY IN HISTORY: INTERDISCIPLINARY ESSAYS 95 (1971); Rothman, *The Progressive Legacy: Development of American Attitudes Toward Juvenile Delinquency*, in JUVENILE JUSTICE: THE PROGRESSIVE LEGACY AND CURRENT REFORMS 34 (L. Empey ed. 1979).

<sup>11</sup> Recent scholarly literature has been very critical of the House of Refuge movement. Historian Robert Pickett indicates that little, if any, reform or prevention was accomplished because pious and elitist reformers failed to comprehend the backgrounds of those they served. R. PICKETT, *supra* note 10, at 8. Attorney Sanford J. Fox describes the Refuge as a simple reflection of old, status quo middle-class values disguised in a new format. Fox, *Juvenile Justice Reform*, 22 STAN. L. REV. 1187 (1970). David Rothman portrays the Refuge as a revolutionary idea for institutionalized treatment that failed to achieve reform goals because it evolved into a punitive, custodial facility. Rothman, *supra* note 10. Steven Schlossman claims that the Refuge was simply a part of an evolutionary process of middle-class efforts to deal with lower class youth and was more a prison than a reformatory. S. SCHLOSSMAN, *supra* note 10.

<sup>12</sup> C. HENDERSON, PRISON REFORM & CRIMINAL LAW (1910).

In short, Houses of Refuge and similar institutions assured reactive rather than proactive juvenile rehabilitation policies; responding to offending behavior rather than preventing initial misbehavior characterized rehabilitative philosophies.<sup>13</sup> Such efforts expanded state and local involvement in three ways: municipal and state governments became stronger participants in creating, financing, and administering reform schools by the beginning of the 1860's; state boards were organized to inspect, report on, and recommend improvement for almshouses, asylums, and reform schools, beginning with Massachusetts in 1863; and some states formulated probation systems, again following Massachusetts' lead in 1869.<sup>14</sup>

As the century drew to a close, the public sector's role in the lives of misbehaving youth had broadened. On July 1, 1899, public intervention entered a new era when the Illinois Juvenile Court was established.<sup>15</sup> The features of this first formalized and separate judicial process for children were designed to protect the state's right to use *parens patriae* for official intervention in their clients' lives:<sup>16</sup> delinquent petitions instead of criminal charges would be filed; court proceedings were to be civil rather than criminal; non-adversarial conditions encouraged the court to act in both the child's and the state's best interest;

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<sup>13</sup> For discussions of nineteenth century juvenile institutional goals, see R. PICKETT, *supra* note 11, at chapter four; see also D. STREET, R.D. VINTER & C. PERROW, ORGANIZATIONS FOR TREATMENT: A COMPARATIVE STUDY OF INSTITUTIONS FOR DELINQUENTS (1966); O. LEWIS, THE DEVELOPMENT OF AMERICAN PRISONS AND PRISON CUSTOMS, 1776-1845 (1922).

<sup>14</sup> See R. MENNEL, THORNS AND THISTLES: JUVENILE DELINQUENTS IN THE UNITED STATES, 1825-1940 65-68 (1973); COMMITTEE ON THE HISTORY OF CHILD-SAVING WORK, HISTORY OF CHILD-SAVING IN THE UNITED STATES (National Conference of Charities and Corrections, 1893).

<sup>15</sup> Before the establishment of the Illinois Juvenile Court in 1899, there had been several prior actions for legal involvement undertaken in other states. In 1869 Massachusetts passed a probation act. See *supra* text accompanying notes 9-14. In the next decade, Massachusetts adopted in principle the notion of separate trials for juveniles. The Cincinnati Prison Congress of 1870 adopted a formal "Declaration of Principles" which stressed separate and specialized treatment for juveniles. Then, in 1892, New York added a new section to its penal code allowing for separate trials, dockets and records for cases involving juveniles under 16 years-of-age.

<sup>16</sup> *Parens patriae* originally allowed British courts to protect children with property holdings. Adaptation to American statutes gave local courts the authority over children considered to be neglected as well as misbehaved. The principle was incorporated into American juvenile law with the *Ex Parte* Crouse decision of the Philadelphia Courts in 1838. 4 Whart. 9 (1838). Young Mary Ann Crouse had been committed to the Philadelphia House of Refuge by her mother without her father's consent. When the father became aware of Mary Ann's dilemma, she was already incarcerated. He then filed suit on the basis that his daughter was entitled to a jury trial. The court's decision was unanimous: children did not have access to the Bill of Rights; thus Mary Ann would remain imprisoned until she was 21. 4 Whart. at 10. The court's decision was monumental because it held that in some cases the court was better fit to decide a child's welfare than were the child's natural parents.



rehabilitative rather than punitive treatment was to be prescribed by a team of professional specialists; probationary placement in the child's home, with a foster family, or in an apprenticeship was preferred to institutionalization; and special "schools" were created for adjudged juvenile delinquents needing secure detention and supervised rehabilitation.<sup>17</sup>

The juvenile court movement was one of many Progressive Era reforms seeking a "search for order" that would replace urban society's inharmonious elements with organized legal, professional, and governmental reforms.<sup>18</sup> Targets of societal reorganization included misbehaving youths who would be treated by the new juvenile court system. Such rehabilitative efforts, however, occurred *after* youths came to the courts' attention, thus assuring that society preferred reactive rather than proactive responses to unacceptable juvenile behavior.

#### B. 1909 TO 1932

The Progressive Era's child savers had two primary goals. The first was protective, designed to stimulate housing, public health, education, and child labor reforms for lower class youth from poverty-stricken surroundings.<sup>19</sup> The second goal was structural, aimed at encouraging federal involvement in youth issues by establishing a national Children's Bureau.<sup>20</sup> Both objectives were discussed at the first federally-initiated forum on children's issues, the White House Conference on Children and Youth, held in 1909. During the conference, President Theodore Roosevelt outlined both the right and the need for federal involvement in all youth issues: "The national government not only has the unquestioned right of research in such vital matters, but is the only agency which can effectively conduct such general inquiries as are needed for the benefit of our citizens. . . . In the absence of such information, many abuses have gone unchecked."<sup>21</sup>

In 1912, the newly created United States Children's Bureau gave the federal government new child serving and juvenile justice jurisdictions:

[T]o investigate and report . . . upon all matters pertaining to the welfare of children and child life among all classes of our people, and . . . especially . . . the questions of infant mortality, the birth rate, orphanage, ju-

<sup>17</sup> For a brief discussion of the juvenile courts' "procedural scheme," see W. V. STAPLETON & L. TEITELBAUM, *IN DEFENSE OF YOUTH: A STUDY OF THE ROLE OF COUNSEL IN AMERICAN JUVENILE COURTS* 15-21 (1972).

<sup>18</sup> R. WIEBE, *THE SEARCH FOR ORDER: 1877-1920* xiii-xiv (1967).

<sup>19</sup> WHITE HOUSE CONFERENCE ON CHILDREN AND YOUTH, *PROCEEDINGS* 6-7 (1909).

<sup>20</sup> Stretch, *The Rights of Children Emerge: Historical Notes on the First White House Conference on Children*, in *CHILD WELFARE* 365-372 (1970).

<sup>21</sup> WHITE HOUSE CONFERENCE ON CHILDREN AND YOUTH, *supra* note 19, at 6-7.

venile court, desertion, dangerous occupations, accidents and diseases of children, employment, legislation affecting children in the several states and territories. . . .<sup>22</sup>

Throughout its first two decades, the Bureau launched many juvenile delinquency-related research endeavors: supporting studies of juvenile court law (1914); authoring a report on juvenile delinquents in selected countries at war, including the United States (1918); disseminating a questionnaire measuring the extent of the American juvenile court movement (1918); surveying the organization and method of ten juvenile courts (1921); co-sponsoring a Standards for Juvenile Courts conference with the National Probation Association (1923); preparing a uniform recording and reporting plan for juvenile courts (1927); writing a summary of juvenile delinquency causes, treatment, and prevention for the federal government's first crime investigation commission (1930); and successfully lobbying for and ultimately administering the first federal law providing human service grants-in-aid to states—the Shepard-Towner Maternity Hygiene Act.<sup>23</sup>

The initial years of federal interest in youth issues signaled a new willingness to assume juvenile justice research, discussion, and data collecting responsibilities. The federal government, however, would not become directly involved until the legislature reacted to the societal turmoil of the Great Depression.

### c. 1933 TO 1960

New Deal legislators first cast the federal government directly into youths' lives when they created three programs to provide emergency aid to youths affected by the Depression. The Civilian Conservation Corps, created in 1933, developed a reforestation program for jobless males eighteen to twenty-five years-of-age, and enlisted over two and one-half million young men in its camps.<sup>24</sup> Founded two years later in 1935, the National Youth Administration employed over 600,000 college students and another one and one-half million high school pupils in part-time jobs.<sup>25</sup> Finally, the Social Security Act provided federal grants-in-aid to states for the care of dependent mothers and children, the crippled, the blind, and youths in danger of becoming delinquent.<sup>26</sup>

<sup>22</sup> J. TOBEY, *THE CHILDREN'S BUREAU: ITS HISTORY, ACTIVITIES AND ORGANIZATIONS* 2 (1925).

<sup>23</sup> Shepard-Towner Maternity Hygiene Act of 1921, 42 Stat. 224. For further information on the United States Children's Bureau, see Eliot, *Six Decades of Actions for Children*, 1 *CHILDREN TODAY* 2-6 (1972).

<sup>24</sup> W. E. LEUCHTENBURG, *FRANKLIN D. ROOSEVELT AND THE NEW DEAL* 174 (1963); see also K. HOLLAND & F. HILL, *YOUTH IN THE CCC* (1942).

<sup>25</sup> W.E. LEUCHTENBERG, *supra* note 24, at 174.

<sup>26</sup> *Id.*

The 1930's, then, signaled the federal government's desire to articulate policies affecting both delinquents and needy youth; these were emergency measures, however, designed to aid Depression victims. Indeed, the transient nature of federal activism was illustrated by rapidly contracting youth services during and after World War II. In the 1940's, the federal government sponsored only three major youth-serving efforts: the Fourth White House Conference on Children and Youth (1940), the National Commission on Children and Youth (1942), and the National Conference on Prevention and Control of Juvenile Delinquency (1946). The decade's most serious federal effort was the creation of the first Interdepartmental Committee on Children and Youth, established in 1948 to coordinate activities sponsored, organized, and funded by several federal departments.

The following decade witnessed growing federal interest in juvenile justice problems. The Federal Youth Corrections Act of 1950<sup>27</sup> provided training and rehabilitation methods for youths violating federal laws. The Children's Bureau sponsored several new efforts: organizing and conducting a two-year conference series to sensitize youth-serving personnel to the need for delinquency prevention programs (1952); and creating a new division, the Juvenile Delinquency Service, to provide technical assistance and prepare standards and guides for state and local, public and private agencies, as well as to recommend necessary federal and state delinquency-related legislation (1954).<sup>28</sup> The new Senate Subcommittee to Investigate Juvenile Delinquency, which conducted hearings between 1953 and 1958, recommended a comprehensive federal, state and local assistance program to strengthen and improve delinquency programs and services.<sup>29</sup>

In summary, from the New Deal forward the federal government expressed incremental interest in youth problems. Congressional leaders adopted emergency plans to help impoverished, idle, and unemployed youths, while the White House encouraged and co-sponsored national forums to discuss youth's needs. The Children's Bureau escalated its research and investigative juvenile justice functions, and the first Congressional committee to study the national juvenile delinquency problem suggested it was time to launch a national juvenile justice program.

By 1960, juvenile delinquency statistics indicated that incremental commitment was not enough. As the FBI's 1960 *Uniform Crime Reports* statistics revealed, arrests of persons under eighteen years-of-age had

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<sup>27</sup> Federal Youth Corrections Act of 1950, 18 U.S.C § 5005 (1976).

<sup>28</sup> Eliot, *supra* note 23, at 5.

<sup>29</sup> *Juvenile Delinquency: Hearings on S. 728 and S. 894 Before the Subcomm. to Investigate Juvenile Delinquency in the United States of the Senate Comm. on the Judiciary*, 84th Cong., 1st Sess. 1028-31, 10,110-12 (1955).

more than doubled since 1950 even though the youth population, ages ten through seventeen, increased by less than one-half.<sup>30</sup> Even more alarming were the increased arrest statistics for serious crime committed by juveniles in 1959 and 1960: a 2.6% increase in murder and non-negligent manslaughter; a 45.5% increase in manslaughter by negligence; a 24.6% increase in robbery; and an 11.6% increase in aggravated assault.<sup>31</sup> As youth crime spread to both urban and rural neighborhoods, public fear increased concurrently with a new federal commitment to juvenile delinquency programs and issues.

#### D. 1961 TO 1980

The federal government's development of a plan for large-scale federal juvenile justice intervention was a reaction to local failure to contain the frequency and severity of delinquent conduct. Considering its inherited legacy, the federal response was predictably reactive: child serving reformers—philanthropists as well as public policymakers—generally responded to delinquency problems after they arose. Thus, federal involvement was prompted by failures of earlier reformers performing in a reactive rather than a proactive mode.

In 1960, the "Report to the Congress on Juvenile Delinquency," co-authored by the Children's Bureau and the National Institute of Mental Health, condemned the absence of a comprehensive national youth policy.<sup>32</sup> This critical report paved the way for the Juvenile Delinquency and Youth Offenses Act of 1961.<sup>33</sup> This Act, the first national law aimed at controlling and preventing delinquency, set the framework for future federal juvenile justice policy. By empowering the Department of Health, Education, and Welfare's (HEW) Secretary to provide direct categorical grants to communities, institutions, and agencies to plan and initiate innovative demonstration and training programs,<sup>34</sup> the Act assured a precedent-setting flow of federal dollars to states and localities. The Act was more than a state insurance policy; it indicated the federal government's willingness to assume a major role in defining policies and funding programs affecting the nation's troubled youth.

Within a short period of time, other federal acts provided new avenues for youth-serving grants. In 1963, the Vocational Education Act authorized HEW to administer and fund vocational instructional pro-

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<sup>30</sup> J. HOOVER, CRIME IN THE UNITED STATES, UNIFORM CRIME REPORTS—1960 1 (1961).

<sup>31</sup> *Id.* at 96.

<sup>32</sup> UNITED STATES CHILDREN'S BUREAU AND THE NATIONAL INSTITUTE OF MENTAL HEALTH, REPORT TO THE CONGRESS ON JUVENILE DELINQUENCY (1960).

<sup>33</sup> Juvenile Delinquency and Youth Offenses Act of 1961, 42 U.S.C. § 2541 (1976).

<sup>34</sup> *Id.* at § 25413(a)-(e).

grams as well as Head Start's pre-school program for culturally-deprived children.<sup>35</sup> The Equal Employment Opportunity Act of 1964<sup>36</sup> drew the Department of Labor into the youth-serving arena through its Job Corps project, which provided high school dropouts with marketable skills.<sup>37</sup> The Manpower Development and Training Act of 1962 assigned the Department of Labor a similar objective: training jobless teenagers for eventual employment.<sup>38</sup> Two years later, the Department of Education developed a grants-in-aid program to remedy differential opportunity imbalances in schools by providing supplemental monies for compensatory education.<sup>39</sup>

While Congress was creating new youth-serving legislation, President Lyndon Johnson simultaneously expanded the federal concern by appointing the President's Commission on Law Enforcement and Administration of Justice in 1965. The commission was mandated to examine the juvenile justice system and make recommendations for future federal efforts.<sup>40</sup> A companion document to the Commission's 1967 general report suggested a blueprint for such involvement: active support of diversion and prevention projects to reduce unemployment; improved standards of living; new community-based residential facilities and youth service bureaus; increased educational opportunities; heightened quality of public education; and reform of the juvenile justice system.<sup>41</sup>

The Juvenile Delinquency Prevention and Control Act of 1968<sup>42</sup> was designed to meet Commission recommendations. By broadening HEW's powers, the Act initially authorized a three year, \$150 million grants-in-aid program to strengthen state and local juvenile justice and delinquency prevention programs, and to coordinate all federal youth development activities.<sup>43</sup> Like its 1961 predecessor, the Act was not specifically focused. Its objectives were delinquency prevention and control, but no substantive distinction between the two approaches was made. Moreover, the Act did not differentiate between treatment needs of certain types of youth. Additionally, rather than creating new youth programs, many federal funds helped states organize their juvenile justice planning bureaucracies.<sup>44</sup>

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<sup>35</sup> Vocational Education Act of 1973, 20 U.S.C. § 1241 (1976).

<sup>36</sup> Equal Employment Opportunity Act of 1963, Pub. L. No. 88-210.

<sup>37</sup> Equal Employment Opportunity Act of 1964, Pub. L. No. 88-352, 20 U.S.C. 2301 (1976) (current version at 42 U.S.C. § 2000e-2000e-17 (Supp. V 1982)).

<sup>38</sup> Manpower Development and Training Act of 1962, 42 U.S.C. § 2571 (1976).

<sup>39</sup> Elementary and Secondary Education Act of 1965, 20 U.S.C. § 821 (1976).

<sup>40</sup> Exec. Order No. 11,236, 30 Fed. Reg. 9349 (1965).

<sup>41</sup> PRESIDENT'S COMMISSION ON LAW ENFORCEMENT AND ADMINISTRATION OF JUSTICE, TASK FORCE REPORT: JUVENILE DELINQUENCY AND YOUTH CRIME 47-56 (1967).

<sup>42</sup> Juvenile Delinquency Prevention and Control Act of 1968, 42 U.S.C. § 3801 (1976).

<sup>43</sup> *Id.*

<sup>44</sup> Congress originally authorized \$25 million for the Juvenile Delinquency Prevention

Overshadowing the Juvenile Delinquency Prevention and Control Act was the Omnibus Crime Control and Safe Streets Act of 1968<sup>45</sup> and its creation of the Law Enforcement Assistance Administration (LEAA).<sup>46</sup> LEAA's primary emphasis was augmenting law enforcement for a more effective battle against increasing crime.<sup>47</sup> During LEAA's early years, federal officials ignored juvenile justice responsibilities because the Omnibus Crime Control and Safe Streets Act excluded delinquency from LEAA's crime reduction charge. The next decade's intense lobbying for greater federal commitment to delinquency prevention forced LEAA to appropriate some federal monies to this end.<sup>48</sup>

By the end of the 1960's, the federal government had adopted new responsibilities for delinquent and needy youth. Although grants-in-aid programs for family services, health, education, employment, recreation, and juvenile justice existed, the belief of many Great Society legislators that federal assistance would provide solutions encouraged hasty policy development and some uncoordinated responses. Consequently, at least four major federal departments were independently administering programs: the Departments of Labor, Agriculture, Justice, and HEW.<sup>49</sup>

As the 1970's unfolded, unprecedented sums of money were allocated to even more federal departments, commissions, and institutes that, in turn, funneled funds downward to states and localities. The 1970 Youth Conservation Corps Act gave the Departments of Agriculture and Interior joint responsibility for summer employment programs for youths between fifteen and eighteen years-of-age.<sup>50</sup> The Comprehensive Employment and Training Act of 1973 authorized the Depart-

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and Control Act of 1968, 42 U.S.C. § 3801 (1976). The final appropriation, however, was only \$5 million, most of which was expended on state juvenile planning agencies. See Bayh, *Toward Juvenile Justice*, 40 AM. SCHOLAR 662 (1970); Omart, *The Juvenile Delinquency Act—The Scrawny Gladiator*, 22 CALIF. YOUTH AUTH. Q. 4 (1969).

<sup>45</sup> Omnibus Crime Control and Safe Streets Act of 1968, 5 U.S.C. § 5315 (1976).

<sup>46</sup> 5 U.S.C. § 5315 (1976).

<sup>47</sup> See *id.* Very little has been written about the evolution, goals, and accomplishments of the Law Enforcement Assistance Administration. The following provide some insight: S. CAREY, 4 LAW AND DISORDER (1973); FEELEY & SARAT, THE POLICY DILEMMA: FEDERAL CRIME POLICY AND THE LAW ENFORCEMENT ASSISTANCE ADMINISTRATION, 1968-1978 (1980); TWENTIETH CENTURY FUND, LAW ENFORCEMENT: THE FEDERAL ROLE (1976); Harris, *Annals of Legislation: The Turning Point*, 44 NEW YORKER 68 (Dec. 14, 1968).

<sup>48</sup> For statements explicating such lobbying efforts between 1971 and 1977, see *Implementation of the Juvenile Justice and Delinquency Prevention Act of 1974: Hearings Before the Subcomm. to Investigate Juvenile Delinquency of the Senate Comm. of the Judiciary*, 95th Cong., 1st Sess. 152-53, 253-57 (1977) (testimony of Robert Dye, Chairman, National Interagency Program Collaboration on Juvenile Justice, U.S. Dep't of Justice).

<sup>49</sup> For a complete discussion of these departments' roles, see C. SIMMONS, M. KANNENSOHN, J. FOSTER, A. JOHNSON, W. MURPHY & J. WHITE, MAJOR ISSUES IN JUVENILE JUSTICE INFORMATION AND TRAINING: GRANTS IN AID OF LOCAL DELINQUENCY PREVENTION AND CONTROL SERVICES 131-177 (1981).

<sup>50</sup> Youth Conservation Corps Act of 1970, 16 U.S.C. § 1702 (1976).

ment of Labor to allocate funds to local governments for the creation of public jobs for disadvantaged and unemployed youths and adults.<sup>51</sup>

Despite diverse federal involvement, by 1970 the 1968 Delinquency Prevention and Control Act gave HEW primary legislative authority over federal interests in pre-delinquent and delinquent youth. Amendments to the 1961 Crime Control and Juvenile Delinquency Prevention Acts, however, began to blur distinctions between the role of HEW and the Department of Justice. The Crime Control amendments of 1970 required LEAA to include prevention, control and juvenile delinquency reduction programs.<sup>52</sup> A 1971 amendment to the Juvenile Delinquency Prevention and Control Act assigned new boundaries for HEW and LEAA: HEW would concentrate on delinquency prevention and rehabilitation programs administered outside the traditional criminal justice system (i.e., health, welfare, and runaway issues), while LEAA would develop programs within the system (i.e., police, courts, and correctional institutions).<sup>53</sup> The 1973 Crime Control Act amendments expanded LEAA's delinquency jurisdiction by requiring each state to submit a "comprehensive program . . . for the improvement of juvenile justice" in its criminal justice plan.<sup>54</sup>

In 1974, the overlapping jurisdictions shared by HEW and the Department of Justice were finally cleared up. The Juvenile Justice and Delinquency Prevention Act of 1974 (JJDP Act)<sup>55</sup> designated a new office as the official federal agency for the financing and administering of juvenile delinquency assistance, the Office of Juvenile Justice and Delinquency Prevention (OJJDP).<sup>56</sup>

Passage of the JJDP Act was a landmark federal action for several reasons. First, the responsibility for youth issues, traditionally delegated to HEW, the nation's largest social welfare agency, shifted to the Department of Justice, the nation's foremost law enforcement agency. Second, OJJDP's focus was clearly preventive:

- (1) [t]o develop and implement effective methods of preventing and reducing juvenile delinquency;
- (2) to develop and conduct effective programs to prevent delinquency, to divert juveniles from the traditional juvenile justice system and to provide critically needed alternatives to institutionalization;
- (3) to improve the quality of juvenile justice in the United States; and

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<sup>51</sup> Comprehensive Employment and Training Act of 1973, 29 U.S.C. § 801 (1976).

<sup>52</sup> Crime Control Amendments, Act of 1971, Pub. L. No. 91-644, 84 Stat. 1880 (codified at 42 U.S.C. § 3701 (Supp. V 1982)).

<sup>53</sup> Juvenile Delinquency Prevention and Control Act Amendments of 1971, 42 U.S.C. § 3801 (1976).

<sup>54</sup> Crime Control Act of 1973, 5 U.S.C. § 5108 (1976).

<sup>55</sup> Juvenile Justice and Delinquency Prevention Act of 1974, 42 U.S.C. § 5601 (1976).

<sup>56</sup> *Id.* at Title II, Parts A-D (creation of the Office of Juvenile Justice and Delinquency Prevention and explication of its duties).

(4) to increase the capacity of state and local governments and public and private agencies to conduct effective juvenile justice and delinquency prevention and rehabilitation programs and to provide research, evaluation and training services in the field of juvenile delinquency prevention.<sup>57</sup>

Finally, the JJDP Act assigned coordination of all federal juvenile delinquency programs to its other new creation, the Coordinating Council on Juvenile Justice and Delinquency Prevention.<sup>58</sup> The independent Council's role required an annual report to the President and Attorney General about federal policy priorities, including recommendations for future federal actions.<sup>59</sup>

Thus, not until 1974 did the federal government commit financial, research, and technical assistance to delinquency prevention theories and programs. The JJDP Act's predecessors, the Juvenile Delinquency and Youth Offenses Act of 1961<sup>60</sup> and the Juvenile Delinquency Prevention and Control Act of 1968,<sup>61</sup> had invested between \$60 and \$80 million on juvenile delinquency program efforts between 1951 and 1974.<sup>62</sup> In comparison, OJJDP received generous appropriations for its first six years: \$25 million in 1975, \$40 million in 1976, \$75 million in 1977, and \$100 million annually from 1978 to 1980.<sup>63</sup> Clearly, the federal government had made a commitment to juvenile justice reform and delinquency prevention.

This historical analysis highlights gradual federal involvement in juvenile justice issues: no federal role from colonial times to the twenti-

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<sup>57</sup> Juvenile Justice and Delinquency Prevention Act of 1974, 42 U.S.C. § 5601 (1976).

<sup>58</sup> 42 U.S.C. §§ 5616-5619 (1976).

<sup>59</sup> Other provisions of the Juvenile Justice and Delinquency Prevention Act of 1974 included a \$350 million three-year authorization of funds; mechanisms for both block and categorical grants; origins of a National Runaway Program to be jointly funded by the Office of Juvenile Justice and Delinquency Prevention and HEW, and operated by HEW; continued direction of LEAA's 19.15% "maintenance of effort" funds to juvenile programs per the 1973 Crime Control Act Amendments; the creation of the National Advisory Committee for Juvenile Justice and Delinquency Prevention made up of major federal agency directors; and the establishment of a National Institute for Juvenile Justice and Delinquency Prevention to act as both an information clearinghouse and a training and research branch. 42 U.S.C. § 5601.

<sup>60</sup> 42 U.S.C. § 2541 (1976).

<sup>61</sup> 42 U.S.C. § 3801 (1976).

<sup>62</sup> Between 1961 and 1967, Congress authorized a total of \$47 million to the Juvenile Delinquency and Youth Offenses Act of 1961, 42 U.S.C. § 2541 (1976). In 1968, the Juvenile Delinquency Prevention and Control Act, 42 U.S.C. § 3801 (1976), received a \$5 million final appropriation in its initial years, and between \$5 and \$10 million each year until its termination in 1974. *See* Bayh, *supra* note 44, at 662-66; Ohmart, *supra* note 44, at 18-23.

<sup>63</sup> Increased appropriations for the Juvenile Justice and Delinquency Prevention Act of 1974, 42 U.S.C. § 5601 (1976), were never easily attained. The Office of Juvenile Justice and Delinquency Prevention's early financial insecurity is illuminated in STAFF OF HOUSE COMMITTEE ON THE JUDICIARY, 95th Cong. 2d Sess., THE JUSTICE DEPARTMENT'S FIGHT AGAINST YOUTH CRIME: A REVIEW OF THE OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION OF THE LAW ENFORCEMENT ASSISTANCE ADMINISTRATION (Comm. Print 1979).



eth century's first decade; incremental federal interest via conferences, research, data collection and dissemination, and short-term emergency family and youth-serving legislation from 1909 to 1960; minor federal commitment to new delinquency causal and treatment theories from 1961 to 1974; and a large scale federal obligation of resources to innovative delinquency prevention programs from 1974 to the early 1980's. This unprecedented influx of delinquency prevention assistance stimulated a new era of creative programs designed for pre-delinquent and delinquent youth. Several results of these programs are reviewed in the following section.

### III. PREVENTION THEORIES AND PROGRAMS

Translating prevention theories into practice did not gain wide support until the 1970's. As programs emerged, most developed in response to two major delinquency causation theories: first, delinquent behavior is caused by the individual's problems; and second, delinquent behavior is caused by larger societal problems.<sup>64</sup> The following sections will examine prevention strategies emanating from these causal theories.<sup>65</sup>

#### A. DELINQUENCY AND THE INDIVIDUAL

The earliest delinquency causation theories focused on the inherently evil nature of children and their individual propensity to deviance, as well on the child's familial and environmental surroundings.<sup>66</sup> Accordingly, treatment measures were aimed at punishing individual deviance through institutionalization or at rehabilitating unacceptable behavior through treatment-oriented institutionalization.<sup>67</sup> As twentieth century theories grew more sophisticated, delinquency treatment methods matured accordingly. Psychopathic, maladjusted, learning-disabled, lower-class, and unemployed children received an at-risk label and were targeted for special delinquency prevention programs.

The Cambridge-Somerville Youth Project, conducted between 1936 and 1946, was one of the nation's earliest prevention programs.<sup>68</sup> Teachers identified 750 boys likely to become delinquent from schools in Cambridge and Somerville, Massachusetts. Half of the boys were

<sup>64</sup> G. JOHNSON, T. BIRD, J. W. LITTLE, & S. BEVILLE, *supra* note 3, at 2-1 - 2-3.

<sup>65</sup> Much information about the following programs was derived from the very helpful publication by G. JOHNSON, T. BIRD, J. W. LITTLE, & S. BEVILLE, *supra* note 3, at 2-1 - 2-79.

<sup>66</sup> See generally P. ARIES, *supra* note 8; L. EMPEY, AMERICAN DELINQUENCY: ITS MEANING AND CONSTRUCTION 71-95 (1978); THE HISTORY OF CHILDHOOD, *supra* note 8.

<sup>67</sup> See generally J. HAWES, *supra* note 10; R. PICKETT, *supra* note 10; A. PLATT, *supra* note 10; D. ROTHMAN, *supra* note 10; E. RYERSON, *supra* note 10.

<sup>68</sup> See E. POWERS & H. WITMER, AN EXPERIMENT IN THE PREVENTION OF DELINQUENCY: THE CAMBRIDGE-SOMERVILLE YOUTH STUDY (1951).

placed in an experimental group where they received individual counseling, tutoring, family guidance, and recreational opportunities. The other half were placed in a control group and received no such services. Comparative studies of both groups surveyed five, ten, and twenty-five years after treatment indicated no significant delinquency reductions between treated and untreated youth.<sup>69</sup>

Similar conclusions were reached by a growing number of programs treating individual problems:

- A 1976 OJJDP-commissioned study through the National Center for State Courts reviewed court and self-reported questionnaire data on 1,692 youths to compare the prevalence of delinquent behavior among learning disabled and non-learning disabled youth.<sup>70</sup> While 32% of the adjudicated youth had learning disabilities compared with only 16% of the nonadjudicated youth, the self-report studies indicated no significant differences between learning disabled and non-learning disabled either in delinquent behavior or in police contacts.<sup>71</sup>
- A 1978 study reviewed 170 youth-serving projects in which seventy-eight projects focused on individual characteristics through casework, psychotherapy, counseling, education, behavior modification, and wilderness program approaches. The overwhelming majority found no delinquency reduction among recipients of individualized preventive treatment.<sup>72</sup>
- A 1978 review of twelve vocational and work programs conducted between 1966 and 1974 found that the only three programs reducing delinquent conduct gave youths long-term career and educational advancement opportunities.<sup>73</sup>
- A 1979 study of the "Scared Straight" encounter between violent offenders at New Jersey's Rahway prison and teenagers found that within six months after the sessions, 41% of those treated committed serious crimes, compared with only 11% of the control group.<sup>74</sup>

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<sup>69</sup> See generally Berleman & Steinburn, *The Value and Validity of Delinquency Prevention Experiments*, 15 CRIME & DELINQ. 471, 474 (1969); McCord, *A Thirty-Year Follow-Up of Treatment Effects*, 1 CRIM. REV. YEARBOOK 688 (1979); Toby, *An Evaluation of Early Identification and Intensive Treatment Programs for Predelinquents*, in PREVENTION OF DELINQUENCY: PROBLEMS AND PROGRAMS (Stratton & Terry eds. 1968).

<sup>70</sup> For a detailed discussion of learning disability theories and programs prior to 1976, see I. KEILITZ, M. SAKS & P. BRODER, *THE EVALUATION OF LEARNING DISABILITIES: JUVENILE DELINQUENCY REMEDIATION PROGRAM EVALUATION DESIGN AND INTERIM RESULTS* (1979); C. MURRAY, *THE LINK BETWEEN LEARNING DISABILITIES AND JUVENILE DELINQUENCY: CURRENT THEORY AND KNOWLEDGE* (1976); J. ZIMMERMAN, W. RICH, I. KEILITZ & P. BRODER, *SOME OBSERVATIONS ON THE LINK BETWEEN LEARNING DISABILITIES AND JUVENILE DELINQUENCY* (1980).

<sup>71</sup> G. JOHNSON, T. BIRD, J. W. LITTLE & S. BEVILLE, *supra* note 3, at 2-13.

<sup>72</sup> D. ROMIG, *JUSTICE FOR OUR CHILDREN: AN EXAMINATION OF JUVENILE DELINQUENT REHABILITATION PROGRAMS* (1978).

<sup>73</sup> *Id.* at 43-56.

<sup>74</sup> 7 JUV. JUST. DIG. 3, 4 (May 4, 1979). It should be noted that in another Scared Straight study, released in 1980, a 22-month follow-up revealed higher incidence of delinquent behavior among the control group than the treatment group. The 1980 study, however, was conducted with youths having one or more prior offenses, while the 1979 study included only youth with no offense records. See S. LANGER, *FEAR IN THE DETERRENCE OF*

- A 1980 study of a large-scale employment program conducted between 1975 and 1977 reported that work support had little impact in decreasing the target group's delinquent activities, largely because youth felt the program could not prepare them for entry level jobs or careers.<sup>75</sup>

Clearly, many preventive approaches addressing individual personality, environmental, economic, and learning problems showed little success. A 1981 report commissioned by OJJDP concluded that "many characteristics addressed by such programs appear to be unrelated to delinquent behavior; more importantly, the roots of the problem do not reside in individuals at all."<sup>76</sup> These findings suggest delinquency causations are related to environmental settings—especially schools, neighborhoods, and families—rather than to individual deviance. Accordingly, many prevention theories and programs have begun to address larger social problems.

#### B. DELINQUENCY AND SOCIAL STRUCTURE

Contemporary theorists most often find delinquency causations deeply embedded in our social structure's policies and practices. Those theories gaining widest recognition in sociological and criminological circles fall into four categories: subcultural and differential association, strain and opportunity, bonding, and labeling:

- Subcultural theorists identify delinquency causes in the diversity of norms characterizing different groups or population segments, while differential association theorists believe delinquency results when illegally learned behavior is reinforced rather than scorned.<sup>77</sup>
- Strain and opportunity theorists blame delinquency on a misaligned social structure that causes gaps between desirable and achievable goals, encouraging some persons to seek opportunities through illegitimate channels.<sup>78</sup>
- Bonding theorists maintain that weakened or nonexistent conventional ties to familial, educational, religious, or economic social structures causes nonconforming, delinquent behavior.<sup>79</sup>
- Labeling theorists believe that assigning youth negative labels encour-

DELINQUENCY: A CRITICAL ANALYSIS OF THE RAHWAY STATE PRISON LIFER'S PROGRAM, A BRIEF SYNOPSIS (1980).

<sup>75</sup> MANPOWER DEMONSTRATION RESEARCH CORP., SUMMARY AND FINDINGS OF THE NATIONAL SUPPORTED WORK DEMONSTRATION 9 (1980).

<sup>76</sup> G. JOHNSON, T. BIRD, J. W. LITTLE & S. BEVILLE, *supra* note 3, at 2-23.

<sup>77</sup> Subculture theories are discussed in A. COHEN, *DELINQUENT BOYS: THE CULTURE OF THE GANG* (1955); Miller, *Lower Class Culture as a Generating Milieu of Gang Delinquency*, J. SOC. ISSUES (1958).

<sup>78</sup> Robert Merton initially formulated strain theory. See Merton, *Social Structure and Anomie*, AM. SOC. REV. (October, 1937). Richard A. Cloward and Lloyd C. Ohlin applied this theory to explain lower class delinquency. R. CLOWARD & L. OHLIN, *DELINQUENCY AND OPPORTUNITY: A THEORY OF DELINQUENT GANGS* (1960).

<sup>79</sup> Travis Hirschi initially formulated bonding theory. T. HIRSCHI, *CAUSES OF DELINQUENCY* (1969).

ages conformation to expectations associated with the label.<sup>80</sup>

Initial prevention programs based upon these social structure theories demonstrated disappointing or inclusive results primarily for two reasons. First, throughout the 1970's, most practitioners used individual treatment, thereby converting "macrotheory into microtherapy."<sup>81</sup> In essence, they believed that traditional individualized treatment could prevent delinquent behavior caused by institutional policies and procedures adversely affecting youth. A recent study of thirty-six juvenile delinquency prevention programs operating in 1979 indicates the popularity of this approach: each of the twenty-two (66%) programs describing a primary prevention<sup>82</sup> objective relied upon individual counseling and/or therapy in school, work, family, community and/or peer group settings.<sup>83</sup>

Second, delinquency prevention effectiveness could not be measured in nineteen of the twenty-two programs: sixteen were not evaluated in this area and three had inconclusive data. Only three programs underwent evaluations capable of determining some degree of effectiveness: the Community Crime Prevention Program, Marion County Mental Health Prevention Project, and Open Road.

- The Community Crime Prevention Program (CCPP) in Seattle, Washington, targets neighborhoods most vulnerable to burglary, educates interested neighbors in crime prevention, and helps organize citizen cooperative activities.<sup>84</sup> Surveys conducted in 1974 and 1975 with CCPP participants and non-participants indicated lower burglary rates for those involved in CCPP. The CCPP model, however, "makes crime more difficult to commit, but does not address the motivation to commit crime, in youths or adults."<sup>85</sup> The project focuses on deterrence strategies adopted by individuals and groups of youths and adults, but does not confront societal problems encouraging delinquent conduct.

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<sup>80</sup> Labeling theory was first discussed in F. TANNENBAUM, *CRIME AND THE COMMUNITY* (1938). It was not until the 1960's, however, that the theory gained much credibility. See D. CRESSEY, *DELINQUENCY, CRIME AND SOCIAL PROCESS* 585-89 (1969); see also H. BECKER, *THE OUTSIDERS* (1963); E. LEMERT, *HUMAN DEVIANCE, SOCIAL PROBLEMS AND SOCIAL CONTROL* (1967).

<sup>81</sup> G. JOHNSON, T. BIRD, J. W. LITTLE & S. BEVILLE, *supra* note 3, at 2-4.

<sup>82</sup> Practitioners and theorists often refer to three kinds of target populations for prevention services: primary, secondary, and tertiary. Primary prevention programs deliver services to all youth regardless of their potential for delinquency; secondary prevention programs work with youth who are in greater danger of becoming delinquent; tertiary prevention activities work with youth who have already been referred for assistance through law enforcement, school authorities, or other official channels. Because this study focuses on proactive prevention, both primary and secondary target populations would be included.

<sup>83</sup> J. WALL, J. D. HAWKINS, D. LISHER & M. FRASER, *JUVENILE DELINQUENCY PREVENTION, OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION: A COMPENDIUM OF 36 PROGRAM MODELS* (Law Enft Assistance Admin. (1981)).

<sup>84</sup> *Id.* at 35.

<sup>85</sup> *Id.*

- Marion County's Mental Health Prevention Project in Salem, Oregon, created a Primary Prevention Task Force to identify, encourage, and promote primary prevention activities in communities throughout the county.<sup>86</sup> An evaluation conducted in 1976 stated that "there was no program effect on alcohol and drug abuse as measured by community-wide social indicators, police and juvenile statistics on alcohol and drug related arrests, and referrals to various agencies."<sup>87</sup>
- Open Road in San Francisco, California, allows students to participate actively in school administration through individual and group educational programs.<sup>88</sup> One evaluation found the Open Road technique "promising," but regretted that the lack of consistent school reporting disallowed data measurements comparing all schools and assessing the project as a whole.<sup>89</sup>

Rather than criticize the lack of uniform evaluation measures and indicators of programmatic effectiveness, the authors of the study concluded that the programs represented "a range of promising approaches," and recommended that "[c]ontinual experimental work is essential to develop an effective technology for delinquency prevention."<sup>90</sup>

Another recent study adopted a similar positive stance, calling for a series of innovative prevention programs designed to reform institutional policies and procedures negatively affecting youth.<sup>91</sup> It advocated changing educational practices encouraging and reinforcing delinquent tendencies; removing societal hurdles discouraging equal educational and career opportunities; improving those settings which undermine incentives for conventional behavior; and reforming organizational policies producing negative labels that result in misconduct.<sup>92</sup>

Such strategies favor the treatment of institutional maladies rather than individual deviancy. Supporting these new proactive prevention theories and programs are a small but growing number of studies indicating:

- negative self perceptions were more a function of school isolation (low grades, poor athletic and social participation, lack of involvement) than judicial processing in an examination of 1,227 Oregon youth, 303 of whom had delinquency records;<sup>93</sup>
- learning disabled juveniles involved in delinquent behavior are more often adjudicated than their peers, not necessarily because of their disabili-

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<sup>86</sup> *Id.* at 73.

<sup>87</sup> *Id.*

<sup>88</sup> *Id.* at 82-83.

<sup>89</sup> *Id.*

<sup>90</sup> *Id.* at 3.

<sup>91</sup> G. JOHNSON, T. BIRD, J. W. LITTLE & S. BEVILLE, *supra* note 3, at 2-44 - 2-49, 2-62 - 2-74.

<sup>92</sup> *Id.*

<sup>93</sup> See generally M. CHASTAIN, *DELINQUENCY, THE SCHOOL EXPERIENCE, & CONCEPTIONS OF SELF & OPPORTUNITIES* (1977).

ties, but because they are often less capable of communicating with authorities, have poor scholastic records, and are differentially treated in the juvenile justice system;<sup>94</sup>

- students will tend to justify rebellion if the school structure and policies are unjust, if educational rewards and incentives are unequal, and if the decision-making process discourages involvement in and responsibility for the school;<sup>95</sup>
- limited access, or the perception thereof, to legitimate occupational opportunities encourages poor scholastic achievement and delinquency;<sup>96</sup>
- family prevention programs improving communication skills and building responsibility negotiation and contingency contracting skills are more successful than individual counseling efforts;<sup>97</sup>
- conventional behavior may be maintained through four control processes—commitment, attachment, involvement, and belief-relating—to some important positive affiliations with family, employment, school, religion, or peer group organization.<sup>98</sup>

These new studies substantiate both the unsuccessful nature of individual treatment as well as the potential for proactive prevention programs designed to modify family, school, and peer group policies and interactional strategies. Thus, we currently have an idea about which prevention strategies do *not* work and we also have enough experimental data to indicate those approaches that *may* work if renewed resources are devoted to further prevention phases.

Before discussing the federal government's role in a future delinquency prevention stage, it is important to review its past and present role. The most recent analysis of the federal delinquency prevention effort—authored by OJJDP, the Coordinating Council on Juvenile Jus-

<sup>94</sup> See generally J. ZIMMERMAN, W. RICH, I. KEILITZ & P. BRODER, *supra* note 70; STATE OF CALIF. COMM'N ON CRIME CONTROL & VIOLENCE PREVENTION, AN OUNCE OF PREVENTION: TOWARD AN UNDERSTANDING OF THE CAUSES OF VIOLENCE 34 (1981).

<sup>95</sup> See generally U.S. DEP'T OF HEALTH, ED. & WELFARE, 1 VIOLENT SCHOOLS—SAFE SCHOOLS: THE SAFE SCHOOL STUDY REPORT TO CONGRESS (1978); Coleman, *Deviant Subcultures and the Schools*, in THEORETICAL PERSPECTIVES ON SCHOOL CRIME AND POVERTY (R. Rubel ed. 1979); Gottfredson, *Disruption in 600 Schools—the Social Ecology of Personal Victimization in the Nation's Public Schools*, in THEORETICAL PERSPECTIVES ON SCHOOL CRIME AND POVERTY (R. Rubel ed. 1979); Kaplan, *Rebellion Against Authority in High Schools*, in THEORETICAL PERSPECTIVES ON SCHOOL CRIME AND POVERTY (R. Rubel ed. 1979).

<sup>96</sup> See generally Cernokovich & Denisoff, *Value Orientations and Delinquency: A Theoretical Synthesis*, in SCHOOL CRIME AND DISRUPTION: PREVENTION MODELS (U.S. Dep't of Health, Ed. & Welfare 1978).

<sup>97</sup> This 1978 study of twelve family treatment programs conducted between 1962 and 1975 revealed that families in four programs using communication skill practices showed significant decreases in delinquency. Families in five programs showing no effect were involved in individual and family discussions of adolescent problems, while families in the last three programs producing a delinquency increase received psycho-dynamic individual and family therapy. See generally D. ROMIG, *supra* note 72, at 87-88; Alexander & Parsons, *Short-Term Behavioral Intervention with Delinquent Families: Impact on Family Process and Recidivism*, 81 J. ABNORMAL PSYCHOLOGY 219-225 (1973).

<sup>98</sup> See generally T. HIRSCHI, *supra* note 79, at 20.

tice and Delinquency Prevention, and the National Advisory Committee on Juvenile Justice and Delinquency Prevention—examined forty-five separate programs operating in 1980 within seven cabinet-level departments and two independent agencies providing financial assistance to state and local youth program operations.<sup>99</sup> Of the forty-five programs, nine (20%) explicitly mandate delinquency reduction or prevention in their authorizing legislation while five others refer to juvenile delinquency in some official document.<sup>100</sup> Just over one-third designate a delinquency prevention or reduction goal. The survey did not, however, define delinquency nor did it request a resource estimate for allocations to that goal. Therefore, it may be concluded that the percentage of time and money expended on proactive prevention is not only unknown, but is substantially lower than other federal delinquency prevention and reduction programs.

The study also surveyed the types of direct services, finding that the largest federal expenditures (82%) were for individual and family mental health and counseling services, followed in popularity by 79% for educational services, 75% for life-skill services, 74% for employment services, and 68% for family support.<sup>101</sup> When compared with the above-cited recent studies indicating the ineffectiveness of individual counseling and therapy as opposed to potential effectiveness of school and family interaction programs, it is clear that federal resources have been applied to unsuccessful prevention strategies. This fact, however, does not suggest federal support was wasted; instead, it indicates a federal contribution to a body of theoretical knowledge about what does and does not prevent juvenile crime.

## V. CONCLUSION

If one accepts the above interpretation of past federal efforts, it follows that the federal government's next step should be participation in the transfer of such theories into practice. This would represent a logical, evolutionary effort to build upon sound theoretical foundations, not an expanded commitment to a disproven treatment method. When considering the historical evidence, this suggestion gains further credence. Over 125 years of coercive and protective policies evolved under the sporadic direction of private charity as well as under the di-

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<sup>99</sup> See generally U.S. DEP'T OF JUSTICE, FIFTH ANALYSIS AND EVALUATION OF FEDERAL JUVENILE DELINQUENCY PROGRAMS 7-10, 18-22 (1980). The 45 federal programs are authorized under 25 separate congressional acts, over half of which were passed after 1970. Excluded from this analysis were federal programs supporting research, planning, technical assistance, and training activities.

<sup>100</sup> *Id.* at 31.

<sup>101</sup> *Id.* at 33.

rection of state and local governments. Federal intervention, gradually introduced during the Progressive Era, expanded to include emergency family relief legislation during the Depression. Direct federal commitment in the form of state and local grants-in-aid began in the late 1960's, gained great popularity by the decade's end, and grew to unprecedented proportions in the 1970's.

Ironically, at the same time a significant body of prevention expertise is growing, the executive branch is proposing a period of federal social and economic contraction. Yet, as contemporary policymakers and citizens point accusing fingers at federal delinquency prevention failures, they ignore almost two decades of progress. Today's practitioners and theorists not only know that individualized treatment probably will not prevent delinquency, they have good reason to believe preventive school, family, community, and peer group programs aimed at modifying negative institutional policies and practices may help prevent juvenile crime.

These promising indicators warrant careful consideration before the federal government withdraws its support of prevention theories and programs. This does not suggest a long-term federal obligation to preventive youth services; rather, it encourages detailed analyses of recent studies, as well as an educated appraisal of how reduced subsidization and a return to punitive treatment would affect youthful clients across the nation. Nor does this analysis theorize that prevention programs can solve the juvenile crime problem. Instead, it hopes to clarify the historical and contemporary status of prevention theories and programs.

Ultimately, this Article recommends federal support for transferring new, proactive prevention theories into workable programs that will modify institutional policies and procedures negatively affecting youth. Without taking this final step, citizens and policymakers will have no way to measure the total federal impact on the problems of juvenile delinquency.