

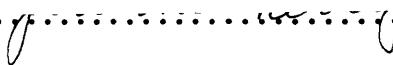
CHINS IN THE COURTS:  
A Problem Not Yet Confronted

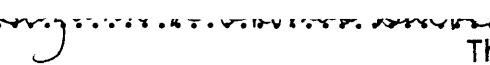
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
ELLEN JEANNE PERRY

Submitted in Partial Fulfillment  
of the Requirements for the  
Degree of Master of City Planning  
at the  
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Signature of Author.....

Certified by..... Thesis Supervisor

Accepted by.....  
 Chairman, Departmental Committee on Theses

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## ABSTRACT

CHINS IN THE COURTS: A Problem Not Yet Confronted

by

Ellen Jeanne Perry

Submitted to the Department of Urban Studies and Planning on May 25, 1979 in partial fulfillment of the requirements for the degree of Master of City Planning

The Institute of Judicial Administration and the American Bar Association, in 1977, released a draft proposal recommending that the juvenile court's jurisdiction over children who commit noncriminal offenses be terminated. This thesis evaluates the efforts of Massachusetts to so reform its juvenile justice system. The thesis also considers the ambiguous position of the status offender in the juvenile justice system as well as the consequences for reform when that ambiguity is not confronted.

In 1974, Massachusetts "decriminalized" status offenses and, for the first time, explicitly distinguished between those juveniles who commit criminal offenses and those who are unruly, truant or runaways. The delinquents were to remain in the custody of the Department of Youth Services, the state youth corrections agency. The status offenders were reclassified as "Children In Need of Services" (CHINS) and were to receive assistance directly from the courts and the Department of Public Welfare. In 1977, the Department of Public Welfare implemented a program designed to minimize judicial involvement in CHINS cases while maximizing the provision of DPW services.

The Commonwealth has been unable to successfully implement either the CHINS law or the DPW plan. Furthermore, although the legislature removed from the courts all of the powers they once had to compel status offenders to accept services, it has refused to remove status offenses from the court's jurisdiction. The courts, therefore, are merely replicating the role played by the state welfare department.

Finally, Massachusetts has failed to confront the ambiguous position of status offenders in the juvenile justice system. The legislature has declared that status offenses are not delinquent acts. Rather, they indicate that the misbehaving youth is in need of services. DPW responded to the decision with a plan that maximizes service provision while minimizing the child's contact with the courts. Nevertheless, the legislature's continued reliance on the judicial process and the mechanisms used to identify and control delinquents to provide services to status offenders belies the notion that CHINS youth are solely a social welfare problem. This conflict, inherent in the CHINS law, has prevented successful implementation of both the CHINS law and the DPW plan.

Thesis Supervisor: Suzann R. Thomas Buckle  
Title: Associate Professor of Urban Studies and Planning

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Hold fast to dreams  
For if dreams die  
Life is a broken-winged bird  
That cannot fly.

Hold fast to dreams  
For if dreams go  
Life is a barren field  
Frozen with snow.

Langston Hughes

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## INTRODUCTION

The Juvenile Justice Standards Project (JJSP), sponsored by the Institute of Judicial Administration and the American Bar Association, in 1977 released the draft of a controversial set of standards relating to the "noncriminal misbehavior" of juveniles. Historically, a major function of the juvenile courts has been to control unruly children whose misconduct is sanctioned by law. Aidan R. Gough, the reporter who drafted the JJSP "Standards Relating to Noncriminal Misbehavior", strongly urged that the juvenile courts be radically reformed.

[T]he present jurisdiction of the juvenile court over noncriminal misbehavior -- the status offense jurisdiction -- should be cut short and a system of voluntary referral to services provided outside the juvenile justice system adopted in its stead. As a general principle, the standards seek to eliminate coercive official intervention in unruly child cases. However, because of the particular problems presented by certain kinds of cases -- youths who run away, who are in circumstances of immediate jeopardy, who are in need of alternative living arrangements when they and their parents cannot agree, and who evidence a need of emergency medical services -- some carefully limited official intervention is preserved, though in all cases wardships as a result of the child's noncriminal behavior or circumstances is precluded.<sup>1</sup>

The American Bar Association has so far refrained from adopting this volume due both to the controversial and radical nature of its recommendations and to the strong opposition of many juvenile court judges and juvenile justice personnel. Many states, however, have been reassessing the nature of juvenile court jurisdiction over status offenders. Although no state has yet abolished juvenile court jurisdiction over noncriminal misbehavior, several states, including Massachusetts,

have developed programs whose principles reflect many of the basic policy arguments contained in the JJSP volume.<sup>2</sup> Careful study of one of these programs might serve to illuminate the strengths and weaknesses of both the JJSP proposal and the programs presently in effect throughout the United States.

In many ways, Massachusetts has come close to eliminating juvenile court jurisdiction over status offenders. In 1974, the Commonwealth explicitly distinguished status offenders from delinquents and decreed that these status offenders were "children in need of services" who henceforward would receive assistance from the state department of welfare rather than from the youth corrections agency, as had been done in the past.<sup>3</sup> In addition to "decriminalizing" status offenses by differentiating them from delinquent or criminal offenses, Massachusetts took a step toward "dejudicialization" or the elimination of judicial control over status offenses as well. In 1977, the Department of Public Welfare (DPW) implemented a program designed to encourage the direct referral of children in need of services to the Department with minimal reliance on the courts for coercive action.<sup>4</sup> A case study of the Massachusetts program, therefore, might provide the many states considering adopting plans either similar to that proposed by Gough or presently in effect in Massachusetts and other states with valuable information and guidance.

The thesis that follows will look at the Massachusetts case, first considering how decriminalization has affected the treatment of status offenders in Massachusetts. It will then focus on the state's implementation of the new DPW program and its effect on the courts and

the social welfare system. Finally, conclusions will be drawn from the Massachusetts experience that might prove useful to states considering "decriminalizing" or "dejudicializing" status offenses.

Footnotes

1. A. Gough, IJA-ABA JJSP: Standards Relating to Noncriminal Misbehavior (Cambridge, 19-77), p. 2.
2. Ibid., pp. 74 - 83.
3. M.G.L. c. 119 §§ 39E - 39J.
4. Massachusetts Social Services Policy Manual, "Children In Need of Services," 106 CMR, c. 230, April, 1978.

## CHAPTER I

Status Offenders and the Juvenile Justice SystemA. Status Offenders in the Juvenile Courts

The jurisdiction of the juvenile courts generally encompasses three categories of cases:

- 1) Delinquency cases in which the juvenile has been accused of violating the criminal laws of the state;
- 2) Status offense cases in which the juvenile has been accused of conduct sanctioned by the state only when committed by minors; and
- 3) Care and Protection cases in which parents have been accused of abusing or neglecting their children.

Despite the existence of diverse juvenile court procedures, in recent years the philosophical posture of the states toward both delinquent and neglected or abused children has been consistent and unambiguous. In most instances states have adopted models of intervention designed to promote that perspective. For example, although there is a widespread recognition that most delinquent youth have experienced serious social or economic deprivations, recent Supreme Court decisions and legislative reforms have increasingly shifted the emphasis of the juvenile courts away from the youth's personal problems and onto the alleged criminal nature of his acts. As a result, for delinquent youth the juvenile process has come to strongly resemble the adult criminal justice system. Conversely, in care and protection cases the focus is on the needs of the child rather than on his deeds. The child's welfare is the factor that justifies state intervention.

With status offenders, however, there is as yet no consensus as to either who these youth are or how the state should intervene in their lives, if at all. It is unclear whether they are considered to be primarily problem children, like delinquents, or children with problems, like the abused and neglected. Ostensibly, status offenders are brought within the purview of the juvenile justice system because they are in need of assistance. Historically, no distinction had been made between the youth who committed criminal offenses and status offenders. The juvenile justice system was developed to aid all troubled youth, not just the criminal offender.<sup>1</sup>

Neglect, disobedience, and crime were viewed as parts of a single process, moving from parental failure to criminality. Moreover, like causes produced like prescriptions. Since deviance resulted from parental neglect, provision of care was appropriate to both criminal and proto-criminal.<sup>2</sup>

This perspective still has many supporters. One study, which compared the legal counterparts of status offenses in five Western European countries, concluded that to distinguish between status offenders and delinquents was "short-sighted".<sup>3</sup>

Delinquency itself is often a symptom of family problems. A far more reasonable, but also considerably more difficult approach, would be to attempt to treat or care for all or almost all juveniles who cannot stay in their home for whatever reason, and to attempt to minimize the stigma attached to any court adjudication.<sup>4</sup> (emphasis added)

The emphasis is on the youth's deviant behavior or misconduct. Furthermore, concern is not grounded solely on the child's present needs. It is based also on the assumption that criminal involvement will follow unless the youth's deviant activity is halted. In fact, this is the end

the court seeks to prevent by intervention. The primary focus is on prevention and only secondarily on rehabilitation.

Not all observers of the juvenile justice system share this perspective. These critics do not consider status offenders to be either indistinguishable from delinquents or pre-delinquent "problem children".

The juvenile court's jurisdiction over unruly children is based on assumptions -- most often implicit -- that parents are reasonable persons seeking proper ends; that youthful independence is malign; that the social good requires judicial power to backstop parental command; that the juvenile justice system can identify noncriminal misbehavior which is predictive of future criminality; and that its coercive intervention will effectively remedy family-based problems and deter further offense. On the available evidence ...it simply cannot be established that the behavior encompassed by the status offense jurisdiction is accurately "proto-criminal".<sup>5</sup>

The problem is not defined in terms of the child's misconduct or the state's goal of preventing delinquent behavior; rather, the emphasis is on the particular present needs of the child and the juvenile justice system's failure to provide him with appropriate services.<sup>6</sup> Although both schools of thought recognize that intra-familial conflict most often precipitates the misconduct, the aim of the first is to identify and to halt the consequences of the familial conflict, thereby preventing future misbehavior, while the latter's goal is to focus directly on the behavior's precipitating factors. As a result, one concentrates on the cause; the other, on the effect. This divergence stems directly from their differing perceptions of status offenders and directly affects any action taken concerning these children.

The debate is not easily resolved, nor has this ambiguity been adequately confronted. State intervention is often justified by reason-

ing that "children require adult guidance for their proper development. [They] cannot...be relied on to rear themselves."<sup>7</sup>

The juvenile courts exist to protect children, not to stand aside while they hurt themselves or commit a criminal act. Until a child has the experience and maturity to make his or her own judgments, someone must make those judgments for the child.<sup>8</sup>

Those who are in need of such aid are currently identified by their misconduct and not solely by their needs. The model of identification, therefore, bears a strong resemblance to that used to identify delinquents, yet the rationale for state intervention closely coincides with that advanced to justify care and protection proceedings.

The implications of this ambiguity are not inconsequential. The emphasis on misconduct makes it difficult to avoid the delinquent-like elements of the process. These are numerous. For example, a decision must be made concerning the judicial process to be applied to status offenders. The Supreme Court has held that delinquent youth must be afforded many of the constitutional protections available to adult criminals. It is unclear, however, whether status offenders are entitled to the same rights. It is apparent that in many courts today these rights are being denied.<sup>9</sup> In contrast, the emphasis on the status offender's needs challenges the state's decision to rely upon the courts, rather than social welfare agencies, for the identification of those in need as well as the provision of services.

The posture traditionally taken by the juvenile justice system toward status offenders reflects this ambivalence. Until 1964, no distinction was made, in law, between status offenders and youth who committed criminal acts. At that time juvenile courts were not bound by

constitutional mandate to provide delinquent youth with certain procedural safeguards. The philosophical basis of the juvenile justice system was grounded on the needs of the child; therefore, there was no reason to distinguish among the many youth serviced by the courts.

Observers of the juvenile justice system began, however, to criticize this failure to differentiate between status offenders and delinquents. They asserted that runaways, truants and stubborn children formed a class fundamentally different from delinquents and that the failure to distinguish between them was having a deleterious impact on the status offender. Not only were they receiving inappropriate services, but evidence indicated that they were becoming delinquents as a result of being labeled delinquents.<sup>10</sup> Further, it was argued that court labeling of the youth as deviant produced some degree of stigmatization and had an adverse effect on the child's self-perception.<sup>11</sup> Eventually states began to respond to this criticism. Numerous states took steps to distinguish among these youth, many adopting "quasi-delinquent" labels to separately identify status offenders.<sup>12</sup> Nevertheless, jurisdiction remained in the juvenile court and, in most instances, services continued to be provided by the state youth corrections agency.

Added impetus was given this movement in 1966 and 1967 as the Supreme Court required states to provide alleged delinquents with many of the procedures of due process afforded to adults who are alleged to have committed criminal acts.<sup>13</sup> Advocates of the juvenile justice system were concerned that the flexibility that had been the system's hallmark would be encumbered by the Supreme Court's mandate.

## B. Massachusetts and the Status Offender

Massachusetts proposed to resolve this dilemma by creating a new category of youth: Children in Need of Services (CHINS).<sup>14</sup> The intent of the law was to distinguish explicitly status offenders from delinquents. Instead of being considered as juveniles who had committed crimes or as "problem children", they were to be considered as young people with special needs and therefore were to receive services from the Department of Public Welfare and not rehabilitation from the Department of Youth Services, the state youth corrections agency. Increased emphasis was placed on the provision of appropriate services. This welfare-oriented model de-emphasized the adversarial nature of the court process and promoted instead the increased use of informal mediation between family and child in an attempt to resolve the problems that were the basis of the child's misconduct. The jurisdiction of the juvenile court and the availability of court-procured services, remained dependent upon the youth's misconduct.

The CHINS program was intended to respond to the controversy surrounding status offenders in the juvenile justice system. Massachusetts chose to view status offenses as a problem to be resolved through the use of social welfare techniques, rather than continued reliance upon the delinquent model. Despite this intention, it is unclear whether the Massachusetts action confronted the basic ambiguity surrounding status offenders. Although the focus of state intervention has ostensibly shifted onto meeting the present needs of the misbehaving child as well as addressing the source of the child's problems, the CHINS law had incorporated into its structure many of the mechanisms used by the

juvenile justice system prior to the law's adoption: the identification of the youth through his misconduct rather than through some other indicator of "need", arrest, bail and detention, intensive interaction with court probation officers, involvement in the judicial process as well as placement with delinquent youth. Furthermore, the data indicate that the CHINS law may not be being implemented as intended by the state legislature.

This thesis will address both of these issues. First, it will ask whether Massachusetts has resolved the aforementioned ambiguity concerning status offenders. This will be done by analyzing the following aspects of the CHINS law:

- 1) The legal definitions of the various status offenses covered by the CHINS law;
- 2) The judicial and administrative processes involving status offenders; and
- 3) The attitudes of juvenile justice personnel.

Second, the thesis will address the Commonwealth's success in implementing the CHINS law. This will be done by analyzing these variables:

- 1) Statistical data gathered from the Massachusetts juvenile courts on CHINS youth;
- 2) Data describing the CHINS process in action; and
- 3) The impact of the CHINS law on the juvenile justice system.

Third, this thesis will consider whether successful implementation of the Massachusetts CHINS law is dependent upon resolution of the ambiguities surrounding the presence of status offenders in the court system.

Chapter I: Footnotes

1. L. Teitelbaum and A. Gough, Beyond Control: Status Offenders in the Juvenile Court (Cambridge, 1977).
2. Ibid., p. 30.
3. Ibid., p. 149.
4. Ibid.
5. Ibid., p. 273.
6. See A. Gough, IJA-ABA JJSP Standards Relating to Noncriminal Misbehavior (Cambridge, 1977).
7. Teitelbaum and Gough, p. 236.
8. L. Arthur, "Status Offenders Need a Court of Last Resort," 57 Boston University Law Review 631, 637 (July 1977).
9. Teitelbaum and Gough, p. 275.
10. Ibid.
11. Ibid., pp. 167, 274.
12. See A. Gough, IJA-ABA JJSP Standards Relating to Noncriminal Misbehavior (Cambridge, 1977).
13. McKeiver v. Pennsylvania, 403 U.S. 528 (1971); In re Winship, 397 U.S. 358 (1970); In re Gault, 387 U.S. 1 (1967); Kent v. United States, 383 U.S. 541 (1966).
14. M.G.L. c. 119 §§ 39E - 39J.

## CHAPTER II

MethodologyA. The Setting

Massachusetts is often cited as the vanguard in the movement to reform the juvenile justice system. The Commonwealth was one of the first states to establish separate facilities for juveniles in the nineteenth century and to hold special court sessions for minors. It was also the first to subsequently remove delinquent youth from juvenile institutions and to place them in community-based facilities.

Once the juvenile justice system in Massachusetts had been de-institutionalized, the reformer's focus shifted to other areas of concern. These included the problems posed by status offenders. Legislation to decriminalize status offenses was introduced as early as 1970, but passage of the CHINS law did not occur until 1973. The new law went into effect in 1974.

From 1974 until 1977 responsibility for status offenders was divided among the courts, the Department of Youth Services and the Department of Public Welfare. The courts identified the children who were in need of services and provided them with limited care. The Department of Youth Services detained those status offenders whom the court ordered to be held on bail. The agency had performed this function prior to 1974. Generally the Department of Public Welfare became involved in the CHINS process only if long-term placement for a child was needed. In 1977 this division of labor was altered. DYS no longer provided any services for CHINS. DPW assumed detention responsibility

for CHINS and implemented a new early intervention program.

## B. The Questions

The research for this thesis focused on three separate but inter-related tasks: an analysis of the Massachusetts CHINS statute; a study of the implementation of the CHINS program; and an examination of the treatment of children involved in the court process as CHINS. Determining whether or not the Commonwealth altered the scope of its judicial jurisdiction over status offenders as well as examining the nature of that jurisdiction required a careful analysis of the CHINS law. This step was a necessary pre-requisite to establishing the extent to which the CHINS law significantly affected the treatment of status offenders. Study of the Department of Public Welfare's implementation of its CHINS program was carried out in order to assess the impact of the law on the treatment of status offenders. In addition, the process of implementation was examined in the hope that valuable information concerning the methods used by DPW to implement its plan would be revealed. Such information could then be used by those intending to implement similar programs. Finally, successful development and implementation of a program requires the precise definition of the problem sought to be resolved. Concomitant with this need to define what the problem is that the CHINS law is to resolve is the need to know who it is the CHINS program is intended to benefit. Therefore an attempt was made to identify the children involved in the courts as CHINS.

The following questions guided the research;

- 1) Did the CHINS law affect either the extent to which the Commonwealth intervened in the lives of status

offenders or the process by which the courts identified the children in need of services?

- 2) What was the response of the Department of Public Welfare to its new responsibility toward CHINS?
- 3) What was the judiciary's response to the CHINS law?
- 4) Who are the children who are considered by the courts to be "in need of services"?
- 5) Was the CHINS law able to affect the services status offenders received?

The following are explanations for why these particular measures were selected for analysis.

1. Did the CHINS law affect either the extent to which the Commonwealth intervened in the lives of status offenders or the process by which the courts identified the children in need of services?

Statutory distinctions between delinquents and status offenders often have been made in response to two basic criticisms:

- a) That the process traditionally used to identify deviant youth and to provide them with treatment was inappropriate when the offender had not committed a crime for which an adult could be held liable; and
- b) That the court's jurisdiction over status offenses was too broad and should be limited.

One method of measuring the success of the CHINS reform, therefore, is to determine whether the statute significantly altered the process by which children in need were identified and were provided with services. Further, it would be important to note whether the law broadened or limited the scope of judicial authority over status offenses.

2. What was the response of the Department of Public Welfare to its new responsibilities toward CHINS?

The success of the CHINS law is dependent, in part, on the ability of the Department of Public Welfare to fulfill its responsibilities as defined in the statute. The method of implementation chosen by the Department therefore will substantially affect the impact the new law will have on the children brought within its purview and its ultimate success in fulfilling its responsibility. Consequently, careful study of the process chosen by DPW to fulfill its responsibility toward status offenders was undertaken.

3. What was the judiciary's response to the CHINS law?

The juvenile court has traditionally been the status offender's entry point into the juvenile justice system. Furthermore, the court's position is such that often it has been able to define and control the operation of the entire juvenile justice system. Given its powerful role, the success of the CHINS law is critically dependent upon the judiciary's response to the legislation. The court's actions will necessarily affect the operation of the Department of Public Welfare's programs. In addition, the court has the ability either to promote the law's implementation or to impede its success. Judicial response to the law was therefore studied.

4. Who are the children who are considered by the courts to be "in need of services"?

In order to determine whether the courts and the Department of Public Welfare are appropriately responding to the needs of their clients and whether the CHINS law is the correct response to the problems posed by status offenders, it must be discovered who status offenders are.

5. Was the CHINS law able to affect the services status offenders received?

One goal of the CHINS law was to provide these youth with better and more appropriate services than they were receiving from DYS. It is therefore necessary to determine whether that goal has been achieved. This can be done by comparing service provision such as that offered by DYS, DPW and the Department of Mental Health, both before and after the law went into effect.

### C. Methodology

In the spring of 1977 the Massachusetts Advocacy Center, a non-profit children's advocacy center, received funds from the Howland Gardner Shaw Foundation to study the implementation of the CHINS law and DPW's new early intervention program. I developed the research design and, with the assistance of four undergraduates from M.I.T., Northeastern University and Wellesley College, evaluated the program. Research that I performed for the Massachusetts Advocacy Center forms the basis of this thesis.

Information was gleaned from five separate sources: statistical data from the courts and DYS; interviews of DYS and DPW caseworkers, probation officers, judges, DPW administrators and service provider personnel; documents from state agencies; participant observation in the courts; and legal analyses of the Massachusetts law governing status offenders prior to 1974 and the CHINS law.

#### 1. Statistical Data

A major goal of our study was to discover who CHINS were. The courts, the state probation department, DPW and DYS are the only

state agencies with access to that information. Due to its method of record keeping, the probation department could only provide us with limited data: the number of annual CHINS applications filed and petitions issued by status offense. The majority of courts from whom we requested aid declined to cooperate. DPW was not forthcoming with information, either. The Worcester Juvenile Court, Quincy District Court and the Department of Youth Services did cooperate. Most of the statistical data is from these three sources. Its significance is therefore of a limited nature.

DYS maintained files on all CHINS youth detained by them up until the time detention responsibility was assumed by DPW, July 1, 1977. A five month period, November 1, 1976 - March 31, 1977, was chosen as the period from which to select the study group. It was believed that these youth would be representative of those currently in the system.

It is recognized that not all CHINS are detained, so the representativeness of this sample is subject to question. It is known, however, that a significant portion of CHINS youth were detained during that period. Probation department data indicate that 475 youths from throughout the state had CHINS applications filed against them from November 1, 1976, until March 31, 1977. They included 172 males and 303 females. Of these 475, our research demonstrated that 288 (61%) were detained at least once by DYS. Our sample group (N = 283) represents 60% of the population brought before the courts during the study period. By sex, 180 (59%) of the female CHINS were detained and 92 (53%) of the males. Furthermore, data on all CHINS youth entering the Worcester Juvenile Court during the same period were gathered and

analyzed. This was done to augment the DYS data and to provide additional insights.

Any youth detained as a CHINS by DYS between November 1, 1976, and March 31, 1977, became part of the detention study group. This list was obtained via DYS computer and DYS regional files. The first CHINS detention of a youth during this period we called the "pivotal detention period". Each child's history was then traced using DYS computer data and DYS regional files. Any court contact that occurred before November 1, 1976, was included in the youth's "prior" history; any contact subsequent to the pivotal detention period was considered "post" history. The records of 288 youth were gathered. Eventually the data of 283 were used. The other five were too confused to be of any value. The records were not uniform nor did the vast majority contain complete information concerning the youth's background and court and placement history. Nevertheless, information was gathered that revealed the nature of a CHINS youth's contact with the juvenile justice system and demographic background.

The same process was used to analyze the files of all youth for whom CHINS applications were taken out in the Worcester Juvenile Court during the study period. The files of 183 cases were so examined.

## 2. Interviews

Interviews of 25 of the 40 DPW CHINS workers were conducted; 5 of the 6 DPW supervisors were also interviewed. Probation officers from Quincy District Court and Worcester Juvenile Court were questioned as well. Three juvenile court judges were interviewed and several courts were visited. Site visits to 8 placements were made.

### 3. Documents

Documents concerning CHINS youth were collected from the files of the Department of Youth Services, the Department of Public Welfare, the Department of Probation, the Office for Children, the Treasury Department, and the Executive Office of Human Services. Similar data was also collected from the Harvard Center for Criminal Justice and from other observers of the Massachusetts juvenile justice system.

### 4. Participant Observation

Three courts were visited: the district court in Quincy, the Boston Juvenile Court and the Lowell District Court.

### 5. Legal Analysis

Careful study and comparison of the laws governing status offenders and service provision to these children prior to 1974 and subsequent to the passage of the CHINS law were made.

## CHAPTER III

Massachusetts and the Status Offender: The Case Study

The first portion of the case study will focus on the treatment of status offenders in Massachusetts prior to the passage of the CHINS law. Careful analysis of that law will follow. The second segment will concentrate on the actions taken by the Department of Youth Services to provide services for status offenders following passage of the CHINS law. The third portion will involve an analysis of the actions taken by the Department of Public Welfare to fulfill its responsibilities toward CHINS youth. This will include study of the DPW CHINS program, DPW services for children and DPW's relationship with the state court system. The next portions will discuss the failure of Massachusetts to adequately fund the CHINS law. Massachusetts has numerous programs to provide special services to needy children. They are funded by the Department of Youth Services, the Department of Education, the Department of Mental Health and the Office for Children. The final portion of the case study will focus on the problems resulting from the overlap of the CHINS program with these services.

A. The Background

Prior to 1974, any child in Massachusetts, seven years of age or older, could be found by a court to be a delinquent by reason of criminal activity, habitual truancy or school offenses, running away, waywardness or stubbornness.<sup>1</sup> The delinquent child would then be placed in the custody of the Department of Youth Services, until the age of 18 (16 for school-related offenses). The law made no distinction between those

youth who committed criminal acts and those who were status offenders: runaways, wayward youth, truants or school offenders. It was appropriate not only to discipline juveniles who violated state law, but to control those who disobeyed parental rules as well.

The state is not powerless to prevent or control situations which threaten the proper functioning of a family unit as an important segment of the total society. It may properly extend the protection of its laws in aid of the head of a family whose reasonable and lawful commands are being disobeyed by children who are bound to obey them.<sup>2</sup>

No distinction was made regarding the judicial procedure to be extended to status offenders; the liberty of status offenders was threatened as much by the judicial process as was that of delinquent youth. Habitual truants and school offenders could be placed in training schools, and runaways, stubborn and wayward children could be removed from their parents' custody and placed elsewhere. The Supreme Court ruled in 1967 that children whose liberty was threatened were entitled by law to many of the constitutional protections afforded adult criminal offenders.<sup>3</sup> Not only were status offenders afforded all the constitutional protections enjoyed by criminal offenders, they were also subject to all of the indignities of the criminal process. Runaways, wayward children, truants and school offenders could be arrested, handcuffed, held on bail and detained in locked facilities and placed in secure settings for indeterminate periods of time.<sup>4</sup>

The juvenile justice process in Massachusetts prior to 1974 was controlled by the court system and the Department of Youth Services. The probation officer was the key decision-maker in this process. The

officer controlled court intake and thus made the decision whether to refer the case elsewhere and divert the youth from the juvenile justice system or to retain jurisdiction of the case in some form. In cases where the probation officer chose to retain jurisdiction, the case could either be handled informally by continuing the case without a finding, subject to the youth's participation in a special program, counselling, or court supervision.<sup>5</sup> If a placement outside the home were desired, a case could be referred by the Court to DYS for placement without a formal commitment to the Department.<sup>6</sup> Finally, when the case was considered serious or the probation department was unable to handle the child's problem, a trial on the merits was held. If the youth were found to be delinquent, he was placed in the custody of the Department of Youth Services.<sup>7</sup>

Once a juvenile was in the custody of DYS, a placement decision had to be made. A child could remain at home with DYS supervision, or be placed in a foster home, group home, special school or locked setting.<sup>8</sup> Status offenders therefore often shared their placements in foster homes and group homes with youth who had committed criminal acts.

In 1973 Massachusetts enacted legislation to "decriminalize" status offenders.<sup>9</sup> The new law removed truancy, stubbornness, school offender and runaway from the list of delinquent offenses, eliminated entirely the offenses of waywardness and habitual absenteeism and created a new category for these youth, Children in Need of Services (CHINS). Not only were status offenders no longer to be considered delinquent, but their treatment was to come from the Department of Public Welfare, the state social welfare agency, and not DYS, the state

agency in charge of youth corrections.<sup>10</sup>

Judged by its own language, the CHINS legislation was intended to

- 1) Prevent placement of truants and school offenders in training schools;
- 2) Provide better and more appropriate services;
- 3) Remove status offenders from locked settings;
- 4) Eliminate the stigmatization of youth by preventing status offenders from being labeled delinquent; and
- 5) Prevent the education in delinquency that occurs in many facilities where youngsters adjudicated delinquent are placed.

As described in the sections that follow, however, the passage of the CHINS legislation did not mean that DYS or the courts were no longer involved with status offenders. Both continued to play a surprisingly central role in the handling of CHINS youth.

#### B. A-Legal Analysis of the CHINS Law

The CHINS law broadened not only the scope of the court's jurisdiction over status offenders, but its role as well. The court's jurisdiction was widened as a result of definitional changes of the various status offenses. Prior to the passage of the CHINS law, for example, the statutes explicitly set seven as the youngest age at which a child could be tried for delinquency, school-related offenses or waywardness.<sup>11</sup>

The CHINS statute removed the minimum age limitations for the offenses of runaway and stubbornness and lowered them to six for the school-related offenses.<sup>12</sup> This reflects the decision to decriminalize status offenses by recognizing that seven is the age below which a child cannot

be held criminally liable in Massachusetts. A finding of criminal culpability or the attainment of a minimum age, therefore, was not to be considered as a pre-requisite for the receipt of services. The minimum age for school-related offenses was retained in recognition of the fact that a child should not be held liable for a duty he is under no obligation to perform.

Similar definitional changes occurred in regard to stubbornness, waywardness, and school offenders. To be a stubborn child had been a violation of the criminal law in Massachusetts.<sup>13</sup> Although the law had not specifically defined "stubborn child", the Massachusetts Supreme Judicial Court in Commonwealth v. Brasher refused to find the term "stubborn child" so vague and indefinite as to violate the due process clause of the Fourteenth Amendment to the Constitution.<sup>14</sup> Thus, the language of Commonwealth v. Brasher is important in that it includes a comprehensive definition of "stubbornness" and Brasher's definition of stubbornness is the explicit model upon which the CHINS law relies.

The elements which the Commonwealth is required to prove beyond a reasonable doubt in order to constitute the crime commonly identified by the use of the words "stubborn child" are the following: (a) that a person having authority to give a child under the age of eighteen lawful and reasonable commands which such child is bound to obey gave such a command to a child; (b) that the child refused to submit to the command, and the refusal was stubborn in the sense that it was wilful, obstinate and persistent for a period of time...Single, infrequent or isolated refusals to obey such commands do not constitute a crime. Neither do manifestations of stubbornness which do not amount to refusals to obey commands. But the law does not permit or excuse stubborn refusals of children to obey reasonable and lawful commands of their parents or persons similarly situated.<sup>15</sup>

Based in part on Brasher, section 39E of chapter 119 of the Massachusetts General Laws states that a child in need of services is "a child below seventeen who...persistently refuses to obey the lawful and reasonable commands of his parents or legal guardian." Note that proof of wilfullness, required by Brasher for a finding of stubbornness, has been eliminated. "Wilfullness" is a difficult element to prove in a court of law. The definition of "stubbornness" adopted by the legislature has, therefore, been made less restrictive than the requirements laid down by Brasher through the elimination of the requirements of wilfullness and the minimum age requirement.

Prior to the adoption of the CHINS law, Massachusetts had never defined the term "runaway". Neither the police, court, probation officer, parent or other involved parties were presented with definite standards by the legislature. In addition, the Supreme Judicial Court never interpreted the statute as it related to runaways. The CHINS law has attempted to apply some standards and limits by requiring that the juvenile be "persistent" in running away from home.<sup>16</sup> The question must be raised, however, what is meant by the term "persistent"? Can a child who stays out overnight be found to be a child in need of services? Brasher indicates that "single, infrequent or isolated refusals to obey such commands do not constitute a crime."<sup>17</sup> A parallel application of the definition would indicate that a single night not spent at home would not be sufficient for a finding of runaway. Nevertheless, no standards are provided by either the legislature or the courts to give fair warning to the minor.

A child in need of services may also be a child who "persistently and wilfully fails to attend school."<sup>18</sup> Massachusetts law had defined a truant as a child who "wilfully and habitually absents himself from school."<sup>19</sup> "Wilfullness" and some form of continuous absence from school have been the elements required for the truancy offenses under both laws. The only other change involved resulting from the language of the CHINS law was the substitution of the word "persistently" for the word "habitually" in the text.

The CHINS law also changed the definition of "school offender". The offense was limited to the persistent violation of lawful and reasonable regulations of the alleged offender's school.<sup>20</sup> In contrast, the prior statute had implicated any child "under sixteen who persistently [violated] reasonable regulations of the school he attends, or otherwise persistently misbehaving therein, so as to render himself a fit subject for exclusion therefrom."<sup>21</sup> This language was sufficiently broad so as to permit exclusion for activity not bound in any way by the school's regulations. The CHINS law eliminated this possibility. In addition, the CHINS law requires that a school offender be at least six years of age; previously, there had been no minimum age requirement.<sup>22</sup> The CHINS law also eliminated the category of "habitual absentee".

Thus, more young people were potentially subject to the court's jurisdiction as a result of the CHINS law. Definitions of offenders and conditions of offenses were expanded and broadened by the state legislature. Furthermore, an increased role for the courts in service provision was created. First, youth brought within the jurisdiction of

the court through the filing of CHINS applications or petitions were encouraged, by law, to participate in a program of voluntary assistance supervised by the court probation officers, prior to any adjudication based on the merits of the alleged misconduct.

During informal assistance the probation officer has the authority to:

- 1) Refer the child to an appropriate private or public agency or person for psychiatric, psychological, educational, occupational, medical, dental or social services;
- 2) Call conferences with the child and the child's family in an attempt to resolve the problems that formed the basis of the application or petition and so eliminate the need for a hearing on the merits.<sup>23</sup>

Second, if a case is then brought to a trial on the merits and the judge finds the child to be "in need of services", the court plays a greater role than before the passage of the CHINS statute in the disposition and the provision of services. In the past, if a finding of delinquency had been made the youth would have been placed in the custody of DYS, and DYS would have made the placement decisions.<sup>24</sup> The court would have had no control over the decision. The CHINS law entirely altered that procedure. Although a major emphasis of the CHINS law was that DPW, not DYS, assumed custody and treatment responsibility for status offenders, placement in the custody of DPW is only one of five options available to the courts in its disposition.<sup>25</sup>

- 1) The child may remain with his parents subject to the limitations and conditions of the court; or
- 2) Subject to the limitations and conditions of the court the court may place the child in the care of the following

- a) a relative, probation officer or any other qualified adult individual (determined by the probation officer or court designates); or
  - b) a private charitable or child care agency or other private organization, licensed or otherwise authorized by law to receive and provide care for such children; or
  - c) a private organization which, after inquiry by probation officer or court designee, is found to be qualified to receive and care for child; or
- 3) Subject to §§ 32 and 33 and subject to the conditions and limitations of the court, commit to division of family and children's services of the Department of Public Welfare.<sup>25</sup>

The CHINS law expressly forbids placement of children found to be in need of services in any county training school or any institution operated or designated for juveniles adjudicated delinquent.<sup>26</sup> The law does permit placement in a facility operated as a group home to provide therapeutic care for juveniles, regardless of whether juveniles adjudicated delinquent are also provided care in such a facility.<sup>27</sup> The Department of Youth Services is also empowered to provide individual foster care placements for CHINS.<sup>28</sup>

### C. The Department of Youth Services and Status Offenders

Treatment responsibility for status offenders was transferred formally from DYS to DPW in 1974; DYS, nevertheless, continued to play a central role in the CHINS program after that date. Although the CHINS law continued to provide for the arrest and detention of status offenders, the Department of Public Welfare, at the time of the passage of the CHINS law, felt ill-equipped to assume detention responsibility for status offenders. The CHINS legislation permits CHINS to be arrested, held on bail and detained pending trial.<sup>29</sup> The law, however, did not then

specify which agency had detention responsibility.<sup>30</sup> It stated only that a child might be detained "in a facility operated for the care of juveniles."<sup>31</sup> An administrative agreement between DPW and DYS resulted in DYS retaining detention responsibilities for CHINS youth. DPW was to assume responsibility at some future unspecified date. This bargain resulted in the continued placement of status offenders in locked settings with delinquent youth. Furthermore, since CHINS could be detained for up to forty-five days and delinquents only thirty, status offenders could be incarcerated fifteen days longer than youth who had allegedly committed criminal acts.<sup>32</sup>

A 1976 DYS memo on CHINS stated that DPW workers did little for CHINS detainees during the detention period.<sup>33</sup> If a child brought before the court as an alleged CHINS were to be detained, the DYS worker generally made the placement decision, usually placing the CHINS in a foster home.<sup>33</sup> The DPW often would not become involved in the case until the end of the forty-five day detention period, and then only if the child were to be committed to the custody of DPW, which was infrequent.

When the DPW worker appeared in court his recommendation was, according to the DYS study, frequently limited to recommending the foster home as a permanent placement.<sup>34</sup> The court often followed the DPW worker's advice. DPW's lack of effort in developing placement alternatives for CHINS and in implementing the CHINS law appropriately was criticized by courts, service providers and DYS. According to one group home director:

The DPW contact ranges from zero to monthly. The problem is that caseworkers are inadequate, untrained, have no relationship with the kid, have no time, and when they

do have time, they don't know what to do with it. There is no casework or therapeutic work. The referral process of office to DPW to district to Group Care Unit is terrible. They're a bunch of functionary bureaucrats.<sup>35</sup>

Critics of the Department of Public Welfare recognized, however, that DPW caseworkers were responsible for unmanageable caseloads and that adequate funds were not available for needed services. From 1974 until June 30, 1977, only \$300,000 was paid by DPW for services for CHINS.<sup>36</sup>

The Commonwealth actively began to encourage DPW to assume its responsibilities toward CHINS in 1975. In that year a task force composed of representatives from DPW, the Office for Children (OFC), the Department of Mental Health (DMH) and DYS explored the problems surrounding the implementation of the CHINS law. This group recommended that some of the problems of the CHINS program could be rectified by administratively transferring detention responsibility for CHINS to DPW and so have the entire program controlled by one agency.<sup>37</sup> This recommendation received the approval of the Executive Office of Human Services (EOHS). A number of parties criticized the transfer, however, claiming that DPW incompetence would prevent any positive outcome. DYS, however, encouraged the transfer. The agency praised its own capacity to place CHINS youth effectively given the appropriate budget, but refused to fight for retention of the detention program, claiming that such an action "would be contrary to the spirit of the law which attempts to decriminalize status offenders."<sup>38</sup>

D. The Department of Public Welfare and the Status Offender

1. The Department of Public Welfare CHINS Detention Program

Complying with EOHS mandate, DPW developed a detention program to be implemented on July 1, 1977.<sup>39</sup> DPW did not intend, however, to alter the process by which it had been placing and supervising CHINS committed to its care and custody by the courts. Prior to July 1, when an alleged CHINS had bail placed on him, the child was transported to a detention placement selected and paid for by DYS. DYS involvement thereafter was generally minimal. DPW contact with the child and the child's family prior to commitment, if commitment was to occur at all, was often negligible. DPW rarely took the opportunity during this period to make an assessment and diagnosis in anticipation of developing a treatment plan.<sup>40</sup>

This model was entirely altered by the new DPW plan. Regulations were drawn up describing a program which emphasized early involvement in the case with intensive family contact.<sup>41</sup> DPW hoped that this program would decrease the necessity for a CHINS petition and thus be a diversion from the juvenile justice system.<sup>42</sup> It was also anticipated that the focus on early intervention, assessment and family-oriented treatment would reduce the number of youth committed by the courts to DPW and decrease reliance on placement outside of the home as the major and sometimes sole method of treatment.<sup>43</sup> These services would be provided to all alleged CHINS coming into the system, not just to detainees.

Forty CHINS workers and six CHINS supervisors were hired by DPW to begin work on July 1, 1977, the day when the transfer of detention responsibilities was to occur. Most of these workers had been working

within DPW in other capacities prior to the transfer.<sup>44</sup> During the three day training program provided for the workers, discussion focused on the CHINS law and the DPW regulations governing the detention program. The workers were also given descriptions of the services available for CHINS. It was anticipated that some 3300 youth would be provided services by DPW in the coming year.<sup>45</sup> It was estimated that each worker would carry a caseload of approximately 15 young people at a time and that the worker would remain involved in a case for about 30 days.<sup>46</sup>

The DPW regulations provide that the CHINS worker is to become involved with the CHINS youth and his parents within 24 hours of a referral from the court.<sup>47</sup> Interpreters are to be made available when needed.<sup>48</sup> If the child is referred to the Department for purposes of detention or under conditions of bail, services are not to be made available unless a voluntary agreement pursuant to M.G.L. c. 119 § 23(A) is signed by either the youth or his or her parents within 72 hours of the placement.<sup>49</sup> This regulation is consistent with DPW's emphasis on voluntary receipt of services and its goal to reduce judicial involvement in CHINS cases. If no consent is given for placement after the 72 hours and "if the youth would be at risk by removal from the shelter care facility, the worker [is allowed to] file a care and protection petition."<sup>50</sup> No mention is made of the procedure to be followed if the child is ordered to be held on bail by the court and both the child and parents refuse to sign a voluntary commitment form. To permit release would be contrary to the court order.

The goal of the initial outreach efforts is for the CHINS worker, the youth and parents to develop together a "plan that will be effective in resolving the problem which resulted in referral to the program."<sup>51</sup> If after 30 days on-going services are needed or if the situation has not been resolved the case is to be transferred from the supervision of the CHINS worker to a generalist caseworker in the local welfare office or to a private agency.<sup>52</sup> To assure continuity, the regulations require that the CHINS worker must begin to "plan for the transfer of responsibilities at least two weeks in advance thereof."<sup>53</sup> Emergency shelter for runaways as well as short-term placements are to be made available as needed.<sup>54</sup>

DPW's detention responsibility was intended to be used as a means for intervening early in the CHINS process. DPW hoped that this short-term intensive effort would reduce the number of CHINS placed in the care and custody of DPW by the courts and facilitate the transition to complete DPW control over status offenders. In order to reduce court involvement in the CHINS process, DPW has stressed the use of "voluntary" custody, thereby eliminating court commitments to DPW and judicial involvement. DPW must have custody of a child before it can provide him with residential services. The Department must first receive voluntary custody if the child has neither been detained by the court nor committed by the court to DPW for placement. Such voluntary relinquishment of parental custody removes from parental control decisions relating to day-to-day living and educational arrangements of the child, including the receipt of medical care. According to the regulations, parents can terminate the consent, and custody of

their children will be returned to them within 24 hours.<sup>55</sup> The regulations require that "the worker shall explain all the possible ramifications of such consent, such as the effect on AFDC payments to the family. [AFDC payments will be reduced by the amount generally made available for the support of the child whose custody has been relinquished.] Consent, if given by the youth and parents, shall be as informed as possible."<sup>56</sup>

The CHINS workers were instructed to "develop procedures in cooperation with individual courts and probation officers for the referral of CHINS to the Department prior to any court involvement."<sup>57</sup> Following a court referral, a worker is prohibited from recommending "to the probation officer that a CHINS petition be issued if none has yet issued or that the court hear the case on the merits if a petition has already issued" unless the worker, youth and parents cannot agree on a treatment plan and the worker's supervisor has given his consent.<sup>58</sup> If the youth or parents refuse to cooperate in the development or implementation of a treatment plan or the CHINS supervisor determines that a court order is essential to obtain services from other agencies, the supervisor may recommend that the petition issue and a hearing be held.<sup>59</sup> The worker is required to inform the youth and parents of the recommendation to refer the case to the court and to review the record with the youth and parents to "ensure that the record clearly and accurately reflects their work together and shall indicate to youth and parents that portion of the plan she/he will recommend to the court. The worker shall inform the youth and parents of their right to appear at the hearing and their right to request action by separate

counsel."<sup>60</sup> The regulations direct the worker to appear at all court hearings and to present a written treatment plan to the court based on the record of meetings with youth and parents.<sup>61</sup>

The regulations set out the factors the worker is to consider when placement out of the home is required. For example, the most geographically convenient placement available is to be used for emergency shelter purposes.<sup>61a</sup> If the placement is deemed inappropriate by the worker "the best alternative" must be used.<sup>62</sup> "Emergency shelter placement shall not exceed 72 hours unless the youth is in the care and custody of the Department. When the worker, in consultation with the youth and family, decides that emergency placement should continue beyond 72 hours, a voluntary commitment of said youth to the Department shall be obtained."<sup>63</sup> Individualized monitoring services (as an alternative to secure detention) are to be made available when necessary.<sup>64</sup> The regulations limit long-term placement to the "best possible alternative placement...available." In those cases a child might remain in the home under the supervision of the CHINS worker until placement becomes available. If a child is placed outside of the home, the regulations require the worker to encourage parental visits to the placement.<sup>65</sup>

The regulations give the worker the authority to defer acceptance of a referral of a school offender or truant and to request that the youth first be referred to the Division of Special Education of the Department of Education.<sup>66</sup>

"Youths presently in the custody of DYS or on probation from DYS shall be referred back [sic] to DYS for services."<sup>67</sup> This referral is

required even if a CHINS application or petition has been taken out against the youth. "A youth currently the subject of a complaint seeking his adjudication as a delinquent shall be returned to the court for an adjudication of delinquency and commitment to DYS or dismissal of that complaint."<sup>68</sup> When a worker determines that the "youth's behavior is the result of parental abuse or conditions which constitute neglect...the worker shall report such abuse or neglect to the Protective Services Unit of the Department."<sup>69</sup> "A mentally ill youth in need of psychiatric placement services or a youth in need of mental health services only shall be the responsibility of the Department of Mental Health. A mentally retarded youth in need of placement for the mentally retarded or a youth in need of mental health services only shall be the responsibility of the Department of Mental Health."<sup>70</sup>

The Department of Public Welfare did not believe it had the authority under law in 1977 to provide detention services for CHINS and sought that authority from the legislature. The following language was added to § 39H of the CHINS law to alleviate this concern: [CHINS may be detained in a] facility operated by or under contract to the Department of Public Welfare." 1.3 million dollars was provided for the purchase of emergency shelter/detention services during the 30 day period. No additional funds were made available for on-going care.

## 2. Implementation of the Department of Public Welfare CHINS Detention Program

It had been anticipated that a CHINS worker would work with a case for an initial 30 day period, whereupon it would be picked up by a generalist caseworker following either a voluntary commitment or court

commitment to the Department. Rarely has this ideal pace been achieved. The DPW CHINS workers were unwilling to transfer their cases to the generalists. Furthermore, there were not enough generalists to handle all the new cases. In a number of local CSA offices the generalist staff is so low that the CHINS workers are not passing the cases on and are handling both the incoming cases while maintaining current cases as well.<sup>71</sup> One worker told the interviewer that he had transferred only one case in the first three months. The reason he had been able to do so was because "there was no CHINS out on the kid who was referred through a probation officer. The kid was in for a B & E." The youth, referred to the CHINS worker for placement, took out a voluntary petition on himself and the case was transferred to the local office.<sup>72</sup> Other workers indicate that it has taken them closer to 60 days rather than the anticipated 30 to take a case, assess it and move it on or close it.<sup>73</sup> In addition to fulfilling its responsibilities towards CHINS youth, the CHINS workers in the Greater Boston region of DPW are required to handle Care and Protection cases.

A few workers expressed reluctance to hand a case over to a generalist; one felt that any case that got past him was lost.<sup>74</sup> Some DPW personnel doubt the ability of the local offices to handle the large number of cases that have been anticipated. "Sooner or later if we don't get more social workers, we are going to be dealing with caseloads of 60 - 70 and we are going to be providing those services over the telephone."<sup>75</sup>

In the first 3 months of the DPW detention program, 700 CHINS cases were referred to DPW, thus creating a large caseload.<sup>76</sup> The

Department tried to plan for this large influx of transferred cases in two ways: first it established a priority system for CSA directors defining the high-risk case demanding immediate attention and the case whose need for attention is not so immediate. The rationale behind this approach was that the intensive work had been done already by the CHINS worker and the case stabilized prior to transfer. As a result, not all CHINS youth can be guaranteed immediate service once placed in the care and custody of DPW. Second, it hoped to increase the generalist staff via the Department's Care and Maintenance account.

The new DPW program was ostensibly developed to assume the detention responsibilities for CHINS handled by DYS prior to July 1, 1977. By law, a child alleged to be in need of services may be detained only if he fails to respond to a summons without good cause; or the court finds that a "child alleged to be a child in need of services by reason of persistently refusing to obey the lawful and reasonable commands of his parents or legal guardian is likely not to appear at the preliminary inquiry or at the hearing on the merits."<sup>77</sup> A child may be arrested as a CHINS only if "such child has failed to respond to a summons pursuant to § 39E or if the arresting officer has probable cause to believe that such child has run away from the home of his parents or guardian and will not respond to a summons."<sup>78</sup>

In actuality, the reasons given for detaining children who are alleged to be in need of services rarely match those so narrowly and specifically detailed by law. Bail is often viewed by the courts as the only means by which they can exercise effective control over a child.<sup>79</sup> Interviews and files of detained CHINS youth kept by DYS

reveal that these children were kept in detention centers and foster homes as a means of punishment, to teach the child a lesson or, as is often the case with runaways, to provide needed shelter when the child cannot or will not return home. As one district court judge put it: "The courts tend to torture the bail law."<sup>80</sup> Another judge told the Director of the CHINS detention program that he wants to be able to lock CHINS youth up in order to teach them a lesson.

One probation officer indicated that the judge in her court locks the CHINS youth in the court's cell block regularly for part of the day and sometimes even overnight.<sup>81</sup> He does this when the child is a runaway who will not return home or when he feels that the child is provoking the judge and is "headed for a life of crime."<sup>82</sup> He also locks the children up when they break their word, for example, when a truant has promised to return to school and has not. The probation officer remarked that the judge twice locked up a thirteen-year-old truant with severe psychiatric problems.

Courts do not detain status offenders only to punish them. In the vast majority of the cases the child is detained because he or she will not go home or because the parents will not allow the child to come home.<sup>83</sup> Children have also been detained for their own protection. In two instances children who attempted suicide were placed in detention homes "just to have someone keep an eye on them."<sup>84</sup> The children were eventually admitted to state hospitals, but until that time they were in detention. "The Department of Mental Health doesn't seem to want to be involved with these things," according to the CHINS worker who handled these two cases.<sup>85</sup> DPW has so far refused to provide secure detention

facilities for CHINS youth. Instead, they contracted with New Bedford Child and Family Services for their Proctor program and DARE Mentor to provide tracking services.<sup>86</sup> It had been originally planned that these slots were to be filled only by those who needed to be detained in a locked setting; they are being used instead for CHINS who need intensive psychological workups and for whom no other program alternatives are yet available.<sup>87</sup>

The data reveals that effective implementation of the DPW detention program has been hampered by inadequate numbers of caseworkers, a large influx of clients, limited mental health diagnostic services, and misuse of the CHINS detention law by the courts.

### 3. The Department of Public Welfare and the Provision of Services to CHINS Youth<sup>88</sup>

The DPW Group Care Unit (GCU) is the office in the Department responsible for placing children found to be in need of residential placement in the appropriate group care facilities. Group care facilities include "any facility which provides care and custody for one or more children under sixteen years of age on a regular twenty-four hour a day, residential basis by anyone other than a relative."<sup>89</sup> DPW regulations require that all referrals to a group care facility must come from the Group Care Unit. The child's social worker must first complete an essay detailing the child's and family's history. Then the Group Care Worker must familiarize himself with the child's history and begin searching for an appropriate placement. When a facility is located, the child is referred to the placement for a visit. As a DPW CHINS

worker commented, however,

It is up to the individual group care facility as to whether they want to take the kid. I had a kid who was referred to [nine] group care facilities. All nine of them refused to take him.<sup>90</sup>

If the child is able to be placed, the original social worker is assigned to work with the child's family and a group care liaison officer is appointed to monitor the services being received by the child.

This process rarely proceeds smoothly or quickly. The Group Care Unit is often overwhelmed with requests for residential placements. Furthermore, the placement selection process is involved and cumbersome causing much delay in the placement decision. Two CHINS workers provided an extreme view of these issues by taking the position that the Group Care Unit is incapable of meeting the needs of their clients.

Group Care take a while. You don't make a phone call and say I've got to place this kid somewhere. You have to assimilate a lot of information, do a complete Group Care referral report. It takes like a couple of months to get everything together and get the child placed. It's not our source when...dealing with a crisis situation. We're trying to develop our own resources here.<sup>91</sup>

An Office for Children employee who licenses group care facilities commented more specifically on the availability of facilities:

A child is usually placed wherever there is a vacancy, even if it is not the best place for him. It ends up being a very patch-work system.<sup>92</sup>

In fact, the lack of available, adequate group care facilities for CHINS youth is a recurrent theme of the DPW CHINS workers interviewed. As one DPW CHINS worker argued,

There aren't enough slots first of all, and secondly, if there is a slot, it's up to the individual group care facility as to whether they want to take the kid. If the kid is a really acting-out kid, that gets into a lot of running away, stuff like that [and] the group care facility just doesn't want to deal with a kid [of] that kind [it] has only to say we don't want him.<sup>93</sup>

Even if facilities were available, the situation is complicated by massive delay. In August of 1977, two months after the initiation of the DPW CHINS detention program, a DPW CHINS worker noted that the Group Care Unit had a 500-case backlog. One researcher of Massachusetts' children's services commented that:

The average wait [for group care] is 4 1/2 to 6 months, with the range from 2 to 10. The kids really have to fend for themselves during this period. Many of these kids have to find their own foster homes to stay in during this wait.<sup>94</sup>

A DPW worker graphically stated that during this interim period the CHINS youth "kind of hangs in limbo either in a foster home or at home or on the streets, running, whatever."<sup>95</sup>

Even if a child is placed in a group care facility, the Office for Children licenser doubted whether he would receive appropriate services.

There are very few good service providers, usually only gradations of poor ones. When people place their kids somewhere, and say that the service is good or bad, they have hardly even seen the program or residences of the kids. They just agree or disagree with the service provider's philosophy of care. Group care doesn't know their role as a service provider. The training is poor ...if a region likes the administration, or if they're cool, the region may assume that the program is good. I wouldn't put too much credence in their opinions. I've never been with the kids, but I know there are very few good programs.<sup>96</sup>

It is also unclear whether DPW is capable of keeping track of the CHINS youth placed in its care and custody. A survey was sent to all facilities used by the Group Care Unit asking for the number of CHINS youth by sex, month and offense placed in each facility. The Department of Public Welfare had prepared a list of all CHINS youth in group care by placement for the month of March, 1977. Thirty-two group care facilities were used by DPW to house CHINS. Seventeen (53%) of these homes responded to the survey. When the data were compared only one of the group homes had produced figures which corresponded to those provided by the DPW.

Most of the group homes had vastly divergent numbers. For example, the Baird Center reported to have 18 CHINS youth in its care; the Department of Public Welfare claimed it was funding only one. The Hayden Goodwill Inn reported no CHINS youth in its care; DPW stated that it had placed six CHINS youth there. DPW figures indicated that they were providing placements for 95 CHINS youth during March, 1977; the seventeen placements surveyed, however, reported to be providing homes for 143 CHINS youth. An additional eleven group care facilities not included on the DPW March list reported to have 46 CHINS youth in their care in March, 1977. This suggests that either there were at least 94 CHINS youth that the Department of Public Welfare had not accounted for or that the group homes records were inaccurate.

#### 4. The Courts and the Department of Public Welfare

The Department of Public Welfare intended its CHINS program to function as a diversionary program within the court system; that is, cases would be referred and handled by DPW personnel prior to any

formal court involvement. The objective was to minimize court involvement while maximizing service provision. The CHINS statute assigned to probation officers, however, responsibility for assessing each case and recommending appropriate court action.<sup>97</sup> Court personnel were further authorized by the law to provide informal and formal services to children brought before the court as CHINS youth.<sup>98</sup> By law, DPW involvement and service provision constitutes only one of five alternative dispositions a judge might order upon a finding that a child is in need of services.<sup>99</sup> Alternatively, the court could permit a child found to be in need of services to remain at home or to be placed in the care of a relative, probation officer or other qualified person (subject to the conditions or limitations of the court), a private organization authorized by law to provide services, or one found to be qualified upon court inquiry.<sup>100</sup> The DPW regulations, however, shift the focus of service provision from the courts onto DPW. Without consulting court personnel, DPW constructed a plan requiring that the initial assessment be done by CHINS outreach workers placed by DPW in the courts.<sup>101</sup> If placement, for either a long or a short period of time, was needed, voluntary commitment to the Department by parent and child would be sought, rather than court commitment.<sup>102</sup> Only if voluntary resolution of the problem was unobtainable would DPW turn to the courts for action.<sup>103</sup>

Rarely has court involvement in a CHINS case been postponed in the manner visualized by the DPW regulations, since the program was implemented in July of 1977. In part this is a result of judicial avoidance of the formal processing and procedures specified by the CHINS law. Many cases are handled informally, almost entirely by the probation

staff who act as social workers for the children. This has resulted in vast procedural differences among the courts. These procedural differences are a recurrent theme in the comments of those interviewed for this study. One DPW CHINS worker remarked that his region has contact with 14 different courts that work "like fourteen different state governments, with 14 different governors -- who are judges."<sup>104</sup>

The courts, even the ones in close proximity like X, Y, and Z, the difference in recording and treatment were like night and day. A lot of it had to do and still does...with definitions within the law. What's informal, what was striking was the comparison between X and Z, the Z court defining the intake and statistics of CHINS kind of by the letter of the law, the application, the petition. X, on the other hand, doing it very informally. [There is] a huge variation in processing. In Z you will sit down and they will handle it informally. [In] other places, you say CHINS and they hand you an application, and it is then formally an application.<sup>104a</sup>

These differences in judicial approach to the CHINS law have substantially affected the implementation of DPW's plan. In very few, if any, courts is the plan proceeding in the manner intended by its drafters. One worker reported that he is consistently handed a case as soon as "CHINS" is mentioned. Informal assistance by DPW is initiated prior to the acceptance of an application. The court does not even permit issuance of a petition. The alternatives available to the child are formal or informal assistance. That DPW worker's focus is on intensive family counseling.<sup>105</sup>

Not all courts, however, have cooperated with the Department of Public Welfare. One court, for example, has barely altered its method of handling CHINS cases. When a CHINS complaint comes before the court,

a probation officer is assigned to work with the family and child through the preliminary hearing and issuance of the application. The officer works with the case either formally or informally until he finds that the case can be closed or that the child requires resources available only through the Welfare Department. In that case, a decision is then made to commit the child to DPW. At that point, the court notifies the CHINS worker that it has a CHINS youth; generally this occurs just prior to the actual court commitment.<sup>106</sup>

Other courts have developed fairly close working relationships with the local welfare officers and CHINS workers. Weekly meetings are held by probation officers and CHINS workers to discuss the cases and to develop plans most appropriate for the individual child. In some instances the case first reaches the CHINS worker's attention when the police pick up as a runaway a child who then refuses to go home or the parent refuses to let the child come home. DPW workers get involved immediately in such cases because they have the responsibility of providing detention slots for them. In other instances, a family comes to court and after discussion with the probation officer its case is sometimes referred to the CHINS worker. Some of these cases never even get to the application stage because the needed services are made available directly to the family by the DPW, without need of court involvement.

DPW had intended that court action be postponed once a referral had been made. The court would become involved only if the informal provision of services failed. Court involvement, generally, is not halted. The court continues to monitor and process the case and, at times, in cooperation with the local DPW CHINS worker. For example,

in one Boston-area court, the probation department has encouraged the CHINS worker to see all CHINS cases that come into the court, whether an application has been filed or not. The court had originally requested that the CHINS cases be seen by the worker prior to being seen by the clerk, but the worker declined this responsibility and now sees the children only on referral from the clerk's office.<sup>107</sup>

In another Boston-area court, until a petition issues the probation staff will not become involved in a case beyond getting preliminary information. To avoid the family going without assistance until then, the CHINS worker assigned to that court meets with the child and family before they go to the clerk for a CHINS application. Cases tend to be handled informally in that court with no petition issuing unless placement is warranted. In that case, this worker prefers to pursue court commitment rather than a voluntary relinquishment of custody. This approach was needed, the worker felt, to give clout to the decision and to prevent the parent from renegeing on the decision. As one probation officer put it: "Parents can tear up a piece of paper and all too often a few weeks later they are back in again saying I can't stand the hollering."<sup>108</sup>

Not all courts in similar areas manage their cases similarly. This CHINS worker is also assigned to another court that has a very different approach to the CHINS problem. A more formal and legalistic process is used. In that court, they believe that each case should go before the judge and that each child should be represented by an attorney whether or not the court will place the child out of the home.<sup>109</sup>

This variation among courts also occurs in the western part of the state. One worker who is the DPW liaison with five western district courts described the procedural philosophical differences among them. One court, for example, has the probation officer handle all the CHINS cases unless a detention or foster placement is needed or it is confronted with a very disturbed child; "generally when a case gets too tough, they call us."<sup>110</sup> Similarly, advantage is taken of DPW in another court assigned to this worker. In two other courts, in contrast, the worker is notified as soon as an inquiry concerning a CHINS application is made. The court suggests to the parents that they discuss their problem with someone from the Welfare Department prior to signing the application so as to avoid the court process if possible. "Sometimes it's hard to get a petition filed in X court, which isn't really legal. If the people there feel that it isn't appropriate for a petition to be filed, they may just interrupt it there."<sup>111</sup> The worker found that the courts do not really "adhere to the scheduled preliminary hearing and that sort of thing."<sup>112</sup> If the worker asks whether it is a preliminary hearing, the probation officer often answers that it is a sort of review and that they are "moving it forward,"<sup>113</sup> They do not feel that sort of thing is important. The DPW worker agreed with this view: "as long as they give me time to assess the case and tell the judge what I think should be done."<sup>114</sup>

Courts were often reluctant to assist DPW in the implementation of its program. One worker assigned to some of the courts located in central Massachusetts has had a most difficult time enlisting the cooperation of court personnel. The only way he has been able to learn

about a new CHINS case has been by being in court on juvenile days and looking at the docket; this is despite the fact that three letters had been written to the courts asking for prior notification. He has managed, however, to develop a good relationship with the individual probation officers on individual cases.<sup>115</sup>

Many courts take seriously the parens patriae role historically allocated to the judiciary. As such, they are reluctant to relinquish to DPW the supervisory authority and service provision power authorized to them by law. One worker stated that he had been working with probation officers who had been handling cases for 3-6 months and after "six months or three months of them botching the case, they are letting [him] know about it."<sup>116</sup> He detailed one situation where a probation officer had been working with one case for almost a year. By then the child was to turn 18 in four months. The probation officer at that point informed DPW that a "nice secure therapeutic environment [would] be needed for this kid for a couple of years." The officer did not realize that the child had to be discharged from the court's custody when she turned 18. "That's just another case of a probation officer working with a case for 8-10 months, botching it up and saying, here, you take bail now."<sup>117</sup>

Because courts differ so extensively in their handling of CHINS procedures, treatment, and data collection, it is difficult to compare activity among them. Figures obtained from the state probation department, however, reinforce the statements of CHINS workers and service providers that courts are neither uniformly nor equitably complying with their legislative mandate. (See Appendix A.) For example, a youth referred

to Bristol County Juvenile Court or the courts of the Middlesex Juvenile District would likely have his case treated informally without proceeding to a petition or a trial on the merits. In both these areas, in the past three years, no petition has been filed for more than 39% of its CHINS applications. In contrast, a child brought before the court in Lowell or the Boston Juvenile Court has a much higher likelihood of having a petition filed against him.

Not only is a youth likely to be treated differently depending on where an application is filed, but these figures lend support to the contention that the courts have become social welfare agencies, dispensing services regardless of whether a finding that a child is in need of services has been made. It appears that a substantial portion of the courts handle CHINS cases informally. As a result, courts have been able to maintain a low profile in their management of CHINS cases. The absence of outside involvement then minimizes the ability of OFC and others to monitor the treatment and services provided by the courts for these youth.

#### E. The Provision of Funds for the CHINS Program by the Massachusetts Legislature

The Massachusetts legislature, upon passage of the CHINS law, failed to provide funds to the counties so that the courts could sponsor special programs for CHINS youth as the law mandated. Three counties have provided some funds for children's services: Berkshire County, \$1000; Essex County, \$10,000; and Middlesex County, \$35,000.

Massachusetts General Laws, Chapter 119, Section 39J requires that the State Treasurer render "a written report to the General Court

containing statistics showing the purposes and amounts of expenditures for said services by the various counties for which the Commonwealth has made reimbursement, and making such recommendations for change in the law as he shall see fit." On November 18, 1977, Robert Q. Crane, the Treasurer and Receiver-General, submitted his annual report to Senator James A. Kelly, Jr., Chairman of the Senate Ways and Means Committee. The report stated:

There were no funds appropriated to these accounts for fiscal year 1977 or fiscal year 1978, therefore there have been no expenditures.<sup>118</sup>

A letter to the Massachusetts Advocacy Center from Richard Kelly, Deputy State Treasurer, indicated that the last expenditure made by the Massachusetts Treasury Department "pursuant to G.L., c. 119 § 39J, was for \$540.20, and was paid to the county of Franklin in December, 1975. Since then there has not been any appropriation by the legislature."<sup>119</sup> The Treasury Department requested that an appropriation of \$25,000 in fiscal year 1977 be made, but no funds were appropriated.<sup>120</sup> On December 1, 1976, Mr. Crane sent a letter to Representative John J. Finnegan, Chairman of the House Ways and Means Committee, informing him that although the office had bills from Worcester County totaling \$5,030.00 and from Franklin County for \$116.35, it was unable to make payment because of the failure of the legislature to appropriate funds for CHINS. A formal request that \$6,000 be added to the next deficiency budget to enable the state to pay its bills was made.<sup>121</sup> On April 13, 1977, Mr. Crane amended his December report; Franklin County's bill was increased to \$123.60; a request for a \$5,500 appropriation in the next deficiency budget was made.<sup>122</sup> On April 20, 1977, Mr. Crane lowered

his request to \$5,153.60. Mr. Kelly's letter to the Massachusetts Advocacy Center on July 5, 1977, implied that no appropriation for these bills had yet been made.<sup>123</sup>

Judicial provision of services to CHINS youth is the central focus of the CHINS legislation. The legislature, failing to provide funds for those services, severely hampered the successful implementation of this aspect of the new law.

The CHINS legislation also required for the provision of services for CHINS youth by DPW. It is only recently that funds have been made available to the Department. Between 1974 and June 30, 1977, only \$300,000 was paid by DPW for services for CHINS youth. For fiscal year 1978 the Department was allocated \$3.6 million for CHINS non-residential and emergency care. Many of the CHINS workers noted the inadequacy of the Department's residential services for CHINS youth. DPW has begun to seek funds for CHINS residential services; it has asked for \$900,000 for 75 Group Care slots for fiscal year 1979. It is unclear, however, whether this will be adequate; it provided services, residential and non-residential, for over 3,000 CHINS youth in its first year of operation of the new program.

#### F. CHINS and Institutional Overload

The following is a discussion of the overlap of services provided by DPW, DYS, the Department of Mental Health and the Department of Education. The gaps in the services provided by Massachusetts to adolescents will also be considered. CHINS youth typically possess many characteristics common to children receiving services through other state programs

also designed to assist children in need of supplemental assistance. For example, it is not unusual for a court to discover that a child who has persistently run away from home and thus qualifies as a "child in need of services" comes from a home in which he has been abused or neglected. The court could either pursue a CHINS petition against the child or initiate a care and protection proceeding on behalf of the child against his parents.

Another example of institutional overlap results from the Massachusetts Special Education Law, chapter 766. This law provides for the development of programs designed to meet the special educational needs of school children. Many youth involved in the court process as CHINS are learning deficient or disabled. This is particularly a problem with truants, many of whom do not attend school because of their academic deficiencies. It is unclear whether these children should be treated as "problem children" under the CHINS law or "children with problems" under chapter 766.

It has been pointed out that M.G.L. c. 766 is a potential source of needed services for CHINS youth. This is especially relevant, as the number of truants and school offenders in the court system has increased more than sixfold since 1973. Although a number of school systems have cooperated with the courts, reports of conflicts have been relayed as well. Neither the schools nor the Department of Public Welfare appears willing to accept financial responsibility for these children. It is not usual for schools to recommend that parents use the CHINS petition as a means to obtain needed services. Funding responsibility seems to be a strong source of conflict when the service needs of a particular

child transcend the program boundaries of various agencies.

There is overlap with the Department of Mental Health as well. This agency is responsible for assisting those with mental illness. CHINS workers, court personnel and service providers repeatedly stated, however, that there is a significant dearth of mental health facilities for adolescents in Massachusetts. "There just doesn't seem to be enough resources for emotionally disturbed kids, suicidal kids, severely depressed kids, psychotic kids...DMH doesn't seem to want to get involved with these things...If you refer a family to DMH, they go in and if they never come back, DMH doesn't care. DMH has no responsibility."<sup>124</sup> Many CHINS workers recognize that numerous children referred to them as CHINS had severe emotional problems that the Department is ill-equipped to handle. The Department is presently seeking funds to set up two heavily staffed group homes, one for girls, the other for boys, who are at risk to themselves, whose psychiatric and therapeutically oriented staff would focus on assessing and diagnosing the needs of the children.<sup>125</sup>

Although some workers have been able to get DMH cooperation, others have not been so lucky. One worker reported that it took three months for a family to be seen by a Boston-area state mental health center.<sup>126</sup> The personnel of one court stated bluntly that they had no mental health programs available for their use.<sup>127</sup> A probation officer noted that DMH "is the only agency that they've never been able to crack with the liaison referral set-up. The Mental Health [system] is so confusing that the employees probably can't even understand the system."

Despite the fact that many state courts have clinics that are used for diagnostic purposes, treatment programs do not appear to be readily available. In fact, one DPW CHINS supervisor, upon being asked about DMH facilities, quipped, "DMH? What is it? It doesn't exist." Another CHINS worker reported that counseling services from the local mental health center were available only if a CORE evaluation had recommended such services.<sup>128</sup>

There has been considerable conflict between the courts and DPW concerning youth who have committed both delinquent and status offenses. DPW's position is that if the goal of the CHINS law is to separate delinquents from status offenders, "plea bargaining" of delinquency charges to CHINS positions must not occur.<sup>129</sup> The Department insists that its programs are not designed to serve delinquents who are best left to the responsibility of DYS. According to one CHINS worker, the

Central Office has told us emphatically that we can say to the judge, we will not take this kid because this kid is a delinquent kid, but what Central Office and all these legal people don't know is that you don't stand up to a judge and tell the judge that...He is just going to tell the people, hey -- that kid's a CHINS and I don't care what you say.<sup>130</sup>

DPW claims that its programs are appropriate only for non-criminal offenders.

The Department, however, has a legal mandate to provide services to any youth before the courts on a CHINS complaint. Nevertheless, its regulations require DPW workers to refer cases in which the child is also a delinquent to DYS, cases in which the "youth's behavior is the result of parental abuse or...neglect...to the Protective Services Unit of the Department," and cases in which the child only needs mental

health services to DMH.<sup>131</sup> The regulations also state that all school offender or truancy cases must first be referred to the Division of Special Education of the Department of Education.<sup>132</sup> This policy of referring these cases to agencies possessing the expertise most suited to handling the problems posed by a particular case, although logical, has not been able to be implemented effectively. This failure is most obvious in cases in which an alleged CHINS youth has been subject to abuse or neglect at home.

The CHINS workers are required by Departmental regulations to refer the cases of children who appear to be either abused or neglected to the Protective Services staff for appropriate action. Evidence indicates, however, that courts have been using CHINS petitions and Care and Protection (C & P) proceedings interchangeably. Furthermore, it appears that even some of the DPW workers believe that the CHINS route is the more appropriate procedure to use to obtain services for an abused or neglected adolescent. "CHINS is an easier route for probation to take than Care and Protection. The most important thing is that the child receive some service. By law they almost overlap" was the view of one CHINS outreach worker in the western part of the state.<sup>133</sup> Another noted that the CHINS route is "easier, the matter of who's to blame is kind of beside the point by the time you get to that point. [We do] what we can to get the family back together."<sup>134</sup> The worker went on to stress that if younger children in the family were involved, C & P's might be applicable there but "the point is to get services to the child."<sup>135</sup> If parents are willing to cooperate voluntarily under the CHINS process then it is better to use that method;

"if you go Care and Protection you're going to have a difficult time dealing with parents...it's a caseworker decision rather than a legal affair."<sup>136</sup> One probation officer sees Care and Protection as "hard to prove [and] potentially harmful for the kid. You are tearing him away from something he loves, no matter how misplaced that love is."<sup>137</sup>

One judge reported an incident where he was asked to sit in on a CHINS case in a district court. The public defender was ready to waive the child's right to a preliminary hearing, go to an immediate hearing on the merits, admit to the facts and to permit the child to be adjudicated a CHINS and to be committed to the care of DPW. The judge, after looking at the facts, wanted to change the case into a Care and Protection proceeding. He was told by the probation department that service provision was much quicker if a CHINS petition was used.<sup>138</sup>

Another major problem area involves youth who are 16 - 18; the 16 and 17-year-olds who are before the court on CHINS petitions and the 17 and 18-year-olds who are in need of services that neither the courts nor DPW can administer because they fall between the age cracks of the law. DPW caseworkers indicated that the 16 - 17 year-olds are often too old for available placements (which are inappropriate in many cases) or else because slots are unavailable.<sup>139</sup> Furthermore, petitions may not be taken out against children for truancy or school offenses if they are over 16 or as runaway or stubborn children if they are over 17.<sup>140</sup> Often, however, adolescents of this age are in need of services either of a residential or non-residential nature. Only special education funds have been made explicitly available for the older adolescent. The juvenile and district courts are unable to procure services for the

older adolescent under the CHINS law because the statute does not provide them with any power to do so. According to a probation officer: "Legally, we can't touch him after he's seventeen." Welfare funds are unavailable, as well, as long as the child remains in school. Emancipation from parental control is also difficult. It can be done, however, if the child (over 14) petitions the probate court to assign a legal guardian other than the natural parent. The court need not respond favorably to the youngster's request. Further, even if emancipation occurs, the financial assistance a child needs to live independently or in a foster home may be unavailable.

A central goal of the CHINS law had been to separate status offenders and delinquents. This was to be done by placing CHINS youth in the care and custody of DPW and delinquents in the care of DYS. Separation has not, however, occurred. In Massachusetts most residential services for delinquents, CHINS youth and children in need of mental health or special education facilities are provided by private agencies contracting with a particular state agency. The private agencies often contract with more than one state agency. The Department of Public Welfare, for example, shares 94% of its group care facilities with the Department of Youth Services; 48% with the Department of Education and 25% with the Department of Mental Health.<sup>141</sup> Although the DPW detention program was intended to separate detained CHINS youth from delinquents, there are four private agencies contracted by both DYS and DPW to provide detention services.

One juvenile court probation officer stated that his court "breaks the law."

We supply [CHINS] with whatever they need. And sometimes that means they are in groups with delinquent kids... Treatment-wise, we really don't separate them. I know the law specifies they should be, but it is not realistic to us, we don't have [the] staff to do it effectively.<sup>142</sup>

In fact, a study by Harvard indicates that many CHINS youth and the people working with these children do not understand the difference between CHINS and delinquents.

Chapter III: Footnotes

1. M.G.L. c. 272 §§ 52,53; M.G.L. c. 7 §§ 3,5.
2. Commonwealth v. Brasher, 359 Mass. 550, 557, 270 N.E. 2d 389, 394 (1971).
3. McKeiver v. Pennsylvania, 403 U.S. 528 (1971); In re Winship, 397 U.S. 358 (1970); In re Gault, 387 U.S. 1 (1967); Kent v. United States, 383 U.S. 541 (1966).
4. M.G.L. c. 119 §§ 52-54, 67-68; M.G.L. c. 77 §§ 3-5.
5. M.G.L. c. 119 §§ 67-68.
6. M.G.L. c. 119 § 68.
7. Ibid.
8. Ibid.
9. M.G.L. c. 119 §§ 39E-39J.
10. M.G.L. c. 119 § 39G.
11. M.G.L. c. 119 § 52.
12. M.G.L. c. 119 § 39G.
13. M.G.L. c. 272 § 52.
14. Commonwealth v. Brasher, 359 Mass. 550, 270 N.E. 2d 389 (1971).
15. Commonwealth v. Brasher, 359 Mass. at 555-556, 270 N.E. 2d 389 at 393.
16. M.G.L. c. 119 § 39E.
17. Commonwealth v. Brasher, 359 Mass. at 555-556, 270 N.E. 2d 389 at 393.
18. M.G.L. c. 119 § 39E.
19. M.G.L. c. 7 § 3.
20. M.G.L. c. 119 § 39E.
21. M.G.L. c. 7 § 5.

22. M.G.L. c. 119 §§ 39E, 39G.

23. M.G.L. c. 119 § 39E. In some regards the probation officer's discretion is bounded. Conferences and referrals cannot extend past six months from the initial application date unless both the parents and child voluntarily agree in writing for a continuation of services, and this continuation cannot exceed an additional six months. At the end of the six months or the extension, the petition, if any, may be dismissed and the parent and child discharged from any obligations to participate in conferences or referrals, or a petition, if not already issued, will issue, and a date set for a trial on the merits. On the other hand, if the child and family fail to participate in good faith in referrals and conferences, the probation officer is required to so certify and a petition must issue, if it has not already, and a date set for a trial on the merits.

24. M.G.L. c. 119 § 68.

25. M.G.L. c. 119 § 39G.

26. Ibid.

27. Ibid.

28. Ibid. There are some explicit limitations on DYS discretion in this regard. Dispositional orders are to be reviewed at hearings at intervals of six months and extensions are allowed if the court finds that "the purposes of the order have not been accomplished and that such extension would reasonably be likely to further those purposes." No order may remain in effect past the eighteenth birthday for a petition filed by a parent, legal guardian, or police officer or the sixteenth birthday for a petition filed by a supervisor of attendance.

29. M.G.L. c. 119 § 39H.

30. Ibid.

31. Ibid.

32. M.G.L. c. 119 §§ 68, 39H.

33. Memo from William Connors, DYS attorney, to J. C. Calhoun, Commissioner DYS, April 1, 1976.

34. Ibid.

35. Director, group home in western part of Massachusetts.

36. Figures from Commonwealth Budget.

37. Memo from Ruth Malenka, Assistant Commissioner for Social Services, DPW, re: Progress Report on DPW Activities: CHINS Transfer,

October 29, 1976.

38. DYS memo, April 1, 1976.

39. Massachusetts Social Services Policy Manual, "Children In Need of Services," 106 CMR, c. 230, April, 1978.

40. DYS memo, April 1, 1976.

41. Massachusetts Social Services Policy Manual, "Children In Need of Services," 106 CMR, c. 230, April, 1978.

42. Memo from Ruth Malenka, Assistant Commissioner for Social Services, DPW, re: Progress Report on DPW Activities: CHINS Transfer, October 29, 1976.

43. Ibid.

44. Conversation Director, DPW CHINS Program, Elizabeth Vorenberg.

45. Ibid.

46. Massachusetts Social Services Policy Manual, "Children In Need of Services," 106 CMR, c. 230 230.010, April, 1978.

47. Ibid., § 230.410.

48. Ibid., § 230.210.

49. Ibid., § 230.415.

50. Ibid., § 230.420.

51. Ibid., § 230.425.

52. Ibid.

53. Ibid., § 230.445.

54. Ibid., § 230.015.

55. M.G.L. c. 119 § 23,

56. Massachusetts Social Services Policy Manual, "Children In Need of Services," 106 CMR, c. 230.415, April, 1978.

57. Ibid., § 230.405.

58. Ibid., §§ 230.510, 230.515.

59. Ibid., § 230.510.
60. Ibid., § 230.515.
61. Ibid., §§ 230.450, 230.515.
- 61a. Ibid., § 230.605(a).
62. Ibid., § 230.605.
63. Ibid., § 230.415.
64. Ibid., § 230.615.
65. Ibid., § 230.605.
66. Ibid., § 230.310.
67. Ibid., § 230.315.
68. Ibid., § 230.320.
69. Ibid., § 230.325.
70. Ibid., § 230.330.
71. DPW CHINS workers from Chicopee and Quincy areas.
72. DPW CHINS worker, Worcester area.
73. DPW CHINS worker, Holyoke area.
74. DPW CHINS worker, Woburn area.
75. DPW CHINS worker, Worcester area.
76. Elizabeth Vorenberg, DPW CHINS coordinator.
77. M.G.L. c. 119 § 39H.
78. Ibid.
79. Comments of three district court judges and a juvenile court judge.
80. Comments of a district court judge from a Boston suburb.
81. Probation officer from a district court in a southwestern suburb of Boston.
82. Ibid.

- 83. DPW CHINS worker, Worcester area.
- 84. DPW CHINS worker, Holyoke/Chicopee area.
- 85. Ibid.
- 86. Elizabeth Vorenberg, DPW CHINS coordinator.
- 87. Ibid.
- 88. Much of this information was compiled by Debbie McKechnie, an M.I.T. undergraduate and participant in the Massachusetts Advocacy Study.
- 89. Office for Children regulations governing group care facilities and residential placements.
- 90. DPW CHINS worker.
- 91. DPW CHINS workers, Holyoke area.
- 92. OFC licenser.
- 93. DPW CHINS worker.
- 94. Regional Probation Case Project, Concord area.
- 95. DPW CHINS worker.
- 96. OFC licenser.
- 97. M.G.L. c. 119 § 39E.
- 98. Ibid.
- 99. M.G.L. c. 119 § 39G.
- 100. Ibid.
- 101. Memo from Ruth Malenka, Assistant Commissioner, Social Services, DPW, October 29, 1976.
- 102. Massachusetts Social Services Policy Manual, "Children In Need of Services," 106 CMR, c. 230 § 230.415.
- 103. Ibid., §§ 230.505-515.
- 104. DPW CHINS worker, Worcester area.
- 104a. Regional Probation Case Project, Concord area.

105. DPW CHINS worker, Woburn area.
106. DPW CHINS worker, Lowell area.
107. DPW CHINS worker, Brighton area.
108. Probation officer, Quincy District Court.
109. DPW CHINS worker, Charlestown/E. Boston area.
110. DPW CHINS worker, Holyoke/Chicopee area.
111. Ibid.
112. Ibid.
113. Ibid.
114. Ibid.
115. DPW CHINS worker, Worcester area.
116. Ibid.
117. Ibid.
118. Letter from Robert Crane to Senator James Kelly, November 18, 1977.
119. Letter from Richard Kelly, Deputy Treasurer of Massachusetts, to Alison Carmichael, Massachusetts Advocacy Center, July 5, 1977.
120. Letter from Robert Crane to Representative Finnegan, December 1, 1976.
121. Ibid.
122. Letter from Robert Crane to Senator Kelly, April 8, 1977.
123. Letter from Robert Crane to Edwin Herbert, Budget Director of the State House, April 20, 1977.
124. DPW CHINS worker, Holyoke area.
125. Elizabeth Vorenberg, DPW CHINS coordinator.
126. DPW CHINS worker, Charlestown/E. Boston area.
127. Probation officer, Quincy District Court.
128. DPW CHINS worker, Worcester area.

129. Elizabeth Vorenberg, DPW CHINS coordinator,
130. DPW CHINS worker, Worcester area.
131. Massachusetts Social Services Policy Manual, "Children In Need of Services," 106 CMR, c. 230 §§ 230.320-330.
132. Ibid., § 230.310.
133. DPW CHINS worker, Holyoke area.
134. DPW CHINS worker, Quincy area.
135. Ibid.
136. Ibid.
137. Probation officer, Quincy area.
138. District Court Judge, suburban Boston.
139. Probation officer, Quincy area; DPW CHINS worker, Holyoke area.
140. M.G.L. c. 119 § 39G.
141. OFC and Rate-Setting Commission statistics.

## CHAPTER IV

The Massachusetts Status Offender Population

The case study of the Massachusetts CHINS program also included an analysis of the state's status offender population. Data on CHINS youth were gathered from the courts, DYS, the Probation Department, OFC and DPW. This chapter is divided into two sections: the first will describe the nature of the status offenses committed prior to passage of the CHINS law; the second segment will focus on the status offender population after 1974 and the passage of the CHINS law.

A. The Status Offender Population Prior to 1974

Prior to 1974 offenders were placed in the care and custody of DYS, the state youth corrections agency. No distinctions were made between status offenders and delinquents by the courts or by DYS.

At least twenty percent of all youth committed to DYS in the years both immediately preceding the phasing out of training schools (1968) and the implementation of the CHINS law (1973) were status offenders; an even larger percentage of girls were in the custody of DYS as a result of their non-criminal misbehavior. The DYS female population dropped by 68% the year the CHINS law was implemented, suggesting that a significant portion of the young women committed to DYS were involved in status offense activity. The data show that the overwhelming number of females committed to the care of DYS were status offenders or were so charged. (Table I). Although the female status offender population decreased by approximately 20% in six years, in 1968 and in 1973, at least 50% of all the girls in each DYS region had

had been committed as status offenders (Table II). The data further indicate that substantially fewer males than females were committed to DYS as status offenders -- 13% in 1968 and 9% in 1973. (Table 1).

There was also a shift over time in the nature of the status offenses leading to commitment, changing from commitments predominantly for stubbornness to increased commitment of runaway youth (Table II). In 1968 54% of all status offenders were committed for stubbornness (which included "waywardness"); 50% of the females and 60% of the males were considered stubborn by the courts. By 1973 there is a clear shift toward commitment for running away; only 35% of the status offender population was committed for stubbornness and the percentage of "runners" rose from 31% in 1968 to 48% in 1973. The percentage of males and females committed to the Department for stubbornness during that six year period decreased by approximately 20%. During that same period the proportion of the runner population to the total increased; from 25% in 1968 to 37% in 1973 for males and from 36% in 1968 to 54% in 1973 for females.

These figures indicate that status offenders are predominantly female and increasingly involved with the courts as "runners."

#### B. The Status Offender Population After 1974

Data collected from DYS detention records and Worcester Juvenile Court files provide valuable information concerning status offenders' contact with the juvenile justice system. Not only does the data identify who CHINS youth are, more importantly, it documents the nature of judicial intervention in the lives of CHINS youth. The data also supports the trend revealed by the pre-1974 DYS figures that CHINS

youth are predominantly female "runners." (Table IV). It is expectable, however, that DYS detention figures reveal a high proportion of runaways. The CHINS law allows runaways and stubborn children to be detained easily, but truants and school offenders can be detained only if they fail to respond to a summons without good cause.

The Worcester Juvenile Court data includes all CHINS youth entering the Worcester Juvenile Court at the application state and follows them through until dismissal. Its files provide, therefore, a broader and less biased view of CHINS youth. Its figures also reveal that most youth are brought into court because they have run away from home. (Table V).

#### 1. Status Offenders as Pre-Delinquents

Laws sanctioning status offenses are often justified by the assumption that a status offender, in the future, is likely to commit criminal offenses. Intervention, therefore, is necessary at this early stage to prevent status offenders from becoming delinquents. The figures from DYS force a re-evaluation of this commonly-held assumption. The great majority of DYS CHINS detainees (79%) have never been involved with the courts as delinquents. (Table VI) Furthermore, only 13% of the DYS CHINS detainees were returned to the courts as delinquents subsequent to their involvement as CHINS. (Table VI C)

DYS statistics reveal that 66% of all male CHINS and 85% of all female CHINS were before the courts solely as status offenders. Most had only one encounter with the juvenile justice system and that was the result of a CHINS petition; 50% of the boys and 69% of the girls fall within this category. Only six males (6%) and four females (2%)

committed more delinquent acts than CHINS offenses. Twenty boys (22%) and sixteen girls (9%) were involved equally in both CHINS and delinquent acts. (Table VI C)

## 2. Service Provision to Status Offenders

A central concept behind the CHINS program is appropriate service provision. The law provides that services are to be made available, if needed, at two phases of the process: after the preliminary hearing through informal assistance and after the termination of detention and the adjudication of the case on the merits. From the data, however, one may draw the conclusion that despite the active intervention of the court in the lives of alleged CHINS youth and their families few services were provided as intended. (Table V)

The majority of those youth detained in DYS facilities returned home at the end of their detention periods. For the pivotal DYS detention period, of the 197 known dispositions, 153 (78%) of the youth were sent home; whether they received any non-residential services or court supervision is unknown. Only 20% were committed to the custody of DPW and, surprisingly, five (2%) were committed to DYS. This is intriguing since all the detentions during the pivotal period were the result of a CHINS complaint; the only explanation that would accord with the law is that these children had some prior delinquency charge that was resolved by commitment to DYS during this time.

For the 434 total known dispositions for all detentions experienced, again most of the youth were returned home (52%). It is uncertain whether these children received any assistance once they had returned home. Some youth did receive residential placement or

non-residential services and 17% were committed to either DPW or DYS. The table below details what happened to these children once they were released from DYS detention.

Total Dispositions for DYS CHINS Detainees

<u>Disposition</u>	<u>DYS Detainees</u>	
	<u>N</u>	<u>%</u>
Returned home	217	50.0
Returned home with supervision	8	1.8
Committed to DPW	54	12.4
Committed to DYS	17	3.9
Dismissed	5	1.2
Bail dropped	1	0.2
Parents withdrew petition	1	0.2
Bail paid	1	0.2
Default (child never returned to court)	13	3.0
Dismissed following runs from detention facilities	25	5.8
Placement by court in residential care	37	8.5
Placement in mental institutions	3	0.7
Outpatient care by DMH	1	0.2
Placed voluntarily in the custody of DPW	9	2.1
Case Pending	33	7.6
Referral to DYS	5	1.2
Case Continued	4	0.9
Total	434	100.0

The dispositional picture in Worcester is not substantially different. A broader view of dispositional alternatives is available, however, from the Worcester data. The Worcester Juvenile Court relies heavily on informal assistance and minimal judicial intervention. The results of the preliminary hearings in Worcester indicate that many of the cases never go beyond this stage.

Disposition of Preliminary Hearings in  
Worcester Juvenile Court

<u>Preliminary Hearing Findings</u>	<u>N</u>	<u>%</u>
Petition not issued, lack of probable cause	22	8
Petition not issued, informal assistance accepted	60	23
Petition issued due to arrest	15	7
Petition issued, informal assistance accepted	26	10
Petition issued, child non-cooperative	68	26
Petition issued, warrant or summons issued	42	16
Pending	16	6
Unknown	<u>10</u>	<u>4</u>
Total	259	100

Ultimately 55% of all youth initially brought into the Worcester Juvenile Court were sent home; court involvement never went beyond initial intake proceedings or minimal assistance.

Final Dispositions in Worcester Juvenile Court

<u>Disposition</u>	<u>N</u>	<u>%</u>
Dismissed	121	47
Pending	47	18
Adjudicated CHINS	41	16
Informal Probation	25	10
Unknown	23	9
Filed	<u>2</u>	<u>1</u>
Total	259	101

Despite Worcester's emphasis on limited intervention, the Worcester youth did receive from the court a variety of services.

Services Offered to CHINS in  
Worcester Juvenile Court

<u>Service Type</u>	<u>N</u>	<u>%</u>
Foster Home	36	21
Informal Probation	27	16
Counseling	20	12
Residential Group Care	12	7
Voluntary Commitment to DPW	7	4
Educational	6	4
Relative's Custody	3	2
Care DMH	1	1
Unknown	<u>57</u>	<u>34</u>
Total	169	101

### 3. CHINS Youth and the Detention Process

The data gathered from DYS and the Worcester Juvenile Court supplied valuable information concerning the length of the CHINS detention stay and the amount of bail set by the courts on status offenders. The figures reveal a bias directed against girls, especially girls who had prior contact with the court as CHINS. These young women were detained longer and were held on higher bail than any other group. In fact, the courts generally treated CHINS youth with prior delinquency records more leniently than those with either a CHINS record or no record at all.

The majority of CHINS youth detained by DYS were in detention for less than fifteen days although the mean number of detention days was 24. Only forty-six CHINS youth were detained by the Worcester Juvenile Court during the pivotal detention period. Although the composition of the two data groups is not comparable, the length of

detention experienced by both is similar. Again, the majority were detained for less than fifteen days although the mean is substantially less, sixteen days as compared to twenty-four days.

Length of Detention Stay

<u>Number of Days</u>	<u>DYS Detainees</u>		<u>Number of Days</u>	<u>Worcester Juvenile Court</u>	
	<u>N</u>	<u>%</u>		<u>N</u>	<u>%</u>
1-14	190	51	1-15	28	61
15-30	101	27	16-30	11	24
31-45	52	14	31-45	6	13
Over 45	<u>28</u>	<u>8</u>	Over 45	<u>1</u>	<u>2</u>
Total	371	100	Total	46	100

A comparison was made between the length of the pivotal detention period and the CHINS youth's prior contact with the court system. The male youth who had had prior CHINS contact was detained for longer lengths of time than males who had had prior delinquent activity or no prior contact with the system. A larger percentage of males with prior delinquency charges experienced shorter detention stays than males with no prior contact. For males detained over thirty-one days, those charged with prior CHINS offenses tended to be detained for longer periods of time than those with either prior delinquent contact or no contact at all. (Table IX).

For females, the detention pattern is somewhat different. The majority of girls who had had no prior contact with the juvenile court were detained for less than fifteen days. For those with prior CHINS or delinquent contact, girls with prior contact involving CHINS activities or with no prior contact at all were detained for longer

periods than those whose prior contact had been as a delinquent.  
(Table VIII).

Girls tended to be detained longer on CHINS offenses than the boys; yet the detention length for delinquency offenses regardless of gender were almost exactly the same.

Mean Number of Days Detained

<u>Offense</u>	<u>Males</u>	<u>Females</u>
CHINS	18 N=60	21 N=98
Delinquency	24 N=23	24 N=18
CHINS and Delinquency	9 N= 2	19 N=3

Data on bail amounts set by courts on status offenders were analyzed. The courts did not tend to set bail at either low or high figures; the amounts ranged from \$1.00 to \$2,500 with a tendency towards \$51-150, \$251-500 and \$750-2500.

Bail Amounts for DYS Detainees

<u>Bail Amounts</u>	<u>N</u>	<u>%</u>
\$1-50	13	6
\$51-100	53	24
\$101-150	25	11
\$151-200	11	5
\$201-250	2	1
\$251-500	55	25
\$500-750	1	1
\$751-1000	49	22
\$1001-2500	10	4
Over \$2500	5	2
Total	224	100

The overwhelming majority of males (92%) detained on CHINS complaints had bail set at amounts of \$500 or less; only 63% of the CHINS girls were detained at similar levels. Furthermore, CHINS youth,

both male and female, had higher levels of bail set than those set for delinquents.

Bail Amounts by Nature of the Offense

<u>For CHINS Offenses</u>	<u>DYS CHINS Detainees</u>					
	<u>Male</u>		<u>Female</u>		<u>Total</u>	
	<u>N</u>	<u>%</u>	<u>N</u>	<u>%</u>	<u>N</u>	<u>%</u>
\$1-500	44	91.7	88	61.9	132	70.2
\$501-750	-	-	1	0.7	1	0.5
\$751-2500	4	8.4	47	33.6	51	27.2
Over \$2500	-	-	4	2.9	4	2.1
<b>Total</b>	<b>48</b>	<b>100.1</b>	<b>140</b>	<b>100.1</b>	<b>188</b>	<b>100.0</b>

<u>For Delinquent Offenses</u>	<u>N</u>	<u>%</u>	<u>N</u>	<u>%</u>	<u>N</u>	<u>%</u>
\$1-500	16	84.2	7	75.1	23	80.0
\$501-750	-	-	-	-	-	-
\$751-2500	3	15.8	3	18.7	6	17.1
Over \$2500	-	-	1	6.2	1	2.9
<b>Total</b>	<b>19</b>	<b>100.0</b>	<b>16</b>	<b>99.9</b>	<b>35</b>	<b>100.0</b>

Females were also uniformly detained at higher amounts than males.

Bail Amounts By Sex

<u>Bail Amounts</u>	<u>Male</u>		<u>Female</u>	
	<u>N</u>	<u>%</u>	<u>N</u>	<u>%</u>
\$1-500	60	88	100	64
\$501-750	-	-	1	1
\$751-2500	8	12	51	32
Over \$2500	-	-	5	3
<b>Total</b>	<b>68</b>	<b>100</b>	<b>157</b>	<b>100</b>

Bail amounts for the pivotal detention period were examined with regard to prior court contact. For males, amounts were higher if

the boy had had no prior court contact at all. For females, although four girls with no prior court contact had bail set at amounts greater than \$2500, girls who had had prior contact as CHINS received higher bail amounts than girls with either prior delinquent contact or no involvement whatsoever. (Table X)

Comparisons of bail with disposition, when possible, were made. Generally, bail amounts, again, are higher for females. Of those females sent home following detention 35% were held for over \$500 bail; no males who were sent home were held for amounts greater than \$500. For females committed to DPW, 26% were held on bail greater than \$500; only 15% of the males were similarly held. (Table XI)

## CHAPTER V

Findings and ConclusionsA. Findings

In recent years such observers of the juvenile justice system as the Juvenile Justice Standards Project (JJSP) have urged that the juvenile court's jurisdiction over noncriminal misbehavior be eliminated. Although no state has yet so radically altered the nature and scope of juvenile court activity, currently many states are considering ways in which the JJSP proposal might be amended to suit their particular needs. Massachusetts has already implemented a program that in its design embodies many of the principles expressed in the JJSP document. The Commonwealth, therefore, could be a valuable resource for those states intending to reform their juvenile justice system in a matter consistent with the principles expressed in "Standards Relating to Noncriminal Misbehavior."

Careful examination of the "Children In Need of Services" program reveals that Massachusetts has neither significantly altered the process by which status offenders proceed through the juvenile justice system nor limited the extent to which the state is intervening in their lives. Furthermore, the data also indicate that DPW has been unsuccessful in fully implementing its detention program and in providing more appropriate services for CHINS, as envisioned by the CHINS statute.

The thesis will now turn to the more specific questions about the CHINS statute raised in Chapter II.

1. Did the CHINS law affect either the extent to which the Commonwealth intervened in the lives of status offenders or the process by which the courts identified the children in need of services?

The CHINS law increased the scope of the juvenile court's jurisdiction over status offenders. First, the legal definition of the various status offenses have been relaxed. Second, the CHINS law permits courts to provide to children residential and non-residential services; they did not have such extensive authority prior to the passage of the law. Finally, courts are encouraged to handle the cases of children alleged to be in need of services informally. The children, therefore, are often deprived of the legal protections available in a formal judicial proceeding.

The supporters of the CHINS law claimed that the law would remove the stigma that attaches to children involved in delinquency proceedings. Many of the indignities suffered by delinquents, however, were continued under the CHINS process. CHINS can still be arrested, held on bail and detained; they must also appear in court and be confronted by their accusers--generally their parents--and their activities are subject to supervision by probation officers and the court. Further, the fact that a child is in need of help does not guarantee that he will receive services; as in delinquency proceedings, misconduct continues to be the prerequisite to the receipt of court-ordered services.

2. What was the response of the Department of Public Welfare to its new responsibility toward CHINS?

The Department of Public Welfare in 1974 was reluctant to assume responsibility for CHINS youth. The Department, initially,

refused to provide detention facilities for these children, and DYS was forced to continue detaining CHINS youth with delinquents. Furthermore, DPW's efforts often were limited even when a child was placed directly in the care and custody of DPW by the court. DPW action was also stymied due to funding problems. As a result of the CHINS law, DPW was expected to provide residential services to an increased number of children, yet the Massachusetts legislature failed to appropriate additional monies to support its efforts.

DPW's failure to implement the CHINS law effectively resulted in an effort directed by the Executive Office of Human Services to remedy the situation. DPW agreed to assume detention responsibility for CHINS youth and, in exchange, received over one million dollars to support its efforts. No additional funds were forthcoming to assist DPW, however, in fulfilling its obligation to provide long-term placements for children placed in its custody by the courts. No direct efforts were made by the Department, therefore, to remedy the long-term placement problems posed by CHINS youth.

The Department of Public Welfare's detention program was not limited to providing detention facilities for CHINS youth. DPW, with the approval of the Executive Office of Human Services, devised a plan that could substantially alter the effect of the CHINS law as intended by the state legislature. Judging from the statute's language, the legislature had intended that the courts play an active role in the treatment of status offenders. Only if the child could not remain at home was DPW to become involved in the case; even then placement of

the child with DPW was only one option of among five alternatives available for the court to choose.

DPW had stated that it would use its detention responsibility "[to prevent] long term placement with DPW and [to facilitate] when necessary the transition to ongoing DPW responsibility." The DPW plan, however, subordinates the role played by the courts and places DPW as the central agency in control of status offenders. The Department's regulations instruct its CHINS workers to assess the child's case, to develop treatment plans in conjunction with the child and family, and, if placement is needed, to encourage the parents to voluntarily place their child in the custody of the Department. Courts are to be involved in a case only as the initial referral agency and as an aid to the Department if the child or parents fail to cooperate with the CHINS worker.

3. What was the judiciary's response to the CHINS law?

Although the CHINS law "decriminalized" status offenses, the juvenile courts continued to occupy a central role in the control of status offenders. The law is readily suited to the traditional "interventionist" philosophy of the juvenile courts. It permits the courts to provide services to the child, to arbitrate a solution to the conflict that brought the matter to the court's attention, to try the case formally in a judicial proceeding and to remove the child from his parents' custody, if necessary. Observers of the courts have noted that the courts have acted independently of the others in applying the CHINS law. Enforcement of the law has not been uniform throughout the Commonwealth. Court actions, further, are not easily

monitored as many youths choose to accept court services voluntarily. Lawyers often are not appointed and court action can therefore easily go unchallenged.

Many of the courts did not welcome the DPW plan. The plan was viewed as an usurpation of the court's power and prerogative. In addition, court personnel doubted the ability of DPW to perform effectively its self-imposed task. Finally, numerous courts have refused to permit the plan to be implemented as intended. In some courts, referrals to DPW occur only when long-term placements or detention slots are needed or DPW assistance is sought when the probation officers, after long effort, cannot resolve the problem on their own.

Not all courts have been uncooperative. Some, overburdened by large caseloads and underfunded, welcome the DPW CHINS workers' assistance and the Department's funds. A few courts do not approve of the active role assigned to them in CHINS cases, and therefore, encourage DPW to assume the responsibility assigned to them. The success of DPW's program is dependent, however, on widespread judicial cooperation. Nevertheless, few courts have responded in the manner necessary to ensure the plan's successful implementation.

4. Who are the children who are considered by the courts to be "in need of services"?

Court jurisdiction over status offenses has often been justified by the assumption that juvenile noncriminal misbehavior is an indicator of a child's future criminal activity. State involvement is required, therefore, to provide the misbehaving youth with the services necessary

to prevent future criminal misconduct. The data derived from this study does not support this assumption. Relatively few of those detained as CHINS followed the progression typically envisioned for status offenders. In fact, in many of the instances in which a child alleged to be in need of services was also involved in delinquent acts, the delinquent activity occurred prior to his court involvement as a CHINS, not after.

Further, the CHINS law was enacted to provide status offenders with more appropriate services than they had been receiving from DYS. The DYS detention data reveals, however, that at the conclusion of their detention stays, the overwhelming majority of CHINS youth were returned home with no services. Although the Worcester court provided its CHINS clients with some services, intervention was still limited. Of the 259 youth who were initially brought into the court, allegedly in need of services, only 39% ultimately received services from the court. Even fewer (19%) received assistance from the Department of Public Welfare.

Finally, the data reveal systematic discrimination by the courts against female detainees as opposed to their male counterparts. Not only were CHINS girls detained for longer periods of time than were boys; they were also held on higher bail. Furthermore, girls who had been involved with the courts on numerous occasions as CHINS were held on higher bail and detained for longer periods of time than even boys who had been involved with the courts as delinquents.

5. Was the CHINS law able to effect the services status offenders received?

This study does not reveal that any significant change occurred in service provision with the passage of the CHINS law. Children brought before the court allegedly being "in need of services" were returned home without aid. Children placed in the custody of DPW often went for longer periods without receiving needed assistance; if placements were provided, in most cases, they were to the same facilities used by DYS. It is likely that if DYS had retained control of status offenders, they would have received the same care.

It is clear that many CHINS youth would be eligible to receive services from either DYS, DMH, the Department of Education or the Protective Services Unit of DPW. This is so because many CHINS youth exhibit symptoms of delinquency, mental illness, learning disabilities or deficiencies, or abuse and neglect. The CHINS law, however, is relied on in many cases as the easiest and cheapest way for the Commonwealth to fulfill its obligations to these children. Finally, many older adolescents are unable to receive needed assistance. They are too old to receive help under the CHINS program but they are also too young to receive appropriate assistance from other state programs.

#### B. Conclusions

The conclusion will focus on the four key points revealed on examination of the Massachusetts CHINS case. First, the Commonwealth has been unable to successfully fulfill the goals of the CHINS law. Second, complete implementation of the DPW plan has been impeded. DPW intended that it would assume major service responsibility for CHINS youth. This goal, however, conflicts with the major premise of the CHINS law; that is, that the courts are the primary provider of

services to CHINS youth. Third, maintenance of status offenders in the court system is not justified. The legislature has removed from the courts all of the power they once had to force status offenders to accept services. Courts, therefore, have become the equivalent of a state welfare agency. DPW is better equipped to serve that role than is the juvenile court. Further, CHINS youth are not predominantly pre-delinquent so there is less justification for judicial control of their noncriminal misbehavior. Finally, Massachusetts has failed to confront the ambiguity posed by status offenders in the juvenile justice system. The Department of Public Welfare has responded to one of the motivating purposes of the CHINS law and developed a service-oriented program whose goal is to replace the courts. The courts, on the other hand, have so far refused to relinquish their traditional control. This conflict, inherent in the CHINS law, prevents successful implementation of both the DPW plan and the CHINS law.

Judged by its own language, the CHINS law was intended to:

- 1) Prevent placement of truants & school offenders in training schools;
- 2) Provide better and more appropriate services;
- 3) Remove status offenders from locked settings;
- 4) Eliminate the stigmatization of youth by preventing status offenders from being labeled delinquent; and
- 5) Prevent the education in delinquency that occurs in many facilities where youngsters adjudicated delinquent are placed.

Massachusetts no longer operates training schools and status offenders are not placed in locked facilities. Nevertheless, it is doubtful that the three other goals have been achieved. Many status

offenders continue to be placed with delinquent youth in detention centers, group homes and foster homes. CHINS youth can still be arrested, like delinquents, held on bail and detained, like delinquents, and be removed from parental custody like delinquents. The law distinguishes status offenders from delinquents in only two significant ways: first, the Department of Public Welfare, rather than DYS, pays the bills and second, delinquents are in theory afforded more comprehensive constitutional and statutory protections than those available to CHINS youth.

Stigmatization is often linked to the inappropriate labeling of status offenders as delinquents. Stigmatization, if it occurs, need not result solely from being labeled delinquent. Stigmatization may also result from a child's intense involvement in a judicial process that might cause the child to be removed from his home as a result of his misconduct. Delinquents share this experience. If this is so, CHINS youth continue to be stigmatized despite the decriminalization of status offenses. Finally, the data indicate that the services CHINS youth need are still unavailable in many parts of the Commonwealth.

The status quo was altered little by the passage of the CHINS law. DYS continued to detain status offenders and the courts maintained control over the CHINS process. The CHINS law was not fully implemented upon passage in 1974. Status offenders were no longer placed in training schools, as these schools had already been closed prior to 1974. The Department of Public Welfare, however, did not become actively involved in the CHINS program; it received no funds

to provide long-term placements for status offenders and it refused to accept responsibility for CHINS detention.

The statute delegated to the courts extensive powers that allowed them to avoid the formal court proceedings required for delinquents and to provide services to status offenders. The data indicate that each court has applied the CHINS law as it has seen fit, some more extensively than others, depending upon its resources and its judge's philosophy.

In 1977 an attempt was made to remedy some of these problems, but there is evidence of only limited success. At that time DPW assumed detention responsibility for status offenders. The Department of Public Welfare added CHINS workers and created a new set of procedures, the DPW CHINS regulations. These procedures, rather than complementing the CHINS law, counter-acted it. Furthermore, the regulations were super-imposed on the court structure rather than being integrated into the system. Coordination between the courts and the Department of Public Welfare has been attempted, but the CHINS workers are trying to do the job assigned by law to the courts and to the probation officers. Implementation is therefore dependent upon the willingness of the courts to share their responsibilities with the Department of Public Welfare. This willingness, however, has been controlled by individual court philosophy and resources. Hence, the program's success has been neither uniform nor complete.

What seems most critical in assessing the Massachusetts CHINS case, then, is the role of the courts vis-a-vis children in need of services. Further, what justifications exist for the retention of

court jurisdiction over status offenses? Courts are unique among state agencies in the scope of their power to place sanctions on those who disobey the law. The Massachusetts legislature, however, has limited the court's power to forcefully control status offenders. The sole tool that the court has at its disposal to force a child to accept services is its moral suasion. If the child refuses to cooperate, the court, at most, can remove the child from his home and make him a ward of the state. If the court chooses to exercise the only coercive power available to it, it is forced to act in a manner contrary to one objective of the CHINS law; instead of helping to strengthen the family unit, it divides it. Courts are typically used by states to enforce laws. The CHINS law, however, significantly limits the powers of the court. Given this fact, a major justification for maintaining court jurisdiction over status offenders is eliminated.

Another justification for judicial intervention is the assumption that status offenders are pre-delinquents. If that is true, then a state may be justified in considering status offenses to be a criminal problem that must be handled by the state's judicial system.<sup>1</sup> The law makes little sense, however, if status offenders are not pre-delinquent. If status offenders are not pre-delinquent and the law's intent is based upon providing status offenders with needed services, then there are many more cost-efficient and equitable mechanisms that Massachusetts could employ to make those services available rather than reliance on a cumbersome judicial process. In fact, CHINS youth can obtain all the services available to them through the courts and the CHINS process directly from the providing agencies: DPW, DMH and the

Department of Education. There is no need to rely on the courts for services.

Clearly, status offenders have been distinguished from other groups of children in need and have been deliberately placed within the jurisdiction of the courts. Alfred Kahn has written that "services are provided through a 'diagnostic door,' not on the basis of need, but on a basis of the reason for the need."<sup>2</sup> The legislature has determined that status offenders are in need of services, but its reason for providing them with services is obscure. If it is because they are pre-delinquents and in need of rehabilitative and preventive services, the data does not support this rationale. Status offenders have not been shown to be predominantly pre-delinquent.

Many status offenders come from abused and neglected homes, but the legislature made special provision for status offenders. An effort was made to distinguish status offenders from the abused and neglected children. Services are made available to abused and neglected children as a guarantee that they will receive "the love, care, guidance and protection [a] child requires for healthy growth and development."<sup>3</sup> This is not "the basis of the reason for the [status offender's] need" for services. If it were, then there would be no need for a CHINS law.

The Department of Public Welfare has developed a program for status offenders whose purpose coincides with that advanced to provide services for abused and neglected children. Its regulations state:

The Department's primary objective in working with children in need of services and with their families is to strengthen and encourage family life while protecting the youth from physical or psychological harm. (emphasis added)<sup>4</sup>

The Department has relied upon the law's intention of minimizing the punitive nature of state intervention while maximizing the child's receipt of needed services. If that is the Commonwealth's justification for the CHINS process, it has been demonstrated that the courts need not be employed as service providers. Other state agencies are better equipped and trained to provide the same services; it is a waste of valuable resources to duplicate these efforts.

The Massachusetts law, however, is ambiguous. There is definite language in it to justify the Department of Public Welfare's actions and efforts. The legislature's avowed perception of status offenses as a social welfare problem implies acceptance of DPW's plan to "dejudicialize" as well as to "decriminalize" status offenses. Nevertheless, the legislature's continued reliance on the judicial process and the mechanisms used to identify and control delinquents to provide services to status offenders belies this notion. There is strong evidence that the Commonwealth wants to control misbehaving youth and to prevent future misbehavior or criminal activity, for the good of the child and of the state, through the provision of services. This rationale is apparent not only from the state's continued reliance on the court system and mechanisms used to identify and control delinquents. It is also apparent from the Commonwealth's decision to create a separate category of youth separate and distinct, not only from the delinquents, but from abused and neglected children, the mentally ill, the learning disabled and those in need of supplemental assistance from the state.

The statute's dual focus has prevented effective implementation of both the law and the DPW program. Although the espoused goal of the courts and the Department of Public Welfare is the same -- to provide the child with needed services -- they share neither a common philosophy nor a uniform process. Massachusetts has recognized that status offenders are neither criminals nor bad children. Rather, it has decided that their misbehavior indicates that they are children in need of assistance that the state should provide. Nevertheless, in 1973 it was unwilling to completely differentiate status offenders from delinquents. If it had been, then status offenders would have been completely removed from the judicial system.

Massachusetts' experience indicates, however, that a state cannot maintain judicial jurisdiction over status offenders and expect these children to receive effective assistance from the state social service agencies. The continued reliance on the courts to identify and control status offenders has impeded the elimination of stigma resulting from labeling status offenders as delinquents. Furthermore, the courts have been unable to aid status offenders effectively and CHINS youth have been unable to benefit from the DPW plan due to Massachusetts' insistence that status offenders remain in the courts. Until Massachusetts confronts this ambiguity the state will remain unsuccessful in its plan to assist these "children in need of services."

Chapter V: Footnotes

1. The author does not accept the assumption that a state is justified in coercively controlling an individual because he might, one day, commit a criminal act. Serious constitutional considerations must be confronted before such an act is permissible.

2. Alfred J. Kahn, Social Policy and Social Services (New York, 1973).

3. Massachusetts Social Services Policy Manual, "Protective Services for Children and Youth," Chapter II "Definition."

4. Massachusetts Social Services Policy Manual, "Children In Need of Services," 106 CMR, c. 230 § 230.15 "Statement of Policy Objectives."

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## Appendix A

Per Cent of CHINS Applications That Do Not Reach the Petition Stage

<u>Court</u>	<u>1975</u>	<u>1976</u>	<u>1977(January-April)</u>
Barnstable	61	75	58
Orleans	49	Unk.	Unk.
Berkshire Juvenile Dt.	42	(+27)	66
Bristol Juvenile Ct.	78	98	82
Lynn	Unk.	Unk.	Unk.
Salem	0	64	28
Lawrence	9	Unk.	0
Peabody	39	53	50
Essex	22	42	67
Greenfield	3	3	0
Orange	0	(+ 1)	100
Palmer	55	100	(+ 1)
Westfield	(+20)	38	75
Chicopee	0	Unk.	(+ 4)
Holyoke	(+16)	92	Unk.
Springfield Juvenile Ct.	(+113)	(+64)	(+40)
Northampton	64	35	75
Ware	0	100	Unk.
Malden	8	31	66
Waltham	3	8	63
Cambridge	50	53	Unk.
Woburn	Unk.	80	100
Concord	89	100	Unk.
Lowell	48	68	34
Newton	16	Unk.	Unk.
Somerville	70	42	(+ 3)
Middlesex Juvenile Dt.	63	68	62
Nantucket	Unk.	90	Unk.
Quincy	42	68	40
Dedham	100	100	100
Stoughton	88	95	90
Wrentham	73	68	63
Brookline	63	93	80
Hingham	60	(+ 2)	33
Plymouth	24	(+ 9)	(+ 1)
South Boston	95	66	100
Charlestown	40	62	Unk.
East Boston	(+ 5)	56	89
West Roxbury	0	Unk.	23
Dorchester	54	Unk.	Unk.
Brighton	(+ 5)	Unk.	Unk.

<u>Court</u>	<u>1975</u>	<u>1976</u>	<u>1977(January-April)</u>
Boston Juvenile Ct.	24	26	65
Gardner	84	79	42
South Worcester Juv. Dt.	50	26	60
North Worcester Juv. Dt.	55	55	59
Worcester Juvenile Ct.	(+23)	(+ 5)	(+18)
Provincetown	Unk.	0	Unk.
Chelsea	(+ 1)	40	0

(+"N") = number of petitions issued in excess number of applications.  
 Result of excess from "runaways" who have only petitions  
 issued without applications.

TABLE I

DYS Population by Type of Offense

	<u>Type of Offense</u>	<u>Male</u>		<u>Female</u>		<u>Total</u>	
		<u>N</u>	<u>%</u>	<u>N</u>	<u>%</u>	<u>N</u>	<u>%</u>
1968	Delinquent	640	87	34	20	674	74
	Status Offense	97	13	139	80	236	26
	Total	737	100	173	100	910	100
1973	Delinquent	646	91	75	38	721	79
	Status Offense	67	9	120	62	187	21
	Total	713	100	195	100	908	100

TABLE II

DYS Population by Region for Status Offenders

<u>1968</u>	<u>Status Offenders in DYS</u>			<u>Total Committed to DYS</u>			
	<u>Region</u>	<u>Males</u>	<u>Females</u>	<u>Total</u>	<u>Males</u>	<u>Females</u>	<u>Total</u>
	I	23(14)*	29( 76)**	52(25)***	166	38	204
	II	31(22)*	36( 92)**	67(37)***	143	39	182
	III	5( 7)*	20( 95)**	25(27)***	72	21	93
	IV	13(15)*	19( 76)**	32(28)***	88	25	113
	V	3( 9)*	1(100)**	4(12)***	32	1	33
	VI	13( 9)*	20( 65)**	33(19)***	147	31	178
	VII	9(10)*	14( 78)**	23(21)***	89	18	107
	Total	97(13)	139( 80)	236(26)	737	173	910

- ( )\*: % of status offender males to total males in that region  
 ( )\*\*: % of status offender females to total females in that region  
 ( )\*\*\*: % of status offenders to total DYS population in that region

<u>1973</u>	<u>Status Offenders in DYS</u>			<u>Total Committed to DYS</u>			
	<u>Region</u>	<u>Males</u>	<u>Females</u>	<u>Total</u>	<u>Males</u>	<u>Females</u>	<u>Total</u>
	I	14(11)*	16(67)**	30(20)***	125	24	149
	II	7(11)*	18(58)**	25(26)***	65	31	96
	III	13(10)*	23(79)**	36(23)***	126	29	155
	IV	21(14)*	29(63)**	50(25)***	152	46	198
	V	1( 3)*	7(50)**	8(17)***	34	14	48
	VI	9( 5)*	18(53)**	27(12)***	183	34	217
	VII	2( 7)*	9(53)**	11(24)***	28	17	45
	Total	67( 9)	120(62)	187(21)	713	195	908

TABLE III

DYS Status Offender Population by Offense

	<u>Offense</u>	<u>Males</u>		<u>Females</u>		<u>Total</u>	
		<u>N</u>	<u>%</u>	<u>N</u>	<u>%</u>	<u>N</u>	<u>%</u>
<u>1968</u>							
	Runaway	24	25	50	36	74	31
	Stubborn/Wayward Child	59	61	70	50	129	54
	Truant	13	13	15	11	28	12
	School Offender	<u>1</u>	<u>1</u>	<u>5</u>	<u>3</u>	<u>6</u>	<u>3</u>
	Total	97	100	140	100	237	100
<u>1973</u>							
	Runaway	25	37	66	54	91	48
	Stubborn/Wayward Child	27	40	39	32	66	35
	Truant	10	15	18	14	28	14
	School Offender	<u>5</u>	<u>8</u>	<u>0</u>	<u>0</u>	<u>5</u>	<u>3</u>
	Total	67	100	123	100	190	100

TABLE IV

DYS CHINS Detainees by Offense

<u>Offense</u>	<u>Males</u>		<u>Females</u>		<u>Total</u>	
	<u>N</u>	<u>%</u>	<u>N</u>	<u>%</u>	<u>N</u>	<u>%</u>
Runaway	22	51	66	78	88	69
Stubborn Child	14	33	11	13	25	20
Truant	4	9	4	5	8	6
School Offender	-	-	-	-	-	-
Run, Stubborn	2	5	2	2	4	3
Run, Truant	1	2	1	1	2	2
Truant, Stubborn	-	-	1	1	1	1
Total	43	100	85	100	128	101

TABLE V

Worcester Juvenile Court CHINS by Offense

<u>Offense</u>	<u>Males</u>		<u>Females</u>		<u>Total</u>	
	<u>N</u>	<u>%</u>	<u>N</u>	<u>%</u>	<u>N</u>	<u>%</u>
Runaway	54	47	99	74	153	61
Stubborn Child	44	38	25	19	69	28
Truant	18	15	10	7	28	11
School Offender	-	-	-	-	-	-
Total	116	100	134	100	250	100

TABLE VI A

Prior Court Contact by CHINS

	<u>DYS Detainees</u>		<u>Worcester Juvenile Court</u>	
	<u>N</u>	<u>%</u>	<u>N</u>	<u>%</u>
No Prior Contact	146	52	105	40
Prior Contact as				
CHINS	37	13	30	11
Delinquent	46	16	39	16
CHINS and Delinquent	5	2	31	12
Unknown	<u>2</u>	<u>1</u>	<u>-</u>	<u>-</u>
	90	32	100	39
Unknown	<u>45</u>	<u>16</u>	<u>54</u>	<u>21</u>
Total	281	100	259	100

TABLE VI B

Nature of Prior Court Contact

	<u>DYS Detainees</u>		<u>Worcester Juvenile Court</u>	
	<u>N</u>	<u>%</u>	<u>N</u>	<u>%</u>
CHINS	37	41	30	30
Delinquent	46	51	39	39
CHINS and Delinquent	5	6	31	31
DYS Referral	<u>2</u>	<u>2</u>	<u>-</u>	<u>-</u>
Total	90	100	100	100

TABLE VI C

Status Offenders Contact with the Juvenile Court  
as Delinquents

	<u>DYS Detainees</u>	
	<u>N</u>	<u>%</u>
No Delinquent Contact	223	79
Delinquent Contact	54	19
Unknown	<u>4</u>	<u>1</u>
Total	281	100

Nature of Delinquent Contact

DYS Detainees

	<u>Females</u>		<u>Males</u>	
	<u>N</u>	<u>%</u>	<u>N</u>	<u>%</u>
Only CHINS Contacts	153	85	61	66
CHINS Contacts <u>plus</u> One Delinquent Contact	21	12	22	24
CHINS Contacts <u>plus</u> Two Delinquent Contacts	6	3	6	7
CHINS Contacts <u>plus</u> Three Delinquent Contacts	<u>-</u>	<u>-</u>	<u>3</u>	<u>3</u>
Total	180	100	92	100
Number of CHINS Contacts Exceed Delinquent Contacts	160	89	66	72
Number of CHINS Contacts Equal Delinquent Contacts	16	9	20	22
Number of CHINS Contacts Less Than Delinquent Contacts	<u>4</u>	<u>2</u>	<u>6</u>	<u>6</u>
Total	180	100	92	100

Order of Delinquent Contact

	<u>DYS Detainees</u>	
	<u>N</u>	<u>% of Total Population</u>
Delinquent Act as First Contact with Courts	16	5.7
Delinquent Act as Second Contact with Courts	32	11.4
Delinquent Act as Third Contact with Courts	5	1.8
Delinquent Act as Fourth Contact with Courts	<u>1</u>	<u>.4</u>
Total	54	

TABLE VII

Disposition for Pivotal Period of DYS Detainees

<u>Disposition</u>	<u>DYS Detainees</u>	
	<u>N</u>	<u>%</u>
Returned Home	153	78
Committed to DPW	39	20
Committed to DYS	<u>5</u>	<u>2</u>
Total	197	100

TABLE VIII

Length of Females Detention Stay Dependent  
on Prior Court Contact (DYS)

<u>Days Detained</u>	<u>Nature of Prior Contact</u>							
	<u>CHINS</u>		<u>Delinquent</u>		<u>CHINS/Delinquent</u>		<u>None</u>	
	<u>N</u>	<u>%</u>	<u>N</u>	<u>%</u>	<u>N</u>	<u>%</u>	<u>N</u>	<u>%</u>
1-14	7	35	9	53	2	100	55	56
15-30	6	30	6	35	-	-	22	22
31-45	5	25	-	-	-	-	18	18
Over 45	<u>2</u>	<u>10</u>	<u>2</u>	<u>12</u>	<u>-</u>	<u>-</u>	<u>4</u>	<u>4</u>
Total	20	100	17	100	2	100	99	100

TABLE IX

Length of Males Detention Stay Dependent  
on Prior Court Contact (DYS)

<u>Days Detained</u>	<u>Nature of Prior Contact</u>							
	<u>CHINS</u>		<u>Delinquent</u>		<u>CHINS/Delinquent</u>		<u>None</u>	
	<u>N</u>	<u>%</u>	<u>N</u>	<u>%</u>	<u>N</u>	<u>%</u>	<u>N</u>	<u>%</u>
1-14	6	37	9	64.3	3	100	19	54
15-30	5	31	1	7.1	-	-	9	26
31-45	3	19	2	14.3	-	-	4	11
Over 45	<u>2</u>	<u>13</u>	<u>2</u>	<u>14.3</u>	<u>-</u>	<u>-</u>	<u>3</u>	<u>9</u>
Total	16	100	14	100.0	3	100	35	100

TABLE X  
Bail Amounts for Males by Prior Court Contact (DYS)

<u>Bail Amounts</u>	<u>Nature Prior Contact</u>		
	<u>CHINS</u> <u>N(%)</u>	<u>Delinquent</u> <u>N(%)</u>	<u>No Prior Contact</u> <u>N(%)</u>
\$1-50	-	1( 12.5)	1( 7)
\$51-100	3( 30)	4( 50)	3( 30)
\$101-150	4( 40)	-	-
\$151-200	-	2( 25)	4( 27)
\$201-250	2( 20)	-	-
\$251-500	-	1( 12.5)	4( 27)
\$501-750	1( 10)	-	-
\$751-1000	-	-	2( 13)
\$1001-2500	-	-	1( 7)
Over \$2500	-	-	-
<b>Total</b>	<b>10(100)</b>	<b>8(100)</b>	<b>15(100)</b>

Bail Amounts for Females by Prior Court Contact (DYS)

<u>Bail Amounts</u>	<u>Nature Prior Contact</u>		
	<u>CHINS</u> <u>N(%)</u>	<u>Delinquent</u> <u>N(%)</u>	<u>No Prior Contact</u> <u>N(%)</u>
\$1-50	-	2( 7)	3( 4.5)
\$51-100	2( 15)	6( 21)	17( 25.4)
\$101-150	-	-	-
\$151-200	1( 8)	2( 7)	6( 9)
\$201-250	-	-	-
\$251-500	3( 23)	9( 32)	15( 22.4)
\$501-750	-	-	1( 1.5)
\$751-1000	6( 46)	6( 21)	20( 29.8)
\$1001-2500	1( 8)	3( 11)	1( 1.5)
Over \$2500	-	-	4( 6)
<b>Total</b>	<b>13(100)</b>	<b>28( 99)</b>	<b>67(100.1)</b>

TABLE XI

Bail Amounts for Males by Dispositions (DYS)

<u>Disposition</u>	<u>Bail Amounts</u>				<u>Row Total</u>
	<u>\$1-200</u>	<u>\$1-500</u>	<u>\$500-1000</u>	<u>Over \$1000</u>	
	<u>N(%)</u>	<u>N(%)</u>	<u>N(%)</u>	<u>N(%)</u>	
Returned Home	27(87)	21(100)	-	-	31
Committed to DPW	4(31)	11(85)	2(15)	-	13
Committed to DYS	-	2(50)	-	2(50)	4
Continued without a Finding	1(17)	5(83)	1(17)	-	6
Pending	1(25)	2(50)	2(50)	-	4
Referred to DYS	-	-	1(100)	-	1
Sent to Hospital	1(100)	1(100)	-	-	1
<b>Total</b>	<b>34(57)</b>	<b>52(87)</b>	<b>6(10)</b>	<b>2(3)</b>	<b>60</b>

(%) = row percentages

Bail Amounts for Females by Disposition (DYS)

<u>Disposition</u>	<u>Bail Amounts</u>				<u>Row Total</u>
	<u>\$1-200</u>	<u>\$1-500</u>	<u>\$500-1000</u>	<u>Over \$1000</u>	
	<u>N(%)</u>	<u>N(%)</u>	<u>N(%)</u>	<u>N(%)</u>	
Returned Home	33(46)	47(65)	22(29)	4(6)	73
Committed to DPW	8(35)	17(74)	4(17)	2(9)	23
Voluntary Custody to DPW	3(43)	4(57)	2(29)	1(14)	7
Committed to DYS	1(25)	2(50)	-	2(50)	4
Referred to DYS	1(100)	-	-	-	1
Run - Release	3(33)	5(56)	4(44)	-	9
Group Home Referral	5(83)	5(83)	1(17)	-	6
Pending	6(31)	13(65)	5(25)	2(10)	20
Petition Withdrawn	-	2(100)	-	-	2
Dismissed	1(100)	-	-	-	1
Relative's Custody	-	-	1(100)	-	1
DMH Outpatient	-	-	1(100)	-	1
Default	-	-	1(100)	-	1
Foster Home	-	-	1(100)	-	1
<b>Total</b>	<b>61(40)</b>	<b>98(65)</b>	<b>43(28)</b>	<b>11(7)</b>	<b>151</b>

(%) = row percentages