

DIVERSION STRATEGIES IN JUVENILE JUSTICE:
THE COURT LIAISON PROGRAM

by

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An analysis of a new diversion strategy in juvenile justice: The Court Liaison Program (CLP). The CLP is the court-based component of the Massachusetts Department of Youth Services (DYS) policy of de-institutionalization of juvenile corrections. The program seeks to divert youths from the courts into community-based correctional and service programs.

This thesis is a case study of the CLP's activities in a juvenile session of a district court. This research shows how the program was diverted from its original goals of diverting youths likely to be committed to DYS. Instead the CLP by being the only court-based service referral agent was forced to pick up cases from probation and other agencies. The court's concern for community protection resulted in the binding over of hard core youth to Superior Court for trial as adults. This was due to the perceived inability of DYS to provide secure settings for youths who had previously been committed to its care.

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INTRODUCTION

The Presidential Task Force on Youth Crime, numerous studies by the Office of Children, HEW, and other researchers have recommended that youth be diverted from the juvenile justice system and into community-based correctional and service programs. These studies further suggest basic changes, if not elimination, of large custodial juvenile institutions.

In the early 1970's the Massachusetts Department of Youth Services closed down the last of the large institutions in the Commonwealth. In the place of these institutions the Department of Youth Services (DYS) instituted a system of regionalized community-based programs:

"National attention has focused on the Massachusetts transition back into communities. Attica called attention to the scandalous conditions which can develop behind walls, out of society's sight. The return rate among young offenders and their frequent graduation into maximum security adult prisons illuminated the fact that juvenile 'corrections' were not correcting. The concentration of low income background inmates fostered the realization that some alternatives to incarceration are not readily available to the poor. Legal reform groups have illustrated the shocking inequality of juvenile and adult law- for what man or woman is imprisoned for 'stubbornness'? Further-

more the precepts upon which the custodial mode was based- the discipline focused theory which held that kids are irresponsible, not to be trusted, and unable to make the decisions which control their lives- have been challenged by the growing success rate in concept houses, " group homes and small treatment units.

(DYS Comprehensive Plan 1972)

This new DYS strategy of deinstitutionalization and diversion was embodied in the Court Liaison Program. This program placed Department of Youth Services Court Liaison Officers (CLO) in the district courts of Massachusetts to divert potential DYS wards into the new community programs.

This thesis is a case study of the Court Liaison Program in a single juvenile court. It analyzes how the program worked, who it served, and how it interacted with the rest of the juvenile justice system. It attempts to analyze the community-based strategy of diversion in light of existing diversion strategies, institutional structures and juvenile laws.

CHAPTER 1 THE CONCEPT OF DIVERSION

The Presidential Task Force on the Courts¹ noted that in the criminal courts most cases are disposed of outside the traditional trial process, either by a decision not to charge a suspect with a criminal offense or by a plea of guilty. Between one-third and one-half of the cases begun by arrest are disposed of by some form of dismissal by the police, prosecutor or judge.² One reason for the diversion of many cases from trial is that a large proportion of the cases involve offensive or annoying behavior rather than dangerous crimes. Almost half of all arrests are on charges of drunkenness, disorderly conduct, minor assault, petty theft or vagrancy.³ Many such offenders are burdened by economic, physical, mental and educational disadvantages which are contributory to their actions.

The criminal justice system faced with large backlogs in the courts presently diverts cases from the judicial sanctioning process. The diversion of persons from the criminal justice system has long been practiced in the United States, largely because the system allows, in fact, requires, considerable discretion on the part of the police, with regards to decisions to arrest or dismiss and court referral or informal processing, and on the part of the prosecutor or intake worker, with regard to official or unofficial processing. Diversion from the justice system may occur at any stage of judicial processing, but concern over the tremendous burden placed on the courts and the injustices

associated with the inability of the courts to handle the volume of cases, compounded by evidence that criminal processing often does more harm than good, has resulted in a focus on diversion of certain groups of offenders before court processing.⁴

Whether the goal of diversion is to unclog the courts or to protect a certain group from adjudication, almost all diversion programs keep the accused from the formal application of the judicial sanction. All programs use some objective or subjective criteria to decide who is to be diverted. All diversion requires the cooperation of the person to be diverted and the cooperation of a component of the justice system.

Many diversion programs have been applied to the juvenile justice system. There are two reasons for this trend: (1) juveniles are not viewed in general as hardened criminals, but rather as children with problems (2) the crimes of youths are seen as manifestations of the problems of growing-up and therefore a high "rehabilitation potential" should exist in the juvenile group. There is also a historical justification for not treating juveniles as criminals. The first juvenile court law was enacted in Illinois in 1899. It established a separate noncriminal procedure for children who violated the criminal law or who had been brought to the attention of the court as neglected, homeless or otherwise disreputable.⁵

The effort to divert youth from the juvenile justice system is to a great extent the result of the perceived failure of the juvenile court as an institution. Lemert summarizes

this failure of the juvenile court:

"...it undertakes ambitious tasks without available means and it fails to apply the means at hand to clearly defined ends.

Moreover the juvenile court aggravates many problems it tries to ameliorate and, in an undetermined number of cases it furthers delinquent careers." ⁶

Lemert asks whether many of the problems now considered as delinquency or preludes to delinquency should not be defined as family, educational, or welfare problems, and diverted away from the juvenile court into other community agencies. ⁷

Four basic models for the diversion of juveniles from adjudication have been articulated most often by policy makers:

- (1) The School Model
- (2) The Welfare Model
- (3) The Law Enforcement Model
- (4) The Community Organization Model

These are all pre-court diversion models which follow the recommendations of the Presidents Commission on Law and the Administration of Justice to make the juvenile court a court of law by diverting all non-serious cases from the court.

THE SCHOOL MODEL

The school model of diversion recognizes the role of the schools in the socialization process. Much of what is known about American schools indicates that there is an

ubiquitous concern with moral aspects of student behavior which makes for invidious distinctions conducive to deviance.⁸ The emphasis on education and the type of training received by teachers tend to produce a low level of tolerance for deviance in schools. The typical school model of diversion attempts to deal with truancy and juvenile delinquency, to prevent their occurrence, and to work through re-adjustment of children's problem thus making it unnecessary to invoke the law.

The Bureau of Special Services in Jersey City, New Jersey was an example of such a model. Between the first and second years (1937-1938) the Bureau experienced an increase of 100% in the number of cases handled. Thereafter the totals declined due to growing resistance by citizens and some police to the methods used by the Bureau. Among persons in the community favoring punitive measures there grew a feeling⁹ that it was futile to refer children to the Bureau.

THE WELFARE MODEL

Lemert characterizes the welfare model as an administrative agency, public in nature. While it has responsibility to a national or state department of social welfare it is primarily local. Its work is carried out through a board or a council, whose members may be elected or appointed, in such a way that they will represent groups or interests within the community. The council has full authority to make decisions about the dispositions of cases coming before it, and its members themselves may undertake to provide services. In

more developed forms a professional staff conducts investigations for the council and takes cases under supervision.¹⁰ This model has been used extensively in several European countries and has seen a few limited applications in the United States. Its limited use in America is due to the reluctance of some American welfare agencies to accept as clients children and youth who have been or are under the jurisdiction of the juvenile court.¹¹

THE COMMUNITY ORGANIZATION MODEL

This model holds that delinquency can be prevented by programs directed at the causes of delinquency in the social structure. A cause and effect relationship is assumed between poverty, disease, poor housing malnutrition unemployment, family breakdown and discrimination on the one hand and crime on the other. The Community Model seeks to create new organizations within the community to deal comprehensively with the social causes of crime.

The New York City Mobilization For Youth (MFY) is an example of the community approach. Its original charter was to combat juvenile delinquency and provide opportunities on the Lower East Side of New York City. Beginning as an enterprise to coordinate social services, the evolving strategy of MFY became one of institutional change. The resulting political ramifications of trying to change local institutions resulted in a diversion of MFY from its original charter goals.¹²

THE LAW ENFORCEMENT MODEL

The law enforcement model of diversion attempts to formal-

ize the existing discretionary power of the police to arrest or not arrest offenders. The most common differentiation of police organization for this purpose is in the form of juvenile bureaus or fixed assignments of juvenile police officers. Characteristic methods of exercising police discretion in handling juveniles are screening, counseling, surveillance and referrals. The popularity of police diversion waxed then waned to the extent that many leaders in the police field reject the conception completely.¹³ This clearly was the position of the former police chief of Los Angeles who said that he did not believe that prevention of crime was a proper police function.¹⁴

THE COURT LIAISON PROGRAM: A NEW DIVERSION STRATEGY

The failure of the correctional system to rehabilitate in traditional institutions of incarceration has prompted calls for community-based corrections and the deinstitutionalization of corrections. The Massachusetts Department of Youth Services (DYS) has established a Court Liaison Program (CLP) in order to improve the coordination between the district court judges and probation staff and the Department's seven regional offices so that appropriate placement alternatives for court-acquainted youth can be speedily developed and implemented. In the words of the DYS program description:

"The program is staffed by Court Liaison Officers, who are or will be assigned to all district courts and who will be the principal DYS representatives in the courts. They will work under the Regional Director

or his "case coordinator", on a team basis, with court probation officers, regional office parole agents and placement specialists. The emphasis of the program will be to: (1) speed up the development and implementation of placement alternatives so that pre-placement waiting time in detention and reception facilities is minimized; (2) increase the suitability of placements so that rate of successful completions will increase and that of runs and other unseccessful terminations will decline; (3) wherever possible and desireable, refer to the Department juveniles who otherwise would have been committed thereto." 15

"In addition, the CLO (Court Liaison Officer) should alert the Probation Officer to cases of juveniles detained in DYS facilities but not likely to be referred, committed or recommitted to DYS and should put the Probation Officer in contact with the appropriate Regional Placement Supervisor who will assist the Probation Officer in finding a suitable placement." 16

The Court Liaison Program is a post-court diversion strategy which attempts to eliminate the incarceration of youths.

The limited successes of existing diversion models suggest indices for the evaluation of the new Court Liaison Strategy. The Schbol Model's caseload decreased due to the perceived futility of referring youth to it. The Welfare

Model could not utilize private social service agencies. The Community Organization Model has had limited success in its attempts at institutional changes. The Law Enforcement Model lost the support of the police.

These failure of existing diversion strategies suggest further analysis of diversion strategies in general and the Court Liaison Program in particular.

FOOTNOTES

1. Task Force Report: The Courts, President's Commission on Law Enforcement and the Administration of Justice, 1967, Washington, D.C.
2. Ibid, pp 1-3
3. Ibid
4. Lemert, Edwin M., Instead of Court: Diversion in Juvenile Crime and Delinquency Issues, National Institute of Mental Health, Public Health Service Publication #2127, 1971
5. Illinois Juvenile Court Act, Illinois Laws 1899 as quoted in The Juvenile Court: A Status Report, NIMH #2132, p 1.
6. Lemert, op. cit. p.15
7. Ibid
8. Ibid p.23
9. Robison, Sophia, Juvenile Delinquency, N.Y. Holt, Rinehart and Winston, Inc, 1960 pp20-30
10. Lemert op. cit. p.35
11. Ibid Chapter 3
12. Piven, Frances, The Demonstration project: A Federal strategy for local change, in Community Action Against Poverty, Brager and Purcell, New Haven, College and University Press, 1967, Chapter 5.
13. O'Connor and Watson, Juvenile Delinquency and Youth Crime: the Police Role, Int'l Assoc. of Chiefs of Police, 1964 p 42
14. Wilson, O.W., ed, Parker on Police, Springfield, Ill. 1957 p 12
15. Department of Youth Services memo, June 1972

CHAPTER 2: RESEARCH ISSUES AND METHODOLOGY

A number of interesting questions arise about the new diversion model embodied in the Court Liaison Strategy.

(1) Who was served by the program? The initial program description deals with youth likely to be committed to the Department of Youth Services. However, other groups are also mentioned: juveniles detained in DYS facilities and youth who have not been convicted of a number of prior offenses and who have not exhausted the existing court resources. Which group of youths are serviced by the program? Why do these groups receive services?

(2) Into what programs were juveniles referred? What sort of viable referral alternatives were developed? To what extent were existing programs utilized? What service delivery problems arose in the referral process?

(3) How did the Court Liaison Program work? What relationships developed between the court and the Court Liaison Officers? How did these relationships help or hinder the programs goals?

(4) What have been the effects of the Court Liaison Program on the juvenile justice system? What have been the institutional responses to the Court Liaison Strategy?

Finally what do all these answers imply about the viability of the Court Liaison Diversion Strategy?

METHODOLOGY

The methodologies of statistical analysis of probation records, participant-observation of the Court Liaison Program, and interviews of actors in a juvenile court, were used to study the Court Liaison Strategy. During the summer of 1972, the juvenile session of a district court in which the Court Liaison Program was implemented, was studied. The author participated in the court process as an assistant Court Liaison Officer during the first three months of the program. During this period informal interviews were conducted with actors in the court (judge, probation officers, attorneys and defendants), Department of Youth Services planning and placement directors, and with service program directors.

Statistical data on a case-by-case basis was collected from probation files on all defendants before the court during the first three months of the program. (n=191) This data included information on the socio-economic characteristics of the defendants: current and past offenses, dispositions, sentences, findings, and services delivered. The data was analyzed through standard statistical research techniques including correlations, crosstabulations and frequency distributions. The summer caseload characteristics were compared with the yearly caseload characteristics to establish the reliability of data collected since the statistical significance tests were weak for some variables. The yearly caseload was compared with statistics from state

and national surveys to determine if any peculiarities existed in the court studied.

Follow-up interviews with all court personnel were conducted six months after the initial study to determine the time dependent aspects of the program. Records of youths served by the program during the initial study period were checked to determine the histories of the services provided. Finally newspaper articles were investigated to gain perspective on the public reactions to the program.

THE COURT

The court studied is a State district court in a large city. The court is organizationally under the jurisdiction of a Chief Judge of the District Courts, who is the administrator of the 78 district courts of the State. In its operations the court is predominately local in nature. For example, the costs of the court's operation are paid by the county; the court receives most of its cases from the city police; probation officers are responsible for an area of the city.

The court is located in a working class area of the city which is undergoing changes in population composition as the neighboring ghetto area population migrates. The court's caseload is one of the largest in the State and has an approximate racial distribution of 50% white and 50% non-white. The changing racial balance has resulted in community concern for safety and citizen group visits to the court.¹ The court's concern with its visibility in the community is

exemplified by the court personnel's reluctance to talk with non-court personnel, due to a number of unfavorable newspaper articles about the court and alleged improprieties by one of the judges.

The court hears both adult and juvenile cases in separate sessions. By state law the juvenile session is closed to the public at large. Indigent defendants are represented in both adult and juvenile sessions by public defender attorneys. Interviews with these attorneys indicate that the role of the defense attorney is limited in the juvenile session due to the vagueness of juvenile court laws with regards to such issues as: admissibility of evidence and procedural rules, the unpredictability of juveniles as witnesses, and the strength of the probation officer's recommendation in disposition decisions.²

PROBATION

The court has separate adult and juvenile probation departments under the supervision of one chief probation officer. In the juvenile probation department separate offices exist for boys and girls. There are on the average ten to twelve probation officers ranging in age from 23 to 50 years old. There are two girls probation officers. Each probation officer has between 120 and 200 cases which are assigned alphabetically by the defendant's last name. The probation department is organizationally under the jurisdiction of a Chief Probation Officer of the state who has little real power.

The duties of the probation officer include the intake,

evaluation, and supervision of juveniles. The probation officer conducts interviews with all juveniles for whom formal complaints are filed. Based upon this interview and a follow-up investigation, the probation officer makes recommendations to the judge on the disposition of the case after a finding is made. The probation officer supervises the conduct of those youths which are put on probation. Once on probation the youth is required to meet certain standards of behavior set by the probation officer. These standards include limitations on hours, acquaintances and truancy.

THE JUDGE

The court had four white judges during the initial study phase, one of whom has since retired when a mandatory retirement age of 70 years old was enacted. The two regular judges are males in their 40's and 50's. The two special judges are females and slightly older. Two of the judges, one male and one female, sit regularly in juvenile session which is held in the judges' lobby. Judges are appointed for life by the Governor subject to the approval of an elected Governor's Council.

The judge has the power to dismiss, file, or find a case delinquent or not-delinquent. In cases where the juvenile is between 14 and 17 years old, the judge may bind the defendant over to Superior Court for trial as an adult if the charge is serious enough to warrant such an action.³ Because the judge is empowered to inquire into the motives

of the alleged behavior of the juvenile, the judge often questions the defendant directly. The judge has a great amount of discretion in his actions because juvenile court law is primarily procedural and not substantive, it merely describes how persons of certain ages are to be processed if they act illegally or if they are victims of others' illegality.

COURT CLINICS AND SERVICE AGENCIES

Unlike many courts, there is no juvenile court clinic in the court studied. The judge does have the power to commit youths for clinical evaluations by DYS and/or the Department of Mental Health. In addition, the court sends some cases to the Municipal Juvenile Court Clinic for evaluation or treatment.

The court has jurisdiction over the care and protection of juveniles who are neglected or wayward. Foster home agencies, private child welfare agencies and the Department of Public Welfare petition the court for the purpose of obtaining legal control over juvenile clients. The court's contacts with these agencies are few in number due to the small number of community service agencies in the area and the high caseload of the court.

THE COURT PROCESS

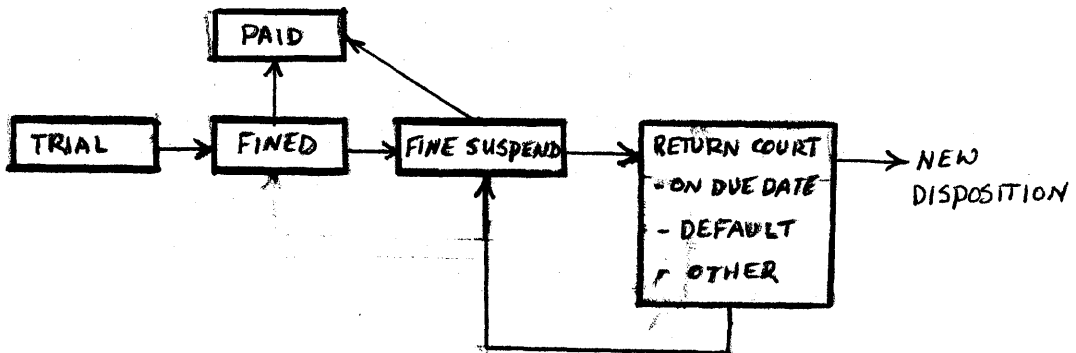
The court processes complaints against youths. Three classes of complaints are brought before the court: complaints of alleged delinquent acts, complaints of alleged violation of juvenile law (truancy, minors in possession of alcohol etc.), and complaints against parents or guardians for mistreatment of juveniles.

Complaints are brought to the court by the police, by agencies, or by individuals. Each complainant has a set of criteria which determine who is selected for judicial processing.⁴ For example, police officers often told probation officers that they arrested youths to "keep him in line". Thus the police may use the court to achieve their goal of keeping the peace.⁵

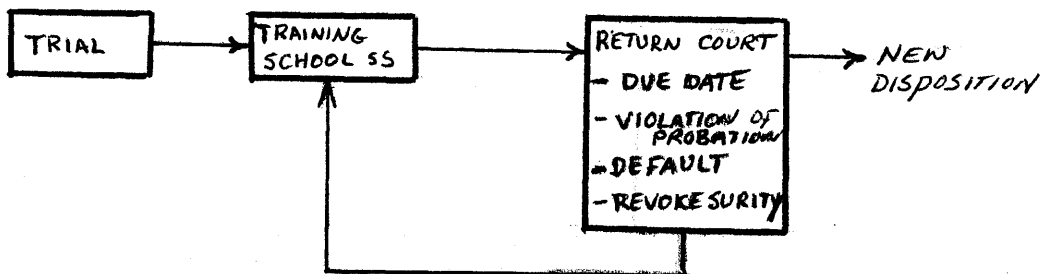
Once a complaint is issued, the court begins judicial processing. (see diagrams on following pages) After arrest a decision has to be made on the detention status of the youth. The probation officer takes into account such data as the prior record of the youth and the home situation, must decide whether the youth should have bail set, or whether the youth should be detained at a DYS approved facility.

As soon as possible after arrest, the youth is brought before the court for arraignment. At this hearing, the judge notifies the youth of the charges against him. Based on the information assembled by the probation officer at an interview with the youth and parents, the judge may continue the case, dismiss it for want of prosecution, or order the case

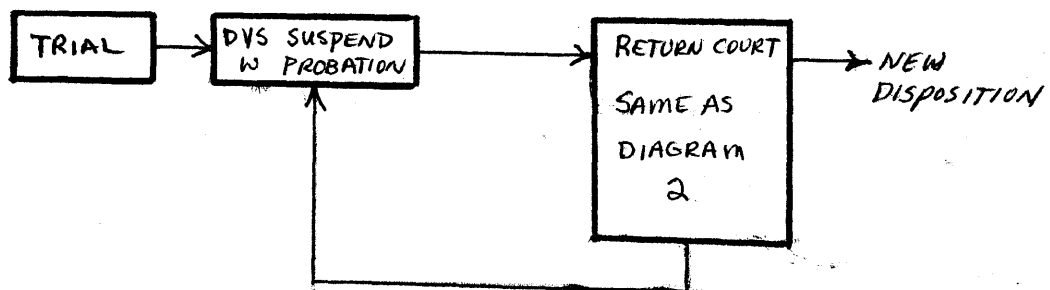
**DIAGRAM 1
FINE**



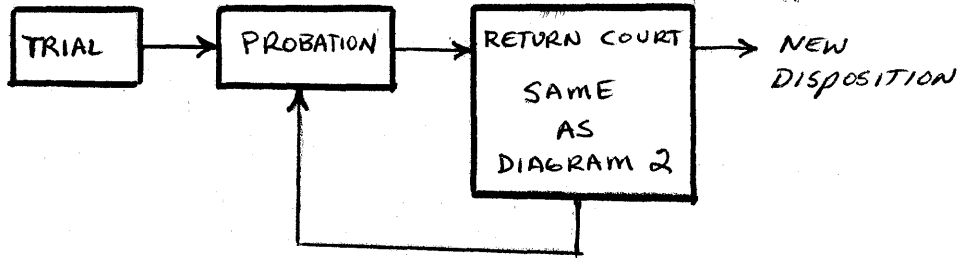
**DIAGRAM 2
TRAINING SCHOOL SUSPENDED
SENTENCE W/PROBATION**



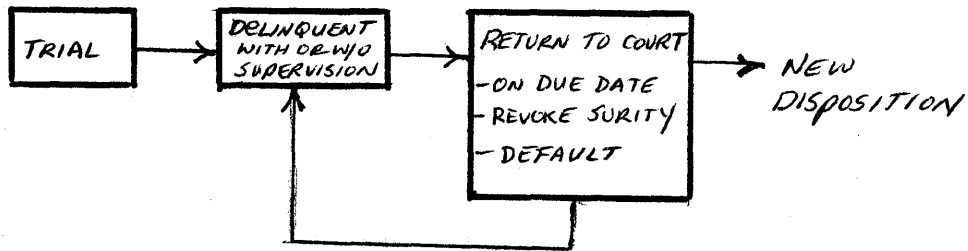
**DIAGRAM 3
DYS SUSPENDED SENTENCE
WITH PROBATION**



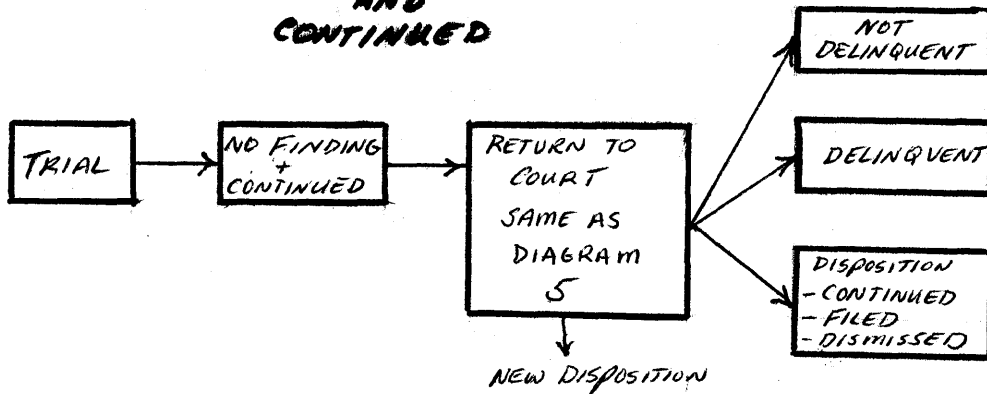
**DIAGRAM 4
PROBATION**



**DIAGRAM 5
FINDING OF DELINQUENT
AND
CONTINUED**



**DIAGRAM 6
NO FINDING
AND
CONTINUED**



to trial (which usually is held forthwith).

At the trial the judge has four finding options. The juvenile complaint may be dismissed and the youth bound over for trial as an adult. The youth may be found not delinquent. The juvenile may be found delinquent or no finding may be recorded. Appeals from the finding may be taken to Superior Court.

From the finding of delinquent or from a ruling of no finding, the judge determines the disposition of the case. (see diagrams) At his disposal is a spectrum of dispositional alternatives. For example, a case could be continued without supervision or with supervision for periods as little as one month or as long as a year. The type of disposition chosen is dependent upon such factors as the youth's age, family situation, motivations, programs available, and the recommendations of the probation officer. The interactions among these and other factors in the determination of the disposition is a complex process. The analysis of this process while important to understanding diversion, is not within the scope of this research. Suffice it to say that these interactions have implications for diversion strategies at the disposition stage and should be the focus of future research.

Once the court decides upon a disposition other than dismissal, it makes a commitment to review the case at a future date. The diagrams on the following page are examples of this commitment after disposition. For example, for disposi-

tions involving probation, cases return to court for four reasons: the date of probation expires, the youth violates the terms of probation, the case defaults, or surety is revoked. Also the case will return to court if a new disposition is found, i.e. the Court Liaison Program locates a program for a youth on probation.

A case may cycle through the court many times at the disposition stage. This was observed most often in cases which required a service to be provided. According to one probation officer this process occurs because "many agencies are picky about the kids they receive".

FOOTNOTES

1. In fact the court has been the target of radical groups, white working-class parents etc.
2. See: Platt and Friedman: The Limits of Advocacy-Occupational Hazards in the Juvenile Court, U. of Penn L.R., 1968.
3. Mass. Gen Laws. Ch. 119
4. See: Emerson, R, Judging Delinquents: Process and Context in Juvenile Court.
5. See: Bittner, The Police on Skid Row: A Study of Peace-keeping, American Sociological Review, 32(5) 699-715, 1967

CHAPTER 3: THE COURT LIAISON PROGRAM

The Department of Youth Services appeared in the juvenile court in 1972 as a new social service agency with money to spend, a fact which was to be extremely important for the Court Liaison Program and the Department's other efforts to serve youth.

It became obvious to DYS that the "cooperation" of the juvenile court was needed in order for the Department to succeed in its community-based correctional strategy. There are two reasons why DYS sought court cooperation: the court had legal powers which could influence the DYS goals, the court was the source of the Department's intake. Control of the intake process was seen as critical to the Department's plans to close the large juvenile institutions.

Prior to the DYS decision to deinstitutionalize, virtually the only contact between the court and the Department was the parole officer. Even then the parole officer appeared in court only if a DYS ward acted-up or if the youth required some other punitive court action. Under the new DYS policy the Court Liaison Officer was to remedy this past history of institutional isolation between the court and DYS. The CLO was to establish contact with the court in order to clarify the Department's new diversion policy to the court and to act as a referral agent for youths likely to be committed.

In the spring of 1972, DYS placed Court Liaison Officers in the eight high priority courts, i.e. those with the largest caseloads. At the same time that the Court Liaison Program

was starting, DYS began regionalizing its administrative offices in order to work closer to the courts and the community. The goals of the Court Liaison Program were not well understood by the new regional directors who were busy setting up their offices.

In the court studied, which was one of the eight original courts served by the CLP, the Commissioner of DYS and the coordinators of the Court Liaison Program, met with the presiding judge of the juvenile session and the probation staff to explain the new program. The purpose of this meeting was to impress upon the court that the CLP was a serious policy commitment on the part of DYS. The meeting concentrated on general discussions of the DYS philosophy relating to juveniles and their problems. Little of substance was resolved between the Department of Youth Services and the court.

The probation department reacted sharply to the DYS philosophy. They aired many grievances about other DYS programs and policies and in particular about the DYS co-educational group homes which were established after deinstitutionalization. Probation officers complained vigorously about the lack of security at DYS detention facilities. The Commissioner admitted that DYS was having problems, but insisted that adequate measures were being taken to correct them.

Following the initial meeting, a second meeting was scheduled with the judge, probation heads, and the new Court Liaison Officers. Once again probation expressed concern over the Department's policies and its ability to carry out

its goals. The judge asked DYS to be more efficient in its administrative work. (DYS had and continues to have problems in administration. Late payment has forced some DYS sponsored programs to seek bank loans to meet payrolls.) The DYS coordinators acquiesced to improvement in paperwork on individual cases. The judge then agreed to have DYS and the CLO in the court and courtroom on a case-by-case basis, but stressed that his decision would in no way obligate the court to DYS programs and policies and that the court would commit youths which it deemed necessary to commit. The judge further stated that although DYS would be providing needed services to the court's effort to help youths, it was the court, not DYS, which had the ultimate legal authority over Court Liaison Program youth.

Probation officers were generally leery of the program to which the judge had consented. They were especially concerned with DYS's method of presentation to the court which seemed to create many problems. According to probation officers the CLO left the impression that the referred youths would be the sole responsibility of DYS. The CLO also suggested to probation officers that they use coercive methods to ensure that juveniles would go into voluntary programs. For example, it was suggested that the probation officer ask for suspended sentences if troublesome youths went into DYS programs. If the youth acted-up, then the court could revoke the suspended sentence and commit the juvenile to the Department of Youth Services. This suggestion seems to be the CLO's response

to the court's concern over the question of legal responsibility for referred youth.

The problem of voluntary referrals plagued the court and the DYS. The referred youth was to sign a voluntary referral form before being admitted to a DYS program. The judge and the probation head often expressed doubts over the legality of the referral form. The Department was forced to obtain an advisory opinion of the Attorney General's office which affirmed the legality of the voluntary referral.¹ The advisory opinion pointed out that the court was still legally responsible for the youth both before and after the youth was referred. If the juvenile ran from the referral, the court, and not DYS, had the power to apprehend the youth.

DYS saw the voluntary referral process as a means of involving the court more actively in DYS deinstitutional and diversion strategies. By providing the court with additional resources DYS sought to co-opt the court into accepting the social service approach to delinquency problems through continued court involvement in the social service referral process.²

That the Court Liaison Program had difficulties establishing itself in the court was an indication of the institutional forces existing in the juvenile justice system. As the program became integrated into the juvenile justice system, it further experienced institutional forces in the selection of its client group.

THE CLIENT GROUP

What are the characteristics of those juveniles referred by the Court Liaison Program. Examination of statistical data from probation files yield information about these youths and the criteria used to select them. Of the total caseload for the three months of the study, approximately 10% were served directly by the Court Liaison Program. These were the referrals for which DYS directly paid. (The Court Liaison Program also provided indirect assistance to the probation department.)

SEX	Total Sample	Court Liaison	Others
Male	79.1%	70.0%	80.1%
Female	20.9%	30.0%	19.9%

The Court Liaison Program provided services to a higher than average percentage of girls due in part to the need of DYS to cooperate with girls probation officers who were highly critical of the program at the onset. Also evident is DYS's attempt to overcome the lack of services, especially, foster care, for girls prior to Court Liaison.

RACE	Total Sample	Court Liaison	Others
White	45.7%	41.2%	46.2%
Black	50.6%	58.8%	49.7%
Other	3.7%	-	4.1%

INCOME	Total Sample	Court Liaison	Others
Welfare	51.3%	68.4%	51.0%
Not Availab	39.0%	28.6%	40.5%
\$0-7000	32.0%	57.1%	29.7%
over \$7000	29.0%	14.3%	29.8%

A greater than average percentage of black and low income and welfare recipients were referred by the Court Liaison Program. These data are consistent with data on DYS institutional wards prior to the Court Liaison Program.³ These facts when taken alone tend to support the proposition that the CLP served the group it was intended to serve: potential wards of the Department of Youth Services.

However the following data suggests a bimodal distribution of the Court Liaison program client population.

PRESENT AGE	Total Sample	Court Liaison	Others
Under 13	20.7%	25.0%	19.9%
13-21	79.3%	75.0%	80.1%
AGE AT FIRST OFFENSE			
Under 13	41.4%	45.8%	40.9%
13-21	58.6%	55.0%	59.1%
YEARS SINCE FIRST OFFENSE			
Same	42.6%	40.0%	42.7%
1 Year	28.2%	25.0%	29.2%
2 Years	12.2%	10.0%	12.3%
3 Years +	14.4%	20.0%	14.8%

While the Court Liaison Program referred more younger offenders it also handled a higher percentage of youth who were acquainted with the court for over three years. Thus the program assisted two groups of juveniles, the new offender and the court acquainted.

NUMBER OF PRIOR OFFENSES

	Total Sample	Court Liaison	Others
0	56.5%	55.0%	57.3%
1	11.0%	15.0%	10.5%
2	6.8%	5.0%	7.0%
3	4.7%	5.0%	4.7%
4 +	18.8%	20.0%	18.2%

NUMBER OF PRIOR DELINQUENCY FINDINGS

0	80.6%	90.0%	79.5%
1 to 2	12.6%	5.0%	13.5%
over 3	6.8%	5.0%	7.0%

Although the data on the number of prior offenses and the number of prior delinquency findings are difficult to interpret, this information supports the proposition that two groups of youths were present in the Court Liaison Program. The prior delinquency data indicate that the court acquainted group of the CLP may not have been "criminal", but rather greatly in need of auxiliary services. This contention is supported by the following data:

PARENTS OF YOUTH (PRESENT IN THE HOME)

	Total Sample	Court Liaison	Others
Both	40.8%	35.0%	42.3%
Mother	20.9%	20.0%	21.4%
Separated	28.8%	35.0%	28.6%
Foster	2.6%	10.0%	1.8%
Father	3.6%	-	3.6%

SCHOOL PROBLEMS

Dropout	4.2%	6.0%	4.0%
Truant	2.1%	5.9%	1.8%
Special school	4.2%	11.9%	3.7%
Other	12.0%	11.8%	12.8%

These data indicate that many of those referred by the program had family troubles and/or school troubles. These facts in conjunction with the previous data should be interpreted in two ways. First, these are the characteristics of youths likely to be committed to DYS anyway. Secondly, these are characteristics of youths who have social service needs which previously had not been met. A case in point is that of a boy who was diagnosed as moderately retarded:

His family had moved into the area recently. Several of the neighborhood boys made fun of him when they discovered his awkwardness. He in turn assaulted one of the boys and injured him. The clinical report on the youth indicated that his

behavior was induced by peer group rejection.

The Court Liaison Program met the needs of this boy for counseling.

OFFENSES OF DEFENDANTS

FIRST OFFENSE	Total Sample	Court Liaison	Others
Against Person	18.8%	5.0%	20.5%
Against Property	45.0%	30.0%	46.8%
Against Public	14.7%	20.0%	14.0%
Crimes for Minors	19.9%	40.0%	17.5%

PRESENT OFFENSE

Against Person	21.1%	10.0%	22.4%
Against Property	43.2%	30.0%	44.7%
Against Public	16.3%	20.0%	15.9%
Crimes for Minors	18.9%	40.0%	16.5%

These are the categories of crimes reported by the state criminal statistics and as such do not indicate directly the seriousness of the alleged crimes. The data does suggest that a large percentage of the Court Liaison Group committed minor offenses such as being a truant or a runaway.

In summary, evaluation of the characteristics of the Court Liaison Group indicates that a bimodal grouping of clients exists in the Court Liaison Program. One group consisted of youth committing minor crimes, the other group comprised of youths having prior court contact, indicative of potential

DYS wards.

HOW THE PROGRAM WORKED

How did the Court Liaison Program serve its clients? Generally the program functioned in the following manner. The Court Liaison Officer obtains the list of hearings scheduled for the day and checks for cases which seem likely candidates for the Court Liaison Program.

The CLO could be attracted to a case for several practical and simple reasons. The Court Liaison Officer may notice familiar names on the list. The offenses alleged may be such that the CLO suspects adverse judicial action. (For example the CLO would inquire into all cases where the charge was that of rape because the past trend was for these cases to be bound over to Superior Court.) The CLO may have been notified by DYS that a particular youth had been arrested for being a runaway from a program. The probation officers may suggest cases for CLO consideration. (Such was the case when probation tried to have DYS provide treatment for a 16 year old alcoholic) In general the CLO would inquire into all cases where the charges were serious.

The CLO would enter into conferences with probation officers prior to the morning session. The probation officer of the day would let the CLO know which kids were likely to be committed by the judge. A bargaining relationship would develop where the probation officer told the CLO about a case and the CLO would make recommendations about referrals if a concensus could be reached. These recommendations were

based on information in a "referral book" of available programs which was put together by the DYS planning office.

The attorney for the juvenile would sometimes join the conference between the probation officer and the CLO. The appearance of the lawyer was an indication of the chances for the case to be referred, in that the attorney would be looking for a placement for the youth. If the attorney was confident about winning the case he would not approach the CLO.

At a point before or after conferring with the probation officer, the CLO would attempt to talk to the youth. The CLO would attempt to "win" the confidence of the juvenile while obtaining information about the case. If the CLO suspected that the youth would have to be referred, attempts would be made to convince the defendant that a voluntary referral was necessary. In general the goal of the CLO was to ensure that a unified front would be presented to the judge. In difficult cases forms of coercion would be used to show the youth that a voluntary referral to a DYS program was the best course of action. For example, the CLO would say that the probation officer was thinking seriously about committing the youth to DYS but " I think I can convince him to let you stay at home if you take part in this after school program.". Even though a commitment to DYS would not mean going to a large reformatory, the CLO could impress upon the youth the seriousness of obtaining a juvenile record.

Based on the results of conferences with probation, the

lawyer and the client, the CLO arrives at a decision about a referral. Necessary arrangements are begun with the program(s) chosen. This process usually occurs immediately after arraignment or trial.

CRITERIA OF SELECTION

Much of the decision-making process for a case varies with the immediate needs of the situation. For example, the CLO and/or the probation officer may ask for a temporary commitment to DYS for evaluation or to remove the youth from an unhealthy home situation.

The point at which the CLO intervenes is influenced by whether the youth is detained in DYS facilities. If the detention is the result of a bad family situation the CLO will be notified rapidly. The following is a case in point:

Jane, a 14 year old girl, was arrested by the police for breaking and entering. The police called her home and determined that Jane had runaway two nights previously. The mother wanted her home but the girl refused saying that her father had sexually assaulted her. After more investigation the police and probation discovered that the father kept a mistress in the home with the wife. The girl was then sent to the DYS detention facility. The next morning the CLO was notified that the girl would probably need a placement no matter what the finding of the court was.

Data on the custody of the youth prior to trial further emphasizes the relationship between non-parental custody and the intervention of the Court Liaison Program:

	Total Sample	Court Liaison	Others
Parents	70.0%	52.9%	76.7%
Surity	18.8%	41.2%	16.5%
DCG	3.1%	5.9%	3.1%

The Court Liaison Group had a large percentage of detainees.

During the intial study phase, many of the long-term residential placements were DYS detainees. If probation decided that a youth would be a likely candidate for a residential placement then the CLO would be called in early in the process. The early intervention by the CLO in residential placement cases is due to the length of time required to process residential placements and the need to find the right program. For example, one of the youths was rejected at five placements before being accepted nearly four months after his trial.

In cases where the judge did not act in accordance with the probation officer's request it sometimes became necessary for a placement to be found very rapidly. The probation officer would call the CLO into court on a moment's notice to offer advice to the judge on continuing the case for disposition and placement. This would happen after an agreement between probation and CLO that DYS was not needed but should stand-by just in case:

In the case of John a 16 year old boy charged with drunken driving and use without authority, the judge did not go along with the probation officer's recommendation for a straight probation period. The judge felt that the boy's attitude indicated a more serious problem and was prepared to commit him to the Department of Mental Health for observation. The probation officer said that he thought that DYS had an outpatient alcoholic program and suggested that the CLO be brought into court. The CLO did not have such a program but said that he would find a program if the judge would continue the case.

CHANGING ROLES OF THE COURT LIAISON OFFICER

In the early stages of the program the emphasis of the CLO's role was to provide services to the court in accordance with the court's desires. After the court (judge, probation, attorneys) began to recognize the benefits of, and use, DYS programs, open confrontations developed more frequently. This occurred when the court asked DYS to provide services for cases which the CLO thought DYS intervention was not appropriate or when the court would not go along with a DYS recommendation. In one case the CLO was asked to leave the courtroom when he brought in the staff of a program to advocate their program for a youth who the judge sought to bind over.

The confrontations between the CLO and the court did not damage the Court Liaison Program because the court general-

ly operated on a case-by-case basis. The CLO was warned at the beginning of the program that the court would cooperate with DYS on individual cases where DYS and the court agreed. The CLO could vary roles from that of a strong advocate to that of a cooperative agent without endangering the program. Thus the CLO did pick and choose which battles to fight on behalf of DYS policies and the youths.

As the court became accustomed to utilizing the DYS programs, the CLO tended to employ more bargaining in his work to advocate the policies of DYS. Because DYS was no longer a dumping grounds for the court due to the closing of custodial institutions, the court was forced by the CLP to become more involved in the treatment of each individual. The CLO had the potential to use DYS services to fight the court's more punitive policies toward "dangerous" juveniles.

In general the CLO's concept of "dangerous" was not as strict as the court's. Conflict developed between DYS policies and its conception of the court's mandate for treatment and rehabilitation, and the court's need to meet the mandate of community protection due to pressure from police and some community groups seeking "law and order". This basic difference in philosophies and needs influenced the court's use of the services provide by DYS.

THE USE OF SERVICES PROVIDED

SERVICE	Total Sample	Court Liaison	Others
Probation	35.6%	12.5%	35.6%
DYS Commit.	19.2%	6.3%	19.2%
Residential	1.4%	12.6%	1.4%
DYS sponsor	6.9%	31.3%	5.5%
DCG	12.3%	25.0%	12.3%
Other (Clinical etc)	23.3%	12.5%	26.0%

The Court Liaison Program provided more services than were available prior to the program. Analysis of the shift in services reveals several conclusions.

The percentage of cases receiving straight probation is drastically lower for the Court Liaison Group. This indicates that the CLP in addition to receiving cases which were formerly probation cases, in fact provided different services than probation.

The percentage of cases committed to DYS from the total sample is higher than the percentage from the Court Liaison Group. While the CLP did reduce the number of commitments it did not eliminate them. The sharp decrease in commitments in the early weeks of the program eventually increased and then tapered off.

The Court Liaison Program provided the largest percentage of residential placements to the court. The provision of residential placements was sharply curtailed in later months as funds were depleted and as DYS recognized the court's use of

residential placements as an alternate form of incarceration.
(see next chapter)

The largest percentage of Court Liaison services was provided by DYS-sponsored programs. After deinstitutionalization the Department established these services through purchase of service contracts. It was necessary for DYS to keep these programs viable by referring youths to them.

The Court Liaison Program acted as service referral agents for other agencies, especially the Division of Child Guardianship. The referral role of the CLP is demonstrated by the large percentage (25%) of Court Liaison services which were referred to DCG. Not only did DYS coordinate services for other agencies, it also took on cases which should have been cases of other organizations. This was particularly noticeable in the area of mentally handicapped youth who were not taken by the Department of Mental Health.

SPEED OF SERVICE DELIVERY

How fast were these services delivered? The following tables give an indication of the speed of service delivery.

TIME FROM CHARGE TO FINDING

	Total Sample	Court Liaison	Others
Same Day	14.4%	30.0%	12.3%
1-7 Days	9.0%	10.0%	8.8%
1-2 Weeks	17.7%	30.0%	15.8%
2-4 Weeks	25.6%	5.0%	27.5%
1-6 Months	17.2%	15.0%	17.0%
6-12 Months	8.1%	10.0%	8.2%

For a high percentage of the Court Liaison Group, findings were given within two weeks of arraignment (70.0%). For all other cases the percentage is 36.9%. Thus for the Court Liaison Group the court's processing was faster.

TIME BETWEEN FINDING AND SERVICE DELIVERY

	Others	Court Liaison
Same Day	19.2%	56.3%
0-2 Weeks	1.4%	12.5%
2-8 Weeks	1.4%	6.3%
over 8 Weeks	78.1%	25.0%

The above data suggests that the CLP delivered services faster than the average, however this is not entirely true. For services provided on the same day as the finding, DYS had 56.3% of its group into programs as compared to 19.2% for all cases. This data demonstrates the court's desire to have a CLP referral available before deciding on a finding. In fact it often took two weeks or more to produce a referral during which time the court would "continue the case for finding and disposition". Nevertheless the Court Liaison Program did provide more services and delivered them faster than prior CLP services.

Since the speed of referral does not reveal anything about the success of the referral, one is tempted to attempt to measure the "failure rate" of the program. This rate, however is not available for the Court Liaison Program. Even if this data were available its interpretation would be almost

impossible. The failure of the placement arrangement is usually the result of several factors as the following case demonstrates:

Mary a 15 year old girl with a history of runaways and sexual acting out was placed in a residential school. After a month the school decided that Mary was not fitting in well because of her occasional unruly behavior. Mary felt that she was making friends and was beginning to like the school when the school requested a termination of the placement. On hearing this Mary became very violent and was placed in the DYS detention center, but soon ran. She was arrested and brought back to court. Meanwhile a new placement had been found.

Here factors such as the requirements of the first placement, Mary's needs and previous history all contributed to her "failure" at the first placement.

While the question of how successful the services provided by the CLP were can't be answered, generalizations can be drawn about the services provided. The CLP markedly increased the availability of residential placements to the courts. Through its purchase of service arrangements, the CLP increased the number of community services available. Acting as a referral agent, the CLP coordinated services for other agencies and referred youths faster than the pre-CLP referral speed.

FOOTNOTES

1. See: Mass. Gen. Laws, Ch 18A, Sect 2,5
2. The hope was to move the court from a passive stand on referrals to that of an active service seeker.
3. See; Massachusetts Department of Youth Services Statistics on Inmates, compiled yearly on DYS commitments.

CHAPTER 4: GOAL DIVERSION IN THE COURT LIAISON PROGRAM

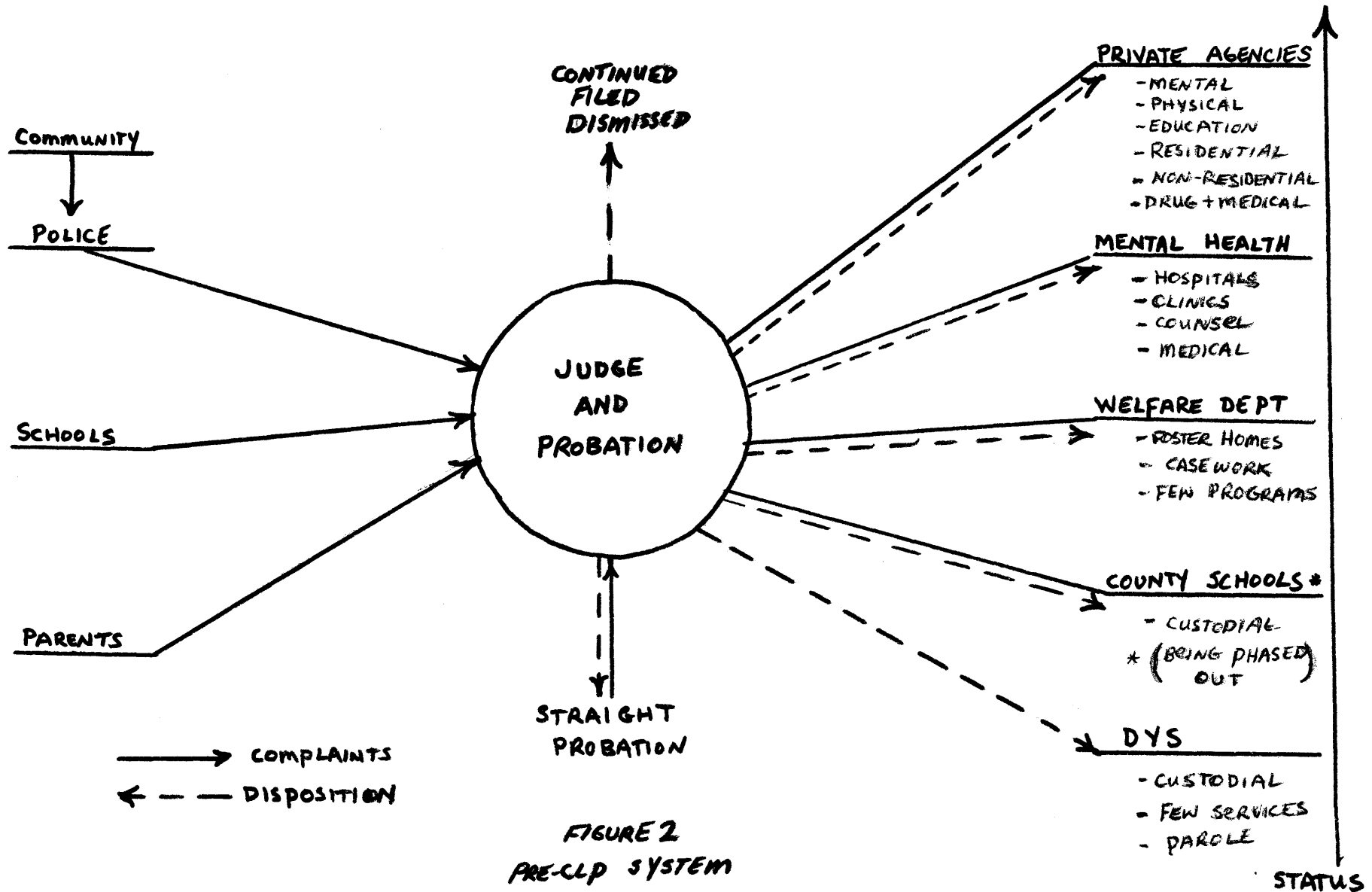
The Court Liaison Program was diverted from its goals of providing referrals for youth likely to be committed to the Department of Youth Services. Instead the program provided services to youths charged with minor crimes and youths from other service agencies. Juveniles who prior to the CLP were committed to DYS, were bound-over to Superior Court, put in residential schools or detained in DYS facilities.

Goal diversion occurred in the Court Liaison Program because it changed both the structure of the juvenile justice system and the relationships between actors in the system. The introduction of the CLP into the juvenile justice system caused a reordering of the system. These changes altered both the system and the Court Liaison Program.

THE NATURE OF THE JUVENILE JUSTICE SYSTEM

The juvenile justice system is a social service system. The court plays a central role in this service system because only in the court do the system components meet. The structure of the juvenile justice/social service system prior to the introduction of the Court Liaison Program is illustrated on the following page.

Among the service components a status hierarchy exists, ¹
At the top of the status hierarchy are the private social service agencies which take specific cases which meet criteria of "serviceability". Private agencies are more highly professionalized and are able to select clients both to avoid difficult and undesirable cases and to shift those that have



proved more undesirable than anticipated to the public agencies. Within the private social service hierarchy, status classification exists along a spectrum from those agencies serving bright youths to those serving extremely disturbed youth.²

Public welfare agencies are required to serve a broader group of youths who are either not served by private agencies or whose existence is marginal to the private agencies. Prior to the Court Liaison Program, DYS was at the bottom of both the private and public status hierarchies. The Department was required to take court cases which either no other agency placed and/or which seemed dangerous to other programs or the community.

The functions of DYS which were observed in this case study have also been noted by Emerson:³

"The permissive casework methods of the high status agencies and facilities depend in some degree on the existence of lower-status custodial agencies who must dirty their hands with authoritarian controls...thus while permissive agencies may frown upon the "unprofessional" and coercive style of those handling the system's dirty work, their very ability to employ preventive and non-coercive methods depends on the latter's taking over those clients who might otherwise make demands on them. The juvenile court reinforces those doing the dirty work in this system both by supporting

their controlling efforts and by transferring the very dirtiest cases to another system (penal-criminal)."⁴

The introduction of the Court Liaison Program into the juvenile justice system caused two structural changes in that system. The CLP was tied directly to deinstitutionalization. The removal of the dumping ground role of DYS through the closing of custodial institutions upset the status hierarchy of the service system by removing the bottom agency. Prior to CLP no service agency maintained a referral agent in the court. Thus not only did the CLP change DYS into an active service agent, but by proving the only visible service agent in the court, it changed the way in which the court obtained services. Before CLP the court had to seek out resources or dump cases on DYS. With the CLP the court could refer non-criminal cases by threatening commitment.

The post-CLP juvenile justice system is depicted on the next page. The new structure caused basic confusion as to the role of DYS and thus of each service component. The Court Liaison Program transformed a system with a particular structure (social service-penal) into a new system with no penal-criminal component.

The CLP by changing the structure of the juvenile justice system, altered the way in which actors in the system achieved their goals. Actors reacted by developing procedures for using the new structure and by developing new relationships with other actors. These new procedures and patterns of rela-

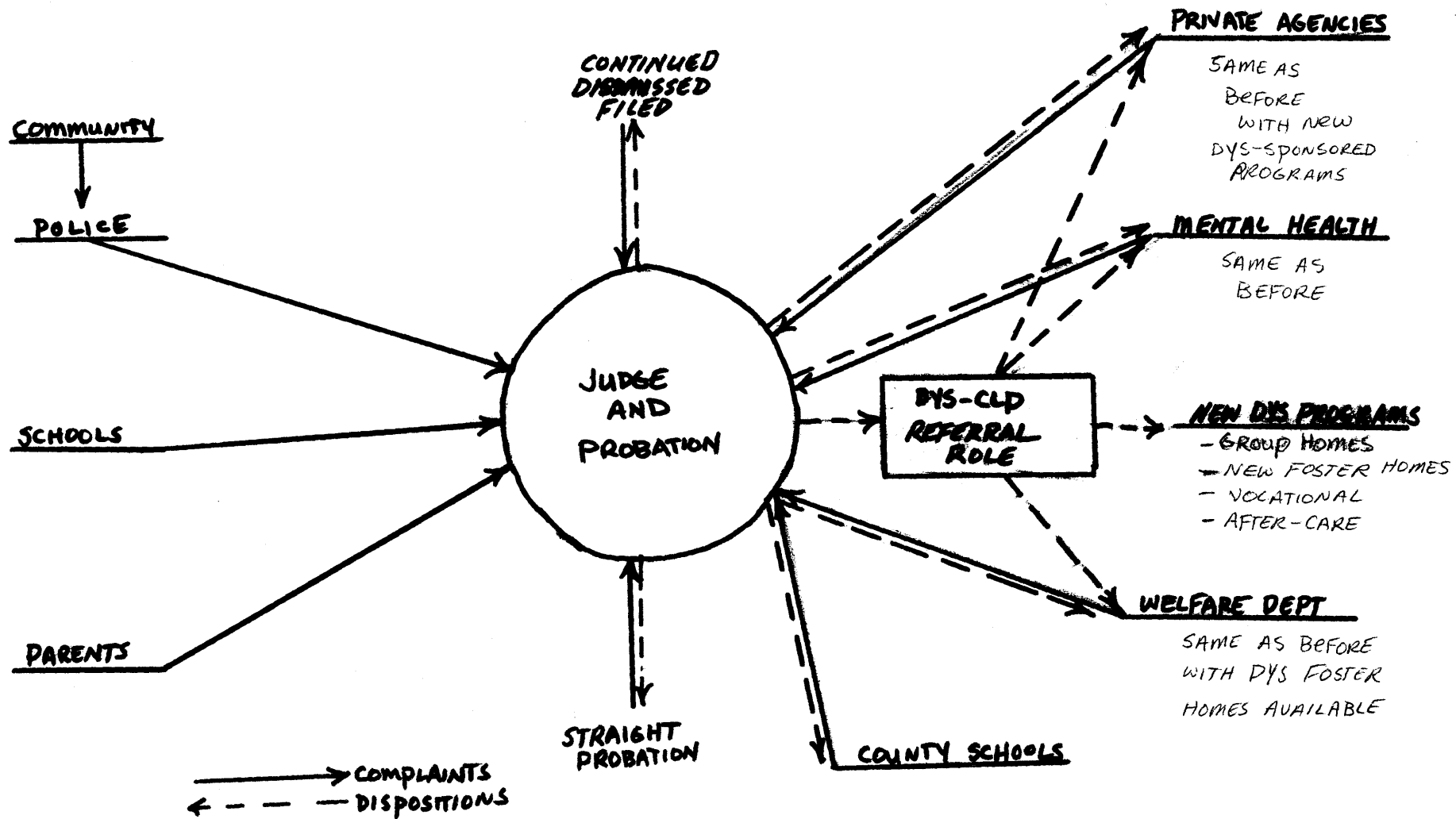


FIGURE 3
POST-CLP SYSTEM

tionships in turn caused changes in the Court Liaison Program.

The referral of non-criminal youth to the CLP was a result of the new relationships between the judge and probation and treatment resources. Emerson notes that referral from the court directly to treatment programs involves a series of service exchanges between the court and service agencies:

"Court integration into the local institutional system takes place through a process of mutual exchange of service, benefits, and favors... court relations with this institutional complex, shaped by the process of organizational exchange, modify the court's internal functioning....For the court is able to bargain for a certain service or advantage from an institution on behalf of one case and repay its obligation in its handling of a completely different one."⁵

The existing treatment resources relationship to the court changed as DYS became an active referral agent. Prior to the Court Liaison Program, the need of service agencies for court sanctioning of their behavior was used in turn by the court to obtain treatment. With the CLP the court could deal with one agent in many cases.

The court saw in the CLP a way of expanding referrals by having the CLP refer cases to a previously unavailable new group of DYS-sponsored services. The court also tried

to expand services by asking the CLP to find referrals to other non-DYS programs. Prior to the CLP, the ability of probation to secure treatment was limited by the large volume of cases, the resulting need to handle cases in a standardized-bureaucratic manner, and the lack of funds to pay for services.

With the introduction of the CLP the court threatened to commit a non-criminal youth if a referral could not be found. This procedure is an outgrowth of a pre-CLP procedure which dumped on DYS non-criminal youth in need of service but for whom a placement could not be found;

A youth (prior to CLP) had been sent to a court clinic in another court and was diagnosed as mentally ill. After the court failed to arrange a psychiatric placement, the judge committed him to DYS feeling there was no other alternative.

With the CLP, the court expanded the threat of using this procedure to include cases of minor offenders. Probation felt that DYS could provide more probation-like services. This procedure would be tried if probation knew of a good DYS program, or if probation felt that DYS would pay for a program (vocational training etc), or if DYS would act as intermediary between the court and other agencies. The comment of one probation officer summarizes the court's view: " We see the CLP as a bridge from the court to treatment."⁶

The Court Liaison Program succeeded in changing some of the practices of probation. There has been an increase in

the probation department's willingness to seek out services for probation cases. The CLP in addition to providing services demonstrated to probation the process of service referrals to other programs. A collection of referral descriptions in the areas of drug rehabilitation, mental health, vocational, educational and special services was made available to the probation department. The extent of probation's new efforts in seeking out placements on their own is limited according to one probation officer because of the time, administrative difficulties and lack of funds. Further indicative of probation's changes is the legislation filed by the Commissioner of Probation to allow probation departments to fund, operate, and expand community-based services and facilities in a manner similar to the DYS programs.⁷

COMMUNITY PROTECTION AND THE COURT

The increase in the number of boundovers and the number of residential placements due to the CLP is a direct result of the juvenile court's concern for community protection. Attainment of community protection through boundovers was a procedural tactic used by the judge in response to the structural changes that the CLP caused in the juvenile justice system. Prior to the CLP it was possible for the judge to commit a youth to DYS where the youth would be placed in a large institution away from the community. After the CLP there were few secure alternatives to incarceration. The judges and probation brought this point up during the first meeting with DYS personnel.

The juvenile court responded to the lack of security in two ways. If the court committed a youth to the DYS it would lose jurisdiction over the youth. If it bound over youths in the 14 and over age group, then the Superior Court would most likely take action favorable to the juvenile court. Even if the Superior Court did not take favorable action the youth would in all probability be denied the services of the juvenile justice system.

The second option which the juvenile court had was to force DYS to provide secure settings. The large number of residential placements in the first months of the program is indicative of this. By issuing temporary commitments to the DYS detention center the court could ensure that youths were held by DYS until disposition. Even though the detention center was not fully secure, the court used it until DYS came forth with a secure placement. The result of cutbacks in residential placements has been a drastic increase in the number of youths at the detention facility to the point of over-crowding.

The juvenile court's concern with community protection led to the filing of legislation by the Chief Justice of the Municipal Juvenile Court. This proposed legislation would allow the juvenile court judge to sentence youths directly to county houses of corrections or to local jails.

The court's actions to protect the community were the result of changes which the CLP caused in the relationships among the court, the political system, the police and DYS.

Pressures on the court are characteristically restrictive and punitive rather than therapeutic in nature because public opinion becomes aroused primarily by crime in the street and threats to public order. The nature of juvenile proceedings allows the court to operate in considerable secrecy such that most court decisions have extremely low visibility in the community. Court efforts to secure treatment increases its visibility. These efforts tighten its political and community obligations which in turn increase the concern of the court with adverse reaction from the public.⁸ The CLP policy by increasing the visibility of the court and the juvenile justice system in its attempts to involve the community in corrections, caused the system to be concerned with community protection.

Pressure for court action to support and reinforce peace-keeping and control activities accompany and underlie police initiated complaints.⁹ The juvenile court serves as the judicial body supervising and legitimating official actions undertaken by the police. It is for this reason that police pressure on the court's handling of specific cases tends to be restrictive and punitive rather than therapeutic.

The Court Liaison Program alienated the police because it was part of the overall DYS corrections strategy. The policy of DYS to parole committed youth rapidly due to both the lack of institutional space and DYS philosophy, hindered the efforts of police to keep order.

The police dislike for the DYS correctional strategy is

directly attributable to the nature of the police task. Bittner¹⁰ has shown that police rarely enforce the law, but merely use it as a resource to solve certain pressing practical problems in keeping the peace.

DIVERSION THEORY AND THE COURT LIAISON PROGRAM

The diversion of the Court Liaison Program from its goals has antecedents in the theories of social policy and organizational behavior. Rein¹¹ has noted the problems of discontinuity in social service systems:

"Social service can become disjointed or discontinuous if there is a failure to provide component services that are necessary to complete the cycle of change."¹²

The DYS Court Liaison Program attempted to provide a wide range of services directly. DYS had little success coordinating this array of services because of the distinction made by social service agencies between delinquent youths and non-delinquent youths. These distinctions limited the ability of the CLP to coordinate its services with that of other agencies.

DYS could not control the other components of the juvenile justice/social service system. Rein points out that typically most planning structures "cannot reduce the autonomy of community agencies, nor can they control the base budgets of agencies, although they can supplement these budgets as an incentive for cooperation."¹³ The DYS effort in the foster home area was an attempt to supplement the pro-

grams of the Division of Child Guardianship. On the other hand, DYS could never work out arrangements with the Department of Mental Health.

Goal diversion in the CLP attempt to provide services is an example of what might be called "re-institutionalization". Rein explains this process:

"As new services are added, the need to find means for reintegrating them becomes acute, with the result that there is an increased pressure to develop more effective machinery for coordination and accountability."¹⁴

In the CLP this pressure took the form of accountability to the judicial system. The legislative and community protection actions of probation and the judge demonstrate the system's need for effective machinery for coordination and accountability. The actions of the police and local political leaders also verify this need.

Goal diversion was a combination of discontinuity in services, the uncontrollable autonomy of the juvenile justice system components, and the layering of new services on the system leading to the need for reinstitutionalization.

In terms of Post-Weberian organizational theory, the CLP established threats and disorganizing patterns which upset the equilibrium of the system and increased tension among components.¹⁵ The goal diversion which occurred in the CLP is a result of organizational defense mechanisms (boundovers, non-criminal referrals etc.) which were responses to the

tensions generated by the Court Liaison Program. These defense mechanisms attempted to try to bring the system back to a new equilibrium.

FOOTNOTE

1. See: Rein's analysis in Social Policy, during the study numerous interviews revealed the existence of a status hierarchy among services.
2. Private agency's intake procedures were among the most demanding of all referrals.
3. Emerson op. cit. p. 80
4. Ibid
5. Ibid, p.
6. Even though probation can only use short-term referrals under new DYS policies they still regard these services as valuable.
7. House Bill #167, 1973
8. See: Emerson's analysis pp 36-38
9. Ibid pp.40-50
10. Bittner op. cit.
11. Rein op. cit. Chapter 2
12. Ibid
13. Ibid
14. Ibid Chapter 3
15. See: Mouzelis, N.P., Organisation and Bureaucracy (Aldine, Chicago, 1968)

CHAPTER 5: DIVERSION POLICY RECOMMENDATIONS

The experiences of the Court Liaison Program suggest four areas for diversion policy improvement.

(1) Diversion policies should take into account the functional requirements of the subsystems of the juvenile justice system. The different goals of the social service, police, judicial and penal subsystems must be taken into consideration. Criteria for diversion must be explicitly articulated and understood by system components. Explicit criteria would help to prevent the referral of two different groups which occurred in the CLP bimodal client group. It must be recognized that the caseload of a post-court diversion program such as the CLP is the end product of pre-court discretionary processes.

(2) Service coordination should be central to diversion policies. The Court Liaison Program in being the only court-based service referral agent took on cases which could have been referred to other agencies. The result of no coordination is a patchwork service system which duplicates existing services and which allows youths to go without services or to receive the "wrong" type of service. Further the lack of a consensus on service coordination easily leads to agency in-fighting over cases and policies, leaving juveniles in a worse position.

(3) Court Liaison type programs which have the dual goals of diversion and deinstitutionalization must ensure that secure treatment facilities exist. This step must be

taken at the risk of creating small institutions because the alternative is boundover youths who end up in adult institutions. The challenge is to provide secure settings which do in fact help youths. The failure to provide these alternatives will result in more youths being sentenced to adult institutions, a situation far worse than the old reformatories. Further study is needed on the question of separating the social service and judicial aspects of the juvenile court. Legislative action toward separation of juvenile court mandates (penal and service) could prevent the binding over of youths, a process which seriously threatens the ability of the juvenile justice system to help youths.

(4) The legal rights of juveniles must be further defined and upheld due to the potentially coercive aspects of diversion. The voluntary referral method of diversion ensures that a youth always has the right to a hearing, yet the pressure put on some youths to accept this better of two evils is not justice. Legislative action should be considered to expand further the legal rights of youths in diversion programs.