Report of the
Supreme Court Juvenile
Justice Study Commission

Changing Boundaries of the Juvenile Court: Practice and Policy in Minnesota

March 1982

Office of Delinquency Control
Continuing Education and Extension
University of Minnesota

CHANGING BOUNDARIES OF THE JUVENILE COURT: PRACTICE AND POLICY IN MINNESOTA

A Report of the
Supreme Court Juvenile Justice Study Commission

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Minneapolis, Minnesota

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PREFACE

Summary

First established as a separate institution nearly a century ago, the juvenile court has in the past several decades experienced a turbulent and prolonged identity crisis. In Minnesota, as elsewhere, juvenile justice practitioners and policymakers continue to confront difficult questions about the kinds of juveniles who should be brought before the juvenile court, the procedures which should guide the court's conduct, and the dispositions which the court should give. The Supreme Court Juvenile Justice Study Commission has completed two years of research and deliberation on issues concerning the purpose and the boundaries of the juvenile court. The results of that effort--findings and recommendations on the issues of status offenses, alternatives to the formal juvenile court process, and transfer of juveniles to the adult criminal system--are highlighted below.

Status Offenses

In Minnesota, status offenders, or juveniles charged only with offenses resulting from behavior that would not be criminal for adults (such as truancy, running away, incorrigibility, and alcohol and smoking violations), currently are handled under the juvenile court's delinquency jurisdiction. In the twelve months from July, 1979 through June, 1980, an estimated 2000 juveniles were petitioned into state juvenile courts solely for the offenses of truancy, running away, and incorrigibility. The Commission recommends that all status offenders be removed from the court's delinquency jurisdiction and handled under separate jurisdictional categories which specify limits on detention and dispositions for these juveniles.

Alternatives to the Formal Juvenile Court Process

Although a number of jurisdictions in the state currently have procedures and programs which allow some juvenile offenders to be screened and diverted from the juvenile court, some do not. Among the jurisdictions where diversion exists, there is great variability in eligibility requirements, program

structure, and services provided. Based on its conclusions that first-time and minor offenders often require a level of intervention less than that provided by formal court processing and that greater consistency in diversion opportunities across the state would be desirable, the Commission recommends consideration of the testing and development of a statewide alternative to the juvenile court process. The particular model suggested by the Commission involves the use of a "settlement conference" for handling some juvenile offenders.

Reference for Criminal Prosecution

In the past several years, the standards used for transferring some juveniles to the adult criminal system have been the subject both of intense debate and of legislative change. The Commission's research on reference practices in Minnesota led to two major findings. First, in outstate Minnesota, there has been a significant decline in the number of juveniles transferred to the adult system for relatively minor offenses. This decline is attributable to the statutory granting of fining authority to the juvenile court. Second, reference practices in the metropolitan counties have remained relatively constant despite legislative modifications of the reference statute. The Commission recommends that judicial discretion in transfer decisions be retained.

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Represented by Peggy Byrne	State Representative
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James Ulland	State Senator
Martin Weinstein	Maslon, Edelman, Borman, Brand, McNulty
Daniel N. Wiener	Psychologist
Ida-Lorraine Wilderson	Minneapolis Public Schools
Richard J. Clendenen	University of Minnesota Executive Director

[1]Jay Lindgren replaced Jon Penton as the designated representative of the Department of Corrections in July, 1981.

TASK FORCE ON ALTERNATIVES TO JUVENILE COURT PROCESSING

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William Gatton	Legal Rights Center
Tom Johnson	Hennepin County Attorney
David Loftness	Carver County Court Services Director
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INTRODUCTION

The past decade has been a time of intensive questioning and of extensive change within the juvenile justice systems of Minnesota and other states. In the now familiar "revolution" in juvenile court practice and philosophy, emphasis has shifted from the concept of parens patriae (and the state's "parental" right and obligation to treat wayward children) to the preservation of public order and the protection of juvenile rights through traditional legal processes and safeguards. Additionally, considerable attention has been paid both by juvenile justice practitioners and by social and behavioral scientists to the meaning and possibility of treatment in general as well as the efficacy of particular treatment programs and therapeutic modalities. These various concerns are tied together in the recognition that questions regarding the effectiveness of juvenile justice system procedures and programs are dependent on a clear understanding of that system's intended purpose.

The Supreme Court Juvenile Justice Study Commission was established in 1975 by the Minnesota Supreme Court to collect and evaluate information useful in formulating goals and policies for the State's juvenile justice system. Findings and recommendations in the areas of court intake and diversion, the use of procedures for referring juveniles for criminal prosecution, and the meaning and implications of the juvenile's right to treatment were released late in 1976.[1] A follow-up to the 1975-76 study was undertaken in 1978, and the Commission was officially reactivated in 1980.[2] Upon its reactivation, the Commission assumed two major tasks: (1) the drafting of uniform rules of procedure for State juvenile courts; and (2) the formulation of policy recommendations concerning several significant issues of juvenile court jurisdiction. This report presents the findings and recommendations resulting from the Commission's attention to jurisdictional issues; the proposed rules of procedure are presented in a separate document.

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[1] Supreme Court Juvenile Justice Study Commission, Report to the Minnesota Supreme Court, Office of Delinquency Control, University of Minnesota, November, 1976.

[2] Funding sources for the Commission's 1980-82 project are listed in Appendix A.

JURISDICTIONAL ISSUES RESEARCH

Rationale

Much of the recent controversy concerning the juvenile justice system has centered around defining the boundaries of the juvenile court's delinquency jurisdiction. A majority of states have removed some "status" offenses (those offenses resulting from behavior which would not be criminal for an adult) from the court's delinquency jurisdiction. While statutory limitations on the placement of status offenders in detention facilities and correctional institutions were enacted in Minnesota in the middle and late seventies, attempts to remove such offenders from the delinquency jurisdiction have been unsuccessful and the issue of what should be done with status offenders continues to be debated. Disagreement also continues over the practice of "diverting" certain youths accused of criminal offenses from formal court proceedings. At the other end of the spectrum are the violent, habitual, and serious juvenile offenders. All fifty states provide in some circumstances for the prosecution in adult courts of persons under the age of eighteen, but there is continuing disagreement over the standards and mechanisms by which such jurisdictional transfers should be made. In Minnesota, state statutes require that a juvenile be found unsuitable to treatment or a danger to the public safety before transfer to the criminal system can be made. In 1980, age, offense, and past record characteristics which established a prima facie case for unsuitability or dangerousness were added to the statute.

Because of their controversial nature and because of their importance in shaping the future of the juvenile court, the issues of status offenses, diversion from formal court processing, and transfer or "certification" were selected for further study. The lack of agreement on these issues reflects not only an absence of consensus on the purpose of the juvenile court as a social and legal institution but also an absence of information on the nature and consequences of current practice. An attempt was made, therefore, both to collect descriptive data on current practice and to project the consequences of alternative policies. The compatibility of various practices with the assumed goals of the juvenile justice system was then analyzed, and recommendations for change were discussed and approved by the Commission.

Methodology

To collect information on current practice, the Commission staff designed and carried out research activities which utilized court records, interviews, surveys, and a review of relevant literature. In addition, Commission members heard testimony and drew upon their personal experience in juvenile court matters. The principal information sources used by the staff are described below.

Court Records

Data was collected from court records in ten Minnesota counties of diverse population sizes and geographic locations. In each county, information was gathered on two different types of cases petitioned into juvenile court: (1) cases in which the juvenile was considered for reference to adult court or in which the state's recently enacted prima facie criteria for reference were met; and (2) cases in which the juvenile was a "pure" status offender, that is, one who was charged only with truancy, incorrigibility, or running away and who was not already under court jurisdiction for a previous criminal offense. Data was obtained for 464 reference cases (including cases which met the prima facie criteria but were never considered for referral) and 329 status offense cases.

The time periods used to select reference cases and status offense cases for analysis were chosen according to the particular needs of each study. Since one of the primary purposes of the reference study was to identify changes in reference practices--particularly changes resulting from 1980 revisions in the Juvenile Court Act--data was collected over a period of three-and-a-half years from January, 1978 through June, 1981. On the other hand, the primary purpose of the status offense study was to identify the number and characteristics of "pure" status offenders currently processed under the court's delinquency jurisdiction and to determine court practices regarding detention and disposition in these cases. Since an examination of change over time was not a consideration, status offense data was collected over a one-year period.[1]

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[1] A complete description of the methodology employed can be found in the research studies attached to this report. See Appendix B, "Juvenile Court Intervention in Status Offense Cases: An Analysis of Current Practice in Minnesota," and Appendix D, "Prosecuting Youths as Adults: Reference to Criminal Court in Minnesota, 1978-1981."

Interviews and Surveys

In most of the ten counties selected for field research, interviews were conducted with judges, probation officers, prosecuting and defense attorneys, social welfare officials, and school principals. Respondents were asked to describe and explain the policies and procedures used by their respective agencies in status offense and reference cases. Particular attention was paid to the criteria used in making various decisions affecting juveniles, interrelationships among agencies, and problems within the juvenile justice system that required attention. In all, 54 persons were interviewed in the ten-county sample. Additionally, interviews were conducted with offenders who had been transferred from the juvenile to the adult system and who were incarcerated in the St. Cloud State Reformatory for Men.

To obtain a sampling of opinion on selected matters from the entire state, the Commission staff designed and mailed two surveys. One survey was sent to judges, probation officers, and attorneys on the Commission's mailing list and elicited opinions on various policy issues facing the juvenile justice system. One hundred and sixty-five responses were received. The other survey was sent to members of the Minnesota Association of Secondary School Principals and sought information on school policies for dealing with truancy and other disciplinary problems as well as opinions of proposed changes in state laws pertaining to compulsory school attendance and status offenses. Responses from 260 principals and assistant principals were received and analyzed.

Literature Review

Published reports on more than fifty alternative programs in all parts of the country were reviewed and summarized by the Commission staff. The programs reviewed included court-operated diversion programs, youth service bureaus, arbitration programs, community courts, and youth juries. Profiles of the most promising programs were prepared for the Commission's Task Force on Alternatives to the Formal Juvenile Court Process. The desirability and suitability of these alternatives for Minnesota was then assessed and recommendations for a model diversion program were developed.

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STATUS OFFENSES

Findings and Conclusions

Minnesota is one of the few states which still consider such status offenses as truancy, running away, and disobedience to be delinquent acts.[1] This fact has caused considerable controversy among juvenile justice practitioners and policy makers, many of whom argue that status offenses would more appropriately be handled within the court's dependency or neglect jurisdiction or within a new jurisdictional category such as "Persons in Need of Supervision." Others have maintained the desirability of completely removing status offense behavior from the court's jurisdiction. Closely related to the question of the appropriate jurisdictional authority for status offenses are questions concerning the use of detention for juveniles alleged to have committed such acts and the kinds of dispositions available for juveniles adjudicated as status offenders.

Debate concerning these issues has suffered from an absence of information on the number and characteristics of status offenders in the state. Based on Commission research in ten counties, it is estimated that in the entire state approximately 2000 pure status offense cases (cases in which the youth was charged only with truancy, running away, or wayward or disobedient behavior and was not already under court jurisdiction for earlier criminal offenses) were petitioned into court as delinquency matters during the twelve months from July, 1979 through June, 1980.[2] In the ten counties studied, "pure" status offenders comprised between four to six percent of the total delinquency petitions filed outstate and ten to fifteen percent of those filed in the metropolitan counties. These offenders were primarily female (61.7%) and aged

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[1]The Minnesota Juvenile Court Act includes in the definition of delinquent a child who is "habitually truant from school" or who is "uncontrolled by his parent, guardian or other custodian by reason of being wayward or habitually disobedient." See Minn. Stat. 260.015, Subds. 5(c) and (d).

[2]For further information on these research findings, see Appendix B.

fifteen or younger (82.3%). Truancy was the primary offense in 51.7% of the cases studied. Running away and incorrigibility, which are usually filed under the "wayward or habitually disobedient" clause, accounted for the primary offense in 43.5% of the cases. Both truancy and being "wayward or habitually disobedient" were cited as offenses in the remaining 4.9% of cases.

Although general patterns in the characteristics of juveniles involved in status offense cases can be discerned, the volume of status offense cases petitioned as delinquency matters varies greatly from county to county. This is true even if differences in the juvenile population are taken into account. In the ten counties included in the Commission's study, the volume of cases ranged from zero to 10.33 cases per thousand juveniles. Disparity in the volume of status offense cases processed appears in large part to result from two closely related factors: differences in the definitions of status offense behavior and differences in the screening processes used to determine when status offenders should be referred to court. "Habitual truancy," for example, is defined neither by state statute nor by statewide administrative policy, leaving the definition to the discretion of individual schools and courts. Schools and courts also have developed their own guidelines for prescribing the steps to be taken prior to, and the kinds of cases appropriate for, court referral.[1] Schools vary in the steps which they take to resolve truancy matters internally and courts vary in their willingness to accept truancy petitions, with some insisting that a specified number of school days must have been missed and others discouraging the petitioning of any status offenses as delinquency matters. Similar variations occur in the handling of children alleged to be "wayward" or "habitually disobedient."

Juveniles petitioned into court on pure status offense charges face three possible outcomes. Of the 329 such cases considered in the Commission's study, the largest group (over forty-three percent) was placed on probation or received some other disposition, such as counseling, work service or a continuance, which did not involve removal from home. Almost one-quarter of the cases were dismissed prior to a disposition hearing, usually at the request of the person bringing the petition. At the other end of the spectrum, almost

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[1] More detailed information on definitional and screening variations in the handling of truancy cases can be found in the attached report "Delinquency Problems and Policies: A View from Minnesota Schools," Appendix C.

one-third of the pure status offenders received an out-of-home placement as the final disposition. Females, juveniles found to be wayward or habitually disobedient, and those with a record of previous juvenile court petitions were most likely to be among those receiving the out-of-home placements.

In considering these research findings and addressing the issue of whether changes should be made in state policy regarding status offenses, the Commission came to a number of conclusions. First, based on the judgment that truancy, running away and other "wayward" behavior often is a reflection of underlying emotional, familial, or social problems, the Commission concluded that emphasis should be placed on addressing the contributing problems. Second, it was felt that more emphasis should be placed on non-judicial attempts to aid juvenile status offenders. Third, the Commission agreed that greater consistency in the definitions of status offenses and in the screening procedures used by schools and juvenile justice personnel would be desirable. Finally, it was concluded that status offenses are behaviors different in kind from criminal-type offenses and that juvenile status offenders should be separated in name and in practice from delinquent youth.

Recommendations

Consistent with the above conclusions the Commission made a number of specific policy recommendations. Essentially, these recommendations propose the removal of all offenses which would not be crimes if committed by adults from the delinquency jurisdiction of the juvenile court. Truants, runaways, and other "petty offenders" (primarily violators of drinking, smoking, and curfew regulations) would be handled separately by the juvenile court. These categories of youth would be statutorily defined, and statutes would also specify screening guidelines, limits on detention, and dispositional options for each of the categories.[1]

Specific policies proposed by the Commission are as follows:

Recommendation 1.1 Minn. Stat. 260.015, Subds. 5(c) and (d), which define as delinquent a child who is "habitually truant from school" or who is "uncontrolled by his parent, guardian, or other custodian by reason of being wayward or habitually disobedient," should be deleted.

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[1]The Commission also suggested that study be given to the organization of an advocacy system for representing the interests of juvenile offenders involved in these proceedings.

Recommendation 1.2 A new jurisdictional category for habitual truants should be created and should incorporate the following definition and screening guidelines.

Definition: Habitual truant

A child is habitually truant if the child is under 16 years of age and has been absent from school without just cause for ten or more full days, or the equivalent, within the current school year.

Screening Guidelines: Habitual truant

Prior to any proceedings being brought against a child as a truant, the petitioner shall:

(a) attest that appropriate personnel in the school or serving the school district in which the child is enrolled have made reasonable non-judicial efforts to resolve with the child and the child's parent, guardian, or other custodian any situation or circumstances contributing to the child's truancy, and that such efforts have failed; and

(b) specify the services or programs that have been offered to the child to correct the truancy.

Recommendation 1.3 A new jurisdictional category for runaway children should be created and should incorporate the following definition and screening guidelines.

Definition: Runaway child

A runaway child is a child who absents from his or her home or usual place of abode without just cause and without the consent of a parent, guardian, or other custodian.

Screening Guidelines: Runaway child

Prior to any proceedings being brought against a child as a runaway child, the petitioner shall:

(a) attest that reasonable non-judicial efforts to achieve a reconciliation between the child and the child's parent, guardian, or other custodian have been attempted and have failed; and

(b) specify the services or programs that have been offered to the child and the child's parent, guardian, or other custodian to correct any situation or circumstances contributing to the incident or incidents of running away.

Recommendation 1.4 A new jurisdictional category for juvenile petty offenders should be created and should incorporate the following definition.[1]

Definition: Juvenile petty offender

A juvenile petty offender is any other child who commits an offense the commission of which is dependent upon the maximum age of the offender.

The above proposals reflect the belief that while truancy and running away are behaviors often symptomatic of problems justifying legal intervention in the life of a child, they are not in the same category as criminal-type offenses and should be removed from the court's delinquency jurisdiction. Court intervention should occur only after all other available means of resolving the situation have been exhausted. Similarly, "petty offenses" (primarily violations of curfew, drinking, and smoking regulations) also should be treated differently than offenses which constitute crimes if committed by adults.

If these behavioral distinctions are accepted, detention and disposition provisions for youths alleged or found to be habitually truant, runaway children, or juvenile petty offenders should be different than those for delinquent youths. Therefore, the following recommendations concerning detention and dispositions were adopted by the Commission.

Recommendation 1.5 If a child has been taken into custody as one who is alleged to be a habitual truant, runaway, or juvenile petty offender, the child could be held for up to 24 hours, exclusive of Saturdays, Sundays, and legal holidays, in a shelter care facility but could not be placed in a secure detention facility.[2] If further detention of a child alleged to be a runaway is required by the court, the child could be placed only in a shelter care facility.

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[1]Creation of this jurisdictional category would also necessitate an amendment to Minn. Stat. 260.015. Subd 5(a), which defines a delinquent child, as follows:

> Subd. 5. "Delinquent child" means a child:
> (a) Who has violated any state or local law or ordinance, except as provided in section 260.193, subdivision 1, or in that section which defines a juvenile petty offender.

[2]Of concern to many people in the juvenile justice field is the issue of how to deal with the status offender child who runs from a non-secure placement before his or her problems can be adequately addressed. In some instances, juvenile court judges have found a child who is under court jurisdiction as a

Recommendation 1.6 If a child is found to be a habitual truant, a runaway child, or a juvenile petty offender, the juvenile court may order any of the following dispositions deemed necessary to the child's welfare and rehabilitation:

(a) Warn the child or the child's parents, guardian, or custodian and dismiss the petition;

(b) Counsel the child or the child's parents, guardian, or custodian;

(c) Place the child under the protective supervision of the child welfare board, child welfare agency, or other responsible adult in his own home under conditions prescribed by the court and directed to the correction of the truancy or runaway problem;

(d) Provide for special educational programs or services for the child as needed;

(e) If the child is in need of special treatment or care for his physical or mental health, order, after reasonable notice and opportunity to be heard, the child's parent, guardian, or custodian to provide it. If the parent, guardian, or custodian fails to or is unable to provide this treatment or care, the court may order it provided at public expense;

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status offender in contempt of court for running from a court ordered placement in a non-secure facility. Since contempt is a criminal-type offense and not a status offense, judges have reasoned that statutory limitations on the detention of status offenders no longer apply, thus allowing secure detention of the child for longer than 24 hours. While recognizing the court's inherent contempt powers, the Commission would urge restraint in "escalating" status offenders to the level of criminal-type offenders in order to allow for the imposition of secure detention. This is consistent with the recent ruling of the Minnesota Supreme Court in State Ex. Rel. L.E.A. v. Hammergren, 294 NW2d 705 (1980), which states in part:

> Juvenile courts have the authority to find a juvenile in contempt of court and to impose appropriate sanctions. But, given the legislature's expressed disapproval of the practice of confining status offender juveniles in secure facilities, juvenile courts should not direct such confinement for contempt of court unless they first find specifically that there is no less restrictive alternative which could accomplish the court's purposes.

At the time of this writing, federal regulations governing release of juvenile justice grants to the states have not been finalized in regard to the secure detention of juveniles who have been found to have violated a valid court order. (See the Federal Register, Vol. 46, No. 251, December 31, 1981, 6326-62.) The Commission recommends compliance with federal regulations upon their determination.

(f) Require the parent, guardian, or custodian, after reasonable notice and opportunity to be heard, to participate in counseling or other treatment efforts designed to correct problems or conditions that may contribute to the child's truancy or running away;

(g) Place the child in a regularly monitored foster home, group home or shelter facility for an initial period not exceeding thirty days and, if the court finds after a review hearing that further placement is required, for an additional period not exceeding sixty days;[1]

(h) If the child is found to be habitually truant and is at least 15 years of age, grant a temporary sabbatical from school;

(i) If the child is found to be a runaway, and if the court finds that the child is at least 16 years of age and is of sufficient maturity, and that the parent-child relationship has irretrievably broken down, remove the child in whole or in part from parental authority and control.

(j) If the child is found to be a juvenile petty offender, impose a fine not exceeding the penalty for a petty misdemeanor or community service work of equivalent value.

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[1]If continued placement outside the home is required, it would be necessary to file a petition alleging the child to be dependent or neglected.

ALTERNATIVES TO JUVENILE COURT PROCESSING

Findings and Conclusions

Diversion, the routing of some youthful offenders from the juvenile court, continues to be an important part of the juvenile justice system. Minor and first-time offenders may be warned and released by law enforcement officers or school officials at the point of apprehension or screened out of the formal court process by court officials or the county attorney's office at the time of intake. In some parts of Minnesota, programs serving as alternatives to court processing have existed for many years. In its 1976 study, the Supreme Court Juvenile Justice Study Commission found diversion programs of some kind operating in five of the ten counties visited.[1] Many of the programs existing at that time have continued and additional programs have been started. Nevertheless, some counties do not at this time have any regularized method for diverting juveniles from the court process. Among the counties which do have diversion programs there is great variability in eligibility requirements, program structure, and services provided. Furthermore, many jurisdictions lack satisfactory means for handling the "intermediate" cases which require a response beyond that provided by existing diversion programs but which do not require formal juvenile court processing.

The Commission's Task Force on Alternatives to the Formal Juvenile Court Process was established to evaluate various programs which might offer some juvenile offenders an additional and appropriate alternative to the juvenile court.[2] In pursuing this objective the group reviewed the structure and

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[1]These include Hennepin, Nobles, Olmsted, Pennington, and St. Louis counties. See the Commission's Report to the Minnesota Supreme Court, November, 1976, pp. 48-55.

[2]Commission members serving on the task force were Richard Clendenen, Terrance Hanold, George Scott, and Daniel Wiener. Other members of the task force were Patricia Belois (Chairperson), Hennepin County Juvenile Court Referee; William Gatton, Legal Rights Center; Tom Johnson, Hennepin County Attorney; David Loftness, Carver County Court Services Director; and Paul Ramseth, Capitol View Junior High School Assistant Principal.

operation of numerous diversion programs in Minnesota and in other states. The programs reviewed included court-operated diversion programs, youth service bureaus, arbitration programs, community courts, and youth juries. Since the various programs differed from one another in several important respects, the task force used a series of questions to compare and assess program characteristics. These questions focused on the purpose of the program, the types of juveniles eligible for inclusion, the point at which the program is available and its relationship to the court, the type of decision-making process utilized, and the dispositions employed. After comparing a number of existing programs along these dimensions, the task force outlined the program goals and characteristics thought to be the most suitable for widespread adoption in Minnesota.[1]

In considering the task force suggestions for diversion programming, the Commission concluded that any such programming should further a number of goals important to the juvenile justice system. In particular, any diversion program implemented should attempt to:

1) Achieve greater consistency in the handling of cases--particularly those involving first-time offenders--referred to intake;

2) Provide a cost-efficient mechanism for processing minor offenders;

3) Reinforce the perceived connection between illegal behavior and the sanction imposed for such behavior by reducing the time between a juvenile's offense and the official response to that offense;

4) Respond to public criticism of the juvenile justice system by providing a quicker and more visible response to delinquent acts; and

5) Increase both community awareness of delinquency problems and community support for youth programs by involving community members in the development and operation of the diversion program.

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[1]Two basic types of diversion were discussed: (1) informal diversion by law enforcement and school officials; and (2) diversion at the point of juvenile court intake. Although the task force recommendations are concerned with an intake level diversion program having "binding" consequences, the existence and importance of "non-binding" diversion opportunities now available to police and schools was recognized. The task force agreed that law enforcement officers should continue their practice of warning and releasing youths when no further action is needed. Law enforcement and school officials also should continue the practice of making non-binding referrals to youth service bureaus or similar agencies.

Recommendations

Consistent with the above goals, the Commission approved task force recommendations advocating the development of a statewide diversion program. Such a program would address the need for an alternative means of handling juveniles who would benefit from official intervention but who do not require formal court processing by providing a supplement to existing screening and diversion practices. Furthermore, while recognizing the diversity of local conditions and needs, the proposed program would promote cross-jurisdictional consistency in dealing with certain kinds of cases. In this regard, suggestions were advanced which both describe the general structure of an "alternative" program suitable to Minnesota and propose a possible mechanism for implementing such a program on a statewide basis.

Essentially, the model suggested by the Commission provides for intake-level diversion of first-time and minor offenders to a program incorporating the use of a "settlement conference." If an eligible youth should decide to participate in the settlement program, a decision-maker or "settler" would be able to propose an agreement requiring community service work, reasonable restitution, or other appropriate "settlement" as a condition for not petitioning the youth into juvenile court. While statewide standards would be established for the use and administration of the settlement program, community advisory boards in each county or judicial district would oversee the daily operation of the program and tailor it to local needs.

As proposed by the Commission, diversion through the use of a settlement conference would occur prior to the filing of a juvenile court petition.[1] Having an alternative program available at this point would reduce the time between apprehension and disposition, and would be considerably more efficient than the formal court processing which occurs with the filing of a petition. Any youth who was referred to intake and who met certain eligibility

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[1] Minnesota counties differ in their arrangements for handling intake into the juvenile court. In some jurisdictions intake decisions are made by the county attorney's office while in others court services performs the intake function. In its 1976 Report to the Minnesota Supreme Court, the Supreme Court Juvenile Justice Study Commission recommended that the intake process be under the direction of the juvenile court. The settlement program, however, could be implemented regardless of where intake decisions are made.

requirements would have a choice between regular juvenile court processing or participation in the settlement program. An eligible youth choosing to participate in the settlement program would be referred to the program by intake personnel after a determination of probable cause had been made. While settlement program decision-makers, or "settlers," would not have the authority to dismiss a case for lack of probable cause, they could refer a case back to intake for review. The settlement program also could receive referrals from the juvenile court itself if the court felt that such diversion was appropriate in a particular case where a petition already had been filed.

Participation in the settlement program would be voluntary and an eligible youth could at any time choose processing through the juvenile court. Ideally, a youth participating in the settlement program should appear at a settlement conference no later than ten days after referral to intake and, if possible, within ten days of the offense. The settlement conference itself would be informal in nature and, to make participation convenient for the youth and other parties involved, might be held at any of several different sites within the county. Settlers preferably would be trained in the law and would be appointed by the judge of juvenile court. They would be authorized to impose "settlements" that included such provisions as contracts for community service work, reasonable restitution, or other appropriate conditions. If a youth did not satisfactorily fulfill the terms of a settlement, he or she could be referred back to intake for petition into court.

To refine and facilitate implementation of the proposed model, the Commission recommended that the Minnesota Association of County Court Judges, in consultation with other professional organizations, establish a state-level panel to set standards for the settlement program. This standard-setting panel would establish eligibility requirements for participation in the settlement program,[1] guidelines for allowable settlements (such as monetary limits on restitution, the kinds of programs a youth could be asked to complete, and the maximum time allowed for completion of a settlement), procedures for appealing a decision that the settlement has not been completed successfully, the kinds of records to be kept, and other requirements for the program.

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[1]The Commission agreed that all first-time juvenile offenders, with the exception of those charged with felony offenses against persons, would be appropriate candidates for the proposed program.

After standards for the program had been specified and its feasibility determined, the court of juvenile jurisdiction in each county wishing to participate should appoint a community advisory board to oversee the operation of the settlement program in that county. Members of these boards would be appointed by the court of juvenile jurisdiction in each county and should include community and public and private agency representatives, representatives from the court, police and schools, parents, and youths.[1] The functions of the community advisory boards would include the following:

(a) Recommending guidelines for the dispositions available to the settler (for example, limiting the number of hours of community service work that could be imposed for certain offenses and limiting the total length of time a youth could be subject to a settlement);

(b) Developing resources for community service dispositions;

(c) Developing methods for evaluating the settlement process;

(d) Providing the court with nominees for settler positions;

(e) Informing the community of the purpose and activity of the settlement program;

(f) Performing other functions that the judge of juvenile court might assign.

In summary, the Commission made the following specific recommendation.

Recommendation 2.1 Based on the assumptions that first-time and minor offenders often would benefit from a form of intervention different from that provided by formal court processing and that greater consistency in diversion opportunities throughout the state would be desirable, it is recommended that consideration be given to the testing and implementation of a statewide alternative to the juvenile court process. The particular model suggested involves the use of a "settlement conference" for some juvenile offenders.

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[1] Nominating and appointment procedures for board members, as well as the length of their terms, would be decided by the state standard-setting panel.

REFERENCE FOR CRIMINAL PROSECUTION

Findings and Conclusions

In the continuing controversy over the purpose and practice of the nation's juvenile courts, increased attention has been focused on the issue of when, for purposes of the law, children should no longer be treated as children. Since the inception of separate juvenile courts for dealing with those defined by age as children, there have existed procedures for waiving the jurisdiction of the juvenile court and transferring minors to the "adult" legal system. The purpose of jurisdictional waivers is tied closely to the perceived purpose of the juvenile court. If children under a certain age are viewed as possessing incompletely developed human capacities and sensibilities, their behavior is properly interpreted in a manner different from that of the same behavior displayed by adults. In the case of legal wrong-doing, the juvenile court is presumed to guide, treat, and rehabilitate immature offenders in a way consistent with their youthful characteristics. Some youths, however, despite their chronological age, are deemed on the evidence of their attitudes and actions to be beyond the scope of the juvenile court's available resources. No longer suitable for the specialized treatment normally accorded persons of their age, these youths must be transferred to the criminal justice system.

In Minnesota, a child who is at least 14 and who is alleged to have violated a state or local law or ordinance may be referred for prosecution as an adult if certain procedural and substantive requirements are met. Prior to 1980, a decision to refer or "certify" a child for adult prosecution was contingent on the court's finding that the child was not suitable to treatment or that the public safety was not served by handling the child within the juvenile court. Although a finding that a child is unamenable to treatment or is a threat to the public safety still is necessary for a waiver of juvenile court jurisdiction, the 1980 legislature attempted to specify more clearly the factors which might justify such a finding. The Juvenile Court Act was revised to include a definition of the circumstances which establish "a prima facie case that the public safety is not served or that the child is not suitable to treatment under the provision of laws relating to juvenile courts."

According to these statutory revisions, a prima facie case is established if the child was at least sixteen at the time of the alleged offense and meets a certain combination of currently charged offense and past record.[1] Essentially, the statutory changes allow a prosecutor to present a prima facie case for referral based on the juvenile's age, alleged offense, and past record. If a prima facie case is unrebutted--that is, if the defendant does not introduce significant evidence bearing on the questions of suitability for treatment and dangerousness--referral for adult prosecution will occur. The effect of the statutory changes is to shift the burden of proof from the prosecutor to the defendant in reference cases where the juvenile meets the conditions specified for a prima facie case. On the defendant's introduction of significant evidence bearing on the allegations of unamenability and dangerousness, the burden of proof shifts back to the prosecutor.

In summary, while the juvenile court judge retains authority for making the reference decision, a presumption that a juvenile is not suitable to treatment or is a threat to the public safety is established if the juvenile is at least sixteen and meets certain conditions regarding current charge and past record. In situations where a prima facie case cannot be established, unsuitability to treatment or dangerousness may be demonstrated according to previously developed standards. Although the Minnesota legislature stopped short of requiring the "automatic" referral of juveniles who meet certain conditions, it did specify characteristics which create a presumption in favor of reference. Reference for adult prosecution is not, however, limited to juveniles meeting the legislatively specified conditions.

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[1] As originally enacted in 1980, Minn. Stat. 260.125, Subds. 3(2) through (5) stated that a prima facie case is established when a child is over 16 and when the following combination of present charge and number of prior adjudicated offenses exists. As amended in 1981, the offenses need only be admitted or proven rather than adjudicated.

Felony Offenses in the Previous 24 Months:

Present Charge	None	One	Two	Three
	Murder 1	Murder 2 Murder 3 Manslaughter 1 Criminal Sexual Conduct 1 Assault 1	Manslaughter 2 Criminal Sexual Conduct 2 Kidnapping Arson 1 Assault 2 Aggravated Robbery	Any Other Felony Charge

The Commission's recent research included an intensive examination of reference practices in Minnesota juvenile courts. The purpose of this research was twofold: (1) to determine how many and what kinds of juveniles have been referred for criminal prosecution in recent years; and (2) to assess the effect of 1980 statutory changes which established presumptive, more "objective," standards for reference. First, information was collected in ten counties on all delinquency cases considered for reference during the three and a half year period from January 1978 through June 1981. The other group of cases examined included all delinquency cases petitioned during the first six months of 1979, 1980, and 1981 in which the juvenile met the legislatively established prima facie criteria.[1]

As might be expected, reference procedures were used much less frequently in the outstate, relatively rural areas of Minnesota than they were in the metropolitan counties. Although earlier research had shown that some outstate counties showed a surprisingly high referral rate, many of the juveniles certified in these instances were charged with misdemeanors and age-related offenses and were referred to adult court because traditional juvenile court dispositions were thought to be unnecessary or inappropriate.[2] Once referred, these juveniles typically were given a sentence which included a small fine (less than fifty dollars) or, less often, a short jail term.

The use of reference for minor offenders in outstate counties declined dramatically after the juvenile court was granted the authority to levy fines of up to $500 in August, 1980. Prior to implementation of the fining authority, an average total of 20.8 juveniles per year had been referred for misdemeanors or age-related offenses in the seven outstate counties included in the Commission's study.[3] In contrast, during the first six months of 1981, only

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[1] A more complete description of the methodology and findings of the reference research can be found in Appendix D.

[2] See Supreme Court Juvenile Justice Study Commission, Report to the Minnesota Supreme Court, November, 1976, and the Commission's staff report entitled, "Certification of Juveniles in Minnesota in 1978," October, 1979. This practice did not occur in all counties. Reference practices were primarily the result of local policies by individual judges.

[3] The outstate counties included in the study were Cass, Goodhue, Lac Qui Parle, Lake, Nobles, Otter Tail, and Stearns.

one juvenile in all of the seven counties was referred solely on the basis of a misdemeanor charge. Meanwhile, the number of referrals for felony-level offenses, which was never very large, remained constant.

While the number of cases is quite small, it appears that reference is now being used in outstate Minnesota primarily for more serious juvenile offenders. Of the eight juveniles considered for reference in the seven outstate counties for offenses committed after August 1, 1980, six (75%) were accused of felony offenses and six had previous felony records.[1] Very few cases petitioned into court in outstate Minnesota, however, met the legislatively established prima facie criteria. During the three six-month periods in which court records were searched to identify prima facie cases,[2] only six prima facie cases were found among the more than one thousand petitions filed in the seven non-metropolitan counties included in the study. The recently adopted criteria thus seem to be irrelevant to the kinds of delinquency matters heard in most of Minnesota's juvenile courts.

In the three metropolitan counties (Anoka, Hennepin, and Ramsey) included in the Commission's study, a different situation emerged. In these counties the number of juveniles considered for reference was greater than in the outstate counties and nearly 98% of those considered were charged with felony-level offenses. Reference never was routinely utilized in the metropolitan areas for misdemeanor or underage offenders; these counties therefore did not exhibit the change in reference practice attributable to the fining authority that was found in outstate Minnesota. In fact, in the metropolitan counties the use of reference during the forty-two month study period was marked more by the persistence of patterns than by their change. No significant change was found either in the number or characteristics of juveniles considered for reference or, with one exception, in the number or characteristics of juveniles actually certified.[3] The exception to this generalization occurred in Hennepin County

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[1] In its 1976 report, the Commission noted with concern that a number of juveniles charged with felony offenses were without legal counsel in some outstate counties. In this connection it is pertinent to note that two of the eight cases considered for reference after August 1, 1980, both involving felony offenses, were decided without the benefit of defense counsel for the juveniles involved. Both juveniles were certified.

[2] The periods studied were January through June of 1979, 1980, and 1981.

[3] In terms of volume, an average of sixty-six cases a year were considered for reference in Hennepin County, eighteen in Ramsey County, and four in Anoka

where there was an increase in the number of juveniles who were actually referred. This increase reflects an increase in the percentage of reference motions granted rather than an increase in the number filed and appears to result from changed judicial practice within the county rather than from the establishment of the prima facie criteria. Most of the reference cases initiated in Hennepin County are now negotiated prior to a hearing on the reference motion. Juveniles on whom a reference motion is filed are given the opportunity to agree to a charge and sentence in criminal court as a condition of their referral and subsequent guilty plea. They thus exchange the reference process and the possibility of being retained in the juvenile system for a certain result in the criminal system.

After implementation of the 1980 legislation, Hennepin County also evidenced a slight increase in the proportion of juveniles referred to adult court who met the prima facie criteria. Even so, however, in approximately two-thirds of the twenty-nine cases referred in the first six months of 1981 (after the revised statute came into effect), the juveniles did not meet the presumptive criteria. Based on an examination of juveniles involved in reference proceedings in Hennepin County, it would appear that reference continues to be sought and granted in many cases in which a prima facie case cannot be established.

Even if juveniles who did not meet the presumptive criteria were certified, it might be expected that most juveniles who did meet the criteria also were referred for criminal prosecution. Meeting the criteria in itself creates a presumption that certification is the appropriate course of action. In Hennepin County, however, which was the only county in the study in which the number of prima facie cases was sufficient to justify further analysis, reference motions were not filed in many cases where the juveniles met the criteria. In the first six months of 1981 (after the statutory revisions were made) twenty-two juveniles who were petitioned into court met the requirements for establishing a prima facie case. Reference was sought in only twelve of those twenty-two cases.

County. The average number of cases per year in which reference was granted was thirty-eight in Hennepin, twelve in Ramsey, and three in Anoka.

The Commission's research on reference practices led to a number of conclusions. First, the previously observed practice in some outstate counties of using reference for misdemeanor and age-related offenses has declined due to the juvenile court's recently-granted fining authority. The juveniles considered for reference outstate now are more likely to be serious or repetitive offenders. Second, reference practices in the metropolitan area have remained relatively unaltered over the past several years--even after major changes in the reference statute. The number and characteristics of juveniles referred has undergone little significant change and what change has occurred cannot for the most part be attributed to the recently enacted prima facie criteria. Third, the prima facie criteria do not provide reliable guides to reference decisions; many juveniles who do not meet the prima facie standards are referred and many who do meet the standards are not thought by prosecutors and judges to be appropriate candidates for reference.

In sum, the adoption of prima facie criteria for reference seems to have had little effect on the number or kind of juveniles certified for criminal prosecution in Minnesota. Changes which have occurred have been the result of other factors. The decline in certification in outstate counties is clearly attributable to the granting of fining authority to the juvenile courts. Juveniles charged with relatively minor offenses who at one time would have been referred to adult court for imposition of a fine can now be handled within the juvenile court. Similarily, while Hennepin County has witnessed an increase in the number of reference motions granted (but not in the number of motions filed), this increase most likely is due to changes in judicial practices rather than to changes in the reference statute.

The legislature's adoption of criteria which would establish a prima facie case for waiver of juvenile court jurisdiction was intended to "objectify" standards for referring serious or violent juvenile offenders to the criminal system and to increase the consistency or predictability of reference decisions. These intended effects have not occurred to date. Many juveniles are referred who are judged unamenable to treatment or a threat to public safety even though they do not meet the established criteria. And many who do meet the criteria are, with good reason, not considered for reference. The kinds of "objective" criteria established do not provide sufficient guidelines for deciding which

juveniles should be considered or referred for criminal prosecution. Other factors (such as the particular circumstances of the crime and the juvenile's age, sophistication, past offense record, and response to previous treatment efforts) continue to be salient in the reference decision.

Recommendations

The Commission expressed no opinion on the efficacy or value of the prima facie criteria, leaving its position to be reflected in the forthcoming rules of procedure for Minnesota juvenile courts. In terms of reference practice, however, the Commission made two general recommendations.

Recommendation 3.1 As a general principle, the judge of juvenile court should retain discretion in making the decision to refer a juvenile for criminal prosecution. Mandatory referral of certain classes of juveniles would violate this principle of judicial discretion.

Recommendation 3.2 Where a juvenile waives a reference hearing in order to negotiate a plea in adult court, the judge of juvenile court should make an independent finding that the juvenile is unamenable to treatment or constitutes a danger to public safety if retained in the juvenile system. This reflects the Commission's belief that, while the juvenile court judge may be in the best position to determine an appropriate sentence for a juvenile referred to the criminal system, such transfer should occur only in cases where the statutory standards for reference are met.

APPENDIX A

Supreme Court Juvenile Justice Study Commission
Funding Sources, 1980-82 Project

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St. Paul Foundation

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APPENDIX B

JUVENILE COURT INTERVENTION IN STATUS OFFENSE CASES: AN ANALYSIS OF CURRENT PRACTICE IN MINNESOTA

A Research Report

of the

Supreme Court Juvenile Justice Study Commission

by

Peter A. Rode

and

Lee Ann Osbun

Revised
October 1981

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INTRODUCTION

Between 1974 and 1978 the Minnesota legislature made several changes in the laws relating to status offenders. Limits were placed on the holding of status offenders in jails and locked detention centers, and courts were prohibited from committing status offenders to state or county juvenile institutions. But legislative action has failed to resolve the long-standing controversy among juvenile justice professionals over the role of court intervention in status offense cases. In recent years, proposals for major revisions of the Juvenile Court Act as it relates to status offenders have been made by such organizations as the Crime Control Planning Board and the Ramsey County Ad Hoc Status Offender Group, and two comprehensive status offender bills were introduced during the 1981 session of the State House of Representatives.

One of the key areas of dissatisfaction with current law is the jurisdictional authority under which status offenders are processed. Minnesota, Connecticut, Indiana, and West Virginia are the only remaining states in which status offenses such as truancy, running away, and incorrigibility are defined as delinquent acts.[1] While there is some support for the status quo, many juvenile justice professionals believe that status offenses would be more appropriately handled under the court's dependency and neglect jurisdictions. Others say that a new jurisdictional category, such as "Persons in Need of Supervision," should be created while still others argue that status offenses should not come under the authority of the court in any form. Underlying the disagreement over jurisdiction is an even more intense and emotionally-charged debate over the detention and institutionalization of status offenders. Again, there seems to be little consensus. Some people believe that children who are not charged with crimes should never be locked up in jails and detention centers or placed in correctional institutions. Others, who believe that

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[1] Jane L. King, A Comparative Analysis of Juvenile Codes (Washington, D.C.: U.S. Government Printing Office, 1980), p. 23.

the legislature has already imposed too many restrictions on the courts, want to allow courts to detain runaway children for much longer periods of time and to reopen juvenile institutions to status offenders.

Before making its own recommendations on the court's role in status offense cases, the Supreme Court Juvenile Justice Study Commission felt that it needed to know much more about the way status offenses are currently handled under the court's delinquency jurisdiction. This report summarizes the findings of research conducted by the Commission to help answer some important questions raised by the present debate over status offenses. The questions addressed by the Commission's research include the following:

(1) How many court cases would no longer be handled as delinquency matters if the offenses of truancy, running away, and incorrigibility were completely removed from the statutory definition of delinquency?

(2) What are the characteristics of the juveniles who make up the status offender population in Minnesota?

(3) What happens now in juvenile courts to juveniles who are charged as delinquent for truancy, running away, and incorrigibility?

ORGANIZATION OF THE STUDY AND MAJOR FINDINGS

In this report, the term "status offender" is applied only to behavior described under Minn. Stat. Section 260.015, Subds. 5(c) and 5(d), which define as delinquent a child who is "habitually truant from school" or who is "uncontrolled by his parent, guardian or other custodian by reason of being wayward or habitually disobedient." Liquor, tobacco, and curfew violations are excluded, even though these also are age-related offenses which are not crimes for adults. The decision to define status offenses in this way enables the report to focus on truancy, running away, and incorrigibility--the offenses which are of greatest interest to supporters and critics of new policies for status offenders.

Much previous research on status offenses is of limited use to policy-makers because it fails to distinguish clearly between "pure" status offenses and situations in which criminal charges are considered by the court along with status charges. To avoid this problem, specific criteria were established to guide the selection of "pure" status offense cases for analysis. Only cases satisfying each of the following criteria were chosen:

(1) The petition alleged that the child was delinquent because he or she:
   (a) was truant, was beyond control, wayward, or incorrigible, or ran away from home or from an out-of-home placement; or
   (b) was in violation of probation or in contempt of court for any of the above offenses.

(2) Petitions containing status offenses listed above were included only if these offenses were the only offenses considered by the court in making its disposition. If any misdemeanors or felonies were admitted or proven while the status offense case was being processed, the case was excluded from the study.

(3) Petitions containing status offenses filed as a violation of probation or contempt of court were included only if the probation or court order had been originally imposed solely because of previous status offenses. According to this rule, a case in which a youth had been placed on probation for petty theft and later was charged with violating probation by running away from home would have been excluded from the study.

Taken together, these criteria insured that the study was limited to cases in which the court acquired jurisdiction solely because of status offenses and considered only status offenses in reaching its disposition.

Detailed information on status offense cases was collected from court files in ten counties. The ten-county sample included small and medium-sized counties as well as the state's most populous urban centers. Hennepin, Ramsey, and Anoka were chosen to represent the seven-county metropolitan area, and Cass, Goodhue, Lake, Lac qui Parle, Nobles, Otter Tail, and Stearns were selected to represent the eighty outstate counties.

The study period covered one full year, from July 1, 1979 to June 30, 1980. Every delinquency petition which was filed between those dates and which satisfied the "pure" status offense criteria was initially eligible for the study. Due to the large volume of court records in the three metropolitan counties, however, random sampling was used to select cases for final analysis in these counties. A twenty percent sample was used in Hennepin and Ramsey counties and a fifty percent sample was used in Anoka County.[1] In the outstate counties, every eligible case was included in the study. Each pure status offense case was followed from initial petition through final disposition. Additional petitions filed prior to the disposition hearing were counted and analyzed as part of the same case.

Distribution of Cases by County

Overall, data was collected on 329 pure status offense cases involving 286 juveniles. Table 1 shows that the majority of cases were found in Hennepin, Ramsey, and Anoka counties. In fact, even with population differences taken into consideration, the metropolitan counties handled three times as many cases as the outstate counties--6.73 per thousand juveniles compared with 2.13 per thousand juveniles outstate. But Table 1 also shows that there was great diversity from one outstate county to the next, ranging from Cass County, with 9.36 cases per thousand, to Lake County, with no cases at all.

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[1] Because of a changeover in record-keeping procedures, the Ramsey sample was selected from the last half of the study period only. To produce a twenty percent sample for the one-year period, forty percent of the status offense cases filed between January 1, 1980 and June 30, 1980 were chosen at random.

TABLE 1

DISTRIBUTION OF CASES BY COUNTY

County	Separate Cases in Sample	Estimated Total Cases in County	Estimated Total Cases* Per 1,000 Juveniles
Ramsey (20% sample)	99	495	10.33
Hennepin (20% sample)	100	500	5.56
Anoka (50% sample)	58	116	4.27
Metropolitan Sample Total:	(257)	(1,111)	(6.73)
Cass	22	22	9.36
Goodhue	17	17	3.65
Otter Tail	14	14	2.51
Lac qui Parle	2	2	1.74
Nobles	4	4	1.52
Stearns	13	13	.84
Lake	0	0	.00
Outstate Sample Total:	(72)	(72)	(2.13)

*In the absence of 1980 census data, juvenile population was estimated using secondary school enrollment, correcting for dropouts, as of January 1, 1978. For further information on the estimating procedure, see John W. Anderson and Linda C. Sommerer, The Juvenile Services Delivery System Analysis Project: A Research Design, Crime Control Planning Board, April, 1980, pp. 25-28.

Why is there such great diversity from county to county? To some extent, the volume of status offense cases may simply reflect the extent to which truancy and running away from home actually occur in each area. Certainly that accounts in part for the greater volume of cases in metropolitan counties, but it probably does not explain very well why Hennepin is different from Ramsey or why Goodhue is different from Stearns. There are additional factors which may contribute significantly to the unequal distribution of status offense cases.

First, the Minnesota Juvenile Court Act does not define key terms, such as "habitually truant" or "wayward," or specify the necessary elements of each offense. How often must truancy occur before it becomes "habitual"? Is one incident of running away sufficient to demonstrate that a child is wayward? Furthermore, there are no uniform guidelines for determining when non-criminal behavior has become sufficiently serious to warrant court intervention. Highly ambiguous statutory language and the absence of minimal screening guidelines give courts and other agencies great leeway to define and handle status offenses in very different ways.

Second, court caseloads depend to some extent on the complicated screening process by which school officials, parents, police, social workers, and probation officers decide which cases should be referred to court. Information obtained from school principals through personal interviews and mailed surveys, for example, indicates that policies and procedures for responding to truancy vary considerably from one school to another, even among schools in the same county.[1]

Third, some courts have been able to gain more control over the screening process while others have been less successful or have chosen not to do so. Measures taken have included establishment of court intake procedures and diversion programs to screen out or divert large numbers of status offenders, as well as the development of informal guidelines designed to discourage truancy and other status offense petitions. Some courts have decided on their own to handle status offenses as dependency rather than delinquency matters.

Statewide Estimate of Pure Status Offense Cases

The ten counties selected include a mixture of large and small, urban and rural counties. While not perfectly representative of the entire state, this sample provides a reasonably good basis for estimating the total number of cases that would have been found if all eighty-seven counties had been visited. Using the Hennepin, Ramsey, and Anoka samples to represent the metropolitan area and the seven outstate counties to represent the rest of the state, it is estimated that between 1,825 and 2,125 pure status offense cases were handled as delinquency matters from July, 1979 through June, 1980 in Minnesota.[2]

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[1]Further details can be found in the Commission's report on its statewide survey of secondary school principals which is attached to this report as Appendix C, "Delinquency Problems and Policies: A View from Minnesota Schools."

[2]Since the incidence of pure status offense cases was found to be considerably greater in the metropolitan area than outstate, estimates for the seven-county metropolitan area and for the eighty outstate counties were calculated separately and then combined to obtain the statewide estimate. The formula used to calculate the total estimate was as follows:

$$E_t = (S_o/P_o) + \left(\frac{S_h}{.20} + \frac{S_r}{.20} + \frac{S_a}{.50}\right)/P_m$$

where S_o, S_h, S_r and S_a represent respectively the number of outstate, Hennepin, Ramsey, and Anoka cases included in the study sample. P_o is the proportion of the outstate juvenile population living in the seven outstate

According to total caseload data supplied by the ten juvenile courts studied, pure status offense cases accounted for approximately four to six percent of the delinquency petitions filed in the outstate counties and ten to fifteen percent of the delinquency petitions filed in the metropolitan counties. Several years ago the Crime Control Planning Board studied juvenile court records and found that sixteen percent of the juveniles petitioned into court were pure status offenders [1]. In its study, however, drinking, smoking, and curfew violations were included as status offenses. Had the present study adopted the more inclusive definition used by the CCPB, the estimate obtained would probably have been quite similar to the CCPB estimate.

Demographic Characteristics of Pure Status Offenders

Analysis of cases in the Commission's study confirmed what many people have long suspected: pure status offenders are primarily female. As Table 2 illustrates, more than three of every five cases included in the study (61.7%) involved females. Moreover, percentages were remarkably consistent across the entire state. This large percentage is especially interesting in light of the fact that females accounted for only twenty-three percent of total juvenile arrests in 1979 and an even smaller percentage of felony-level offenses[2].

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counties studied and P_m is the proportion of the metropolitan juvenile population living in Hennepin, Ramsey, and Anoka counties. See Table 1 for the source of data on the juvenile population in Minnesota.

$$E_t = 72/.1389 + \left(\frac{100}{.20} + \frac{99}{.20} + \frac{58}{.50} \right)/.7632$$

$$E_t = 1974.07$$

The estimated range of 1,825 to 2,125 cases was obtained by allowing a margin of 150 cases ($\pm$ 1) either way.

[1] Linda Sommerer and Barbara Davis, A Profile of the Minnesota Juvenile Court Population (St. Paul: Crime Control Planning Board, 1979), p.26.

[2] Minnesota Bureau of Criminal Apprehension, Minnesota Crime Information: 1979, July, 1980, pp. 52, 54.

TABLE 2

SEX AND AGE OF STATUS OFFENSE SAMPLE

Sex	Outstate		Anoka		Hennepin		Ramsey		Total	
Male	26	36.1%	24	41.4%	38	38.0%	38	38.4%	126	38.3%
Female	46	63.9%	34	58.6%	62	62.0%	61	61.6%	203	61.7%
Total	72	100.0%	58	100.0%	100	100.0%	99	100.0%	329	100.0%

Age	Outstate		Anoka		Hennepin		Ramsey		Total	
8-12	3	4.2%	2	3.4%	9	9.0%	10	10.1%	24	7.3%
13	3	4.2%	10	17.2%	12	12.0%	9	9.1%	34	10.3%
14	18	25.0%	13	22.4%	29	29.0%	24	24.2%	84	25.5%
15	30	41.7%	28	48.3%	38	38.0%	33	33.3%	129	39.2%
16	9	12.5%	4	6.9%	9	9.0%	11	11.1%	33	10.0%
17	9	12.5%	1	1.7%	3	3.0%	12	12.1%	25	7.6%
Total	72	100.1%	58	99.9%	100	100.0%	99	99.9%	329	99.9%
Average Age	15.39 yrs		14.98 yrs		14.76 yrs		15.08 yrs		15.03 yrs	

As Table 2 also shows, roughly two-thirds (64.7%) of the status offenders were either fourteen or fifteen years old at the date of petition. Youths were brought into court at slightly earlier ages in the metropolitan counties. The sharp drop-off in petitions filed on sixteen and seventeen year-olds is somewhat unusual, since non-status delinquency tends to remain fairly high at these ages. Part of the drop-off was due, of course, to the absence of truancy petitions for juveniles sixteen and over. Even so, there was also a gradual decline in petitions filed on those aged sixteen and over who were alleged to be wayward or habitually disobedient.

Racial data proved more difficult to collect than data on sex or age. In Ramsey County, racial data was unavailable from court files. Of the eighty-eight Hennepin County cases in which racial data was available, fourteen (15.9%) involved minority youth, including seven Native Americans, five Blacks, one Hispanic-American and one Oriental-American. While this figure is slightly higher than the percentage of minority youth within the total youth population, it is somewhat below the percentage of minority youth in the overall juvenile

court delinquency population.[1] In Cass County, the only other county in the study with a large minority population, racial background did prove to be an important factor. Eighteen of the twenty-two pure status cases (81.8%) found in Cass County involved Native Americans, sixteen of whom were charged with truancy. These figures may reflect in part a long-standing controversy between the Native American community and some public school districts in Cass County. Thus, while there is no clear evidence that minorities are greatly over-represented in pure status offense cases in urban areas, there may be other areas around the state where over-representation is occurring.

Types of Offenses Petitioned into Court

Truancy was the only offense alleged by petition in 51.7% of the cases studied. Running away and incorrigibility, which are filed under the "wayward or habitually disobedient" clause, accounted for the offenses alleged in 43.5% of the cases. Both truancy and being "wayward or habitually disobedient" were cited in the remaining 4.9% of cases.

As discussed earlier, there is no statutory definition of "habitual truancy" and there are no uniform guidelines for determining when courts should intervene in cases of truancy. Policies and procedures for dealing with truancy vary from school to school and from court to court. Not surprisingly, much variation in the extent of the truancy for which juveniles were brought into court was found. Juveniles were petitioned for missing as few as three days and as many as eighty-nine days of school. The average number of days of truancy specified on petitions was 27.5 days, but one of every eight petitions (12.4%) alleged that the child had been absent for nine days or less.[2]

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[1] Because detailed 1980 census figures have not yet been released, public school enrollment probably provides the most reliable estimate of the overall minority youth population. Minority youth made up roughly ten percent of Hennepin County's public school population in 1978. See Minnesota Department of Education, School District Profiles: 1977-78, June, 1979, p. 14. Hennepin County Court Services reports that twenty-three percent of delinquency cases referred to court intake in 1978 involved minority youth.

[2] The extent of truancy used in these calculations was simply the total number of days truant specified on the delinquency petition. Some petitions would also specify the time frame over which the alleged truancy had occurred; for example, fifteen days truant out of the last sixty school days. Even when such information was provided, the time frame used was rarely the same. Furthermore, there was variance in what constitutes a day's absence; some schools only reported absences of an entire day while others regarded missing one or two classes as a day's absence. In general, there seems to be no standard measure used by schools to report the extent of alleged truancy.

Running away from home or from an out-of-home placement was by far the most common manifestation of wayward or habitually disobedient behavior which led to court intervention. Table 3 shows, however, that in addition to running away, children were petitioned into court for an extensive variety of behavior--ranging from staying out late to drug use to suspected sexual activity--that seems to defy any simple categorization. The only common element which can be found in these cases is that someone--parent, probation officer or social worker--believed that the child was "uncontrollable" and that the court could help regain some measure of control or influence over the child. Significantly, females accounted for seven of every ten cases (69.2%) filed under the "wayward or habitually disobedient" clause.

TABLE 3

WAYWARD OR HABITUALLY DISOBEDIENT BEHAVIOR
DESCRIBED ON INITIAL PETITION

Type of Behavior	Number*	Percent*
Absenting from home	77	55.0%
Absenting from foster home, group home, treatment center, or other placement	44	31.4%
Fails to cooperate or obey rules at home or placement	13	9.3%
Skips school	13	9.3%
Comes home late	12	8.6%
Uses drugs or alcohol	12	8.6%
Stays out overnight	11	7.9%
Sexually active or has undesirable boyfriend	6	4.3%
Verbally abusive or threatens parents	5	3.6%
Assaults parents	4	2.9%
Other	4	2.9%

(*) Based on 140 cases in which the initial petition alleged the child to be wayward or habitually disobedient. Total number is greater than 140 and total percentage is greater than 100% because some petitions alleged more than one type of behavior.

Multiple Offenders

A child could be defined as a multiple offender either because two or more petitions were considered by the court in the case under study or because the child had previously appeared in court for delinquent offenses. In this study 11.2% of the cases examined involved two or more petitions. (See Table 4.) In such cases the later petitions were typically filed for running away

from a shelter care facility or other out-of-home placement while an adjudicatory or disposition hearing was pending. In addition, approximately one-third (33.1%) of the status offenders had previously been petitioned into court for delinquent acts; most of these had one or two prior petitions. (See Table 5.) Overall, the majority of pure status offenders were before the court for one petition only and had no previous delinquency petitions on their record.

Girls accounted for 73.0% of the cases involving two or more present petitions. Girls and boys were equally likely to have had a prior record, but girls were twice as likely as boys to have previously been petitioned for the specific offense of running away.

TABLE 4

NUMBER OF PETITIONS CONSIDERED PER CASE

Petitions Per Case:	Outstate		Anoka		Hennepin		Ramsey		Total	
One	72	100.0%	56	96.6%	95	95.0%	69	69.7%	292	88.8%
Two			2	3.4%	2	2.0%	20	20.2%	24	7.3%
Three +					3	3.0%	10	10.1%	13	4.0%
Total	72	100.0%	58	100.0%	100	100.0%	99	100.0%	329	100.1%

TABLE 5

PRIOR DELINQUENCY RECORD

Prior Petitions:	Outstate		Anoka		Hennepin		Ramsey		Total	
None	50	69.4%	33	56.9%	84	84.0%	53	53.5%	220	66.9%
One	12	16.7%	15	25.9%	8	8.0%	20	20.2%	55	16.7%
Two	9	12.5%	8	13.8%	5	5.0%	11	11.1%	33	10.0%
Three +	1	1.4%	2	3.4%	3	3.0%	15	15.2%	21	6.4%
Total	72	100.0%	58	100.0%	100	100.0%	99	100.0%	329	100.0%

Secure Detention

The Juvenile Court Act was amended in 1978 to prohibit the secure detention of status offenders for longer than twenty-four hours, weekends and holidays excepted. Despite the express limitations imposed by the 1978 legislation, the use of secure detention for longer than twenty-four hours has not been completely eliminated. Some juvenile court judges have found youths who commit status offenses which violate an explicit court order--for example, running away from a court-ordered placement--to be in contempt of court. Since contempt is a criminal offense rather than a status offense,[1] judges have reasoned that the statutory limitations on the detention of status offenders no longer apply in such cases.

Detention data was obtained for all Hennepin and Ramsey County status offense cases included in the present study. Fifty-four cases (27.1% of the total) in which secure detention was utilized were found. In thirty-five of the cases examined (17.6% of the total), the juvenile was held in secure detention beyond the maximum period of time allowed by law.[2] Ten such cases were found in Hennepin County and twenty-five in Ramsey County. The average length of detention was 10.05 days and the longest stay was 32 days. The overwhelming majority (82.9%) of the status offenders held beyond the statutory limit were females.

Hennepin County used "long-term" detention (that is, detention beyond the 24-hour limit) at different stages of the court process than did Ramsey County. In Ramsey County, "long-term" detention was typically used between the adjudicatory and disposition hearings or after the disposition hearing while the youth awaited placement in a group home or other treatment facility. In Hennepin County, "long-term" detention was most frequently used prior to the

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[1] See Minn. Stat. Chap. 588.

[2] Some juveniles were detained on more than one occasion. The 35 cases cited here included 44 separate instances of secure detention which exceeded the statutory limit.

adjudicatory hearing, that is, prior to a hearing on the merits of the contempt charges which served as the basis for detention. More often than not, the contempt allegations were eventually dismissed and were never admitted or proven in court.

The data presented here indicate that the practice of detaining status offenders beyond the period of time allowed by statute was fairly common in the state's two largest counties during the period under study (July 1979 to June 1980). In June 1980, the Minnesota Supreme Court ruled that the inherent contempt powers of the court could not be used indiscriminately to supersede the limits on secure detention established by the legislature.[1] Confinement for longer than twenty-four hours can only be imposed, said the court, if it can be shown that all less restrictive alternatives have failed in the past and that the child understood that violating the court's orders would result in incarceration. It is not known at this time whether the new standard announced by the Supreme Court has had a significant effect on the detention of status offenders.

Final Disposition

The final disposition reached by the court in the cases studied can be divided into three categories:

(1) Almost one-quarter of the cases (24.6%) were dismissed before a dispositional hearing was held. This group included thirty-nine cases in which no hearing of any kind was held; in other words, the child never appeared in court to answer the allegations. Charges were usually dismissed at the request of the petitioner. Sometimes the petitioner informed the court that the situation at home or in school had improved or that the problem was now being handled through voluntary counseling or treatment. It is difficult to know whether the filing of a petition led to the noted improvements. Some courts would hold a petition open without an initial hearing for periods as long as seven or eight months. This practice was infrequent, but it does raise questions about the child's right to answer the charges alleged within a reasonable time.

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[1] State ex rel. L.E.A. v. Hammergren, 294 N.W. 2d 705 (Minn. 1980).

TABLE 6

TYPE OF PLACEMENT

Placement	Number	Percent
Foster home	19	17.9%
Group home or residential treatment center	42	39.6%
Ranch or camp	15	14.2%
County-operated juvenile correctional facility	6	5.7%
Residential drug treatment center	16	15.1%
Hospital adolescent treatment unit	2	1.9%
Unspecified foster or group home	6	5.7%
Total	106	100.1%

(2) The largest group of juveniles (43.2%) was placed on probation or received some other disposition, such as outpatient treatment, unpaid work, counseling or a ninety-day continuance, which did not involve removal from the home. A stayed out-of-home placement--that is, the threat of removal from the home--was explicitly included in the disposition order in ten cases.

(3) Finally, almost one-third of the status offenders (32.2%) received an out-of-home placement. It should be noted that this percentage refers only to cases in which placement was the final disposition. Many juveniles were placed in hospital adolescent units, shelter homes, and detention facilities while awaiting their disposition hearings, but these temporary stays were not included in the figure cited for placements. Table 6 illustrates the wide variety of facilities used as placements by the court. The child was not represented by counsel at the adjudicatory hearing in 26.4% of the cases resulting in an out-of-home placement or at the disposition hearing in 32.1% of such cases.

Characteristics of Juveniles Receiving Placements

Table 7 illustrates which groups of status offenders were more likely to be placed out-of-the-home. Girls, for example, were about one-and-a-half times as likely to be placed as boys and accounted for 69.8% of the placements ordered as final dispositions. Placement was used more frequently in metropolitan counties than outstate, although there was much variation among the three metropolitan counties. As might be expected, placement was far

more common when the child was found to be wayward or habitually disobedient rather than truant. Even so, one of every six truancy cases resulted in an out-of-home placement. Cases in which multiple petitions had been filed or in which the child had a prior delinquency record also resulted in significantly higher placement rates. Nevertheless, one of every four cases in which there were no previous delinquency petitions was resolved through an out-of-home placement.

TABLE 7

PROPORTION OF JUVENILES PLACED, BY DEMOGRAPHIC AND LEGAL VARIABLES

Category	Number in Category	Number Placed	Percent Placed
Sex:			
Male	126	32	25.4%
Female	203	74	36.5%
County:			
Outstate	72	16	22.2%
Anoka	58	29	50.0%
Hennepin	100	23	23.0%
Ramsey	99	38	38.4%
Present Offense:			
Truancy Only	170	29	17.1%
Truancy & Wayward	16	9	56.3%
Wayward Only	143	68	47.6%
Petitions Considered in Present Case:			
Single (one)	292	83	28.4%
Multiple (two+)	37	23	62.2%
Previous Petitions:			
None	220	56	25.5%
One or More	109	50	47.2%

Earlier, data was presented which indicated that girls were more likely than boys to be charged as wayward or habitually disobedient or with multiple petitions. Could these findings account for the larger number of girls who received out-of-home placements? Table 8 shows that in fact the male-female differential in placement rates remains fairly strong even when other factors

are controlled. It is interesting to note that no significant difference between the placement of boys and girls was found outstate, while a strong difference was found in the metropolitan area. It is also interesting to note that the placement rate for girls remained much higher than for boys in cases where the court was usually less inclined to make placements--that is, in cases where truancy was the only charge, where only one petition was considered, and where there were no previous delinquency petitions.

TABLE 8

DIFFERENCES IN MALE-FEMALE PLACEMENT RATES

Category		Percent Placed	Differential
Total Sample	Male	25.4%	
	Female	36.5%	+11.1
Region:			
Outstate	Male	23.1%	
	Female	21.7%	- 1.4
Metropolitan	Male	26.0%	
	Female	40.8%	+14.8
Present Offense:			
Truancy only	Male	11.7%	
	Female	21.5%	+ 9.8
Wayward only	Male	44.2%	
	Female	49.0%	+ 4.8
Petitions in Present Case:			
Single (one)	Male	21.6%	
	Female	33.0%	+11.4
Multiple (two or more)	Male	70.0%	
	Female	59.3%	-10.7
Previous Petitions:			
None	Male	17.4%	
	Female	30.6%	+13.2
One or more	Male	42.5%	
	Female	47.8%	+ 5.3

CONCLUSIONS AND DISCUSSION

The research conducted by the Commission was intended to obtain an accurate picture of the way in which status offenders are currently being handled under the court's delinquency jurisdiction. Several of the research findings are relevant to the current policy debate over the appropriateness of court intervention in the lives of these youths.

The first finding concerns the size of the status offender population. It is estimated that in the entire state between 1,825 and 2,125 "pure" status offense cases were handled by juvenile courts as delinquency matters during the one-year study period. This is a modest though not insignificant number, accounting for roughly four to six percent of the delinquency petitions filed in the outstate counties and ten to fifteen percent of the petitions filed in metropolitan counties. Since dependent children generally are supervised by social service agencies rather than by court services, the handling of status offenses as dependency instead of as delinquency matters could mean that, in some counties, staff and resources would have to be shifted from court services to the county social services department. Several agency administrators said in interviews that staff would have to be increased if their agencies acquired supervisory responsibility for status offenders. Otherwise, they indicated, status offenders would receive low priority in the allocation of limited staff and treatment resources.

A second finding concerns the unequal distribution of status offense cases from one county to another. This finding is coupled with an apparent lack of consistency in the criteria used to select cases for court intervention. Juveniles were petitioned as truants for missing as few as three and as many as eighty-nine school days, and an extensive variety of behavior was petitioned as "wayward or habitually disobedient." These findings can be attributed in part to the failure of state law to define key terms or to specify the elements of each offense and to the lack of uniform screening guidelines. Regardless of which jurisdiction controls the processing of status offense cases, attention should be given to resolving these deficiencies of state law and policy.

A third finding concerns the predominance of females among the pure status offenders brought into court as delinquent. Females accounted for 61.7% percent of the pure status offense cases, and 69.2% of those charged with running away or incorrigibility. Moreover, 82.9% of the status offenders confined in secure detention facilities beyond the statutory limit of twenty-four hours were females, as were 69.8% of the status offenders receiving an out-of-home placement as the final disposition. Teenage girls, especially fourteen and fifteen year olds, constitute the primary group that would be affected by changes in the handling of pure status offenders in Minnesota.

Is the frequency of running away and incorrigibility simply much greater among girls than boys? At present, it is difficult to obtain firm data to support or refute such a conclusion. Many runaway incidents go unreported; in fact, one recent study found that less than half of the parents of runaway children reported the runaway to the police.[1] An equally likely, perhaps more likely, explanation for the predominance of girls among pure status offenders lies in the selection process which brings cases into court. The process often begins with the family. As Meda Chesney-Lind argues:

> Families have always had very different expectations and made different demands of their male and female children .... While a substantial amount of adventurous behavior and defiance of authority is expected of young men ("boys will be boys," "sowing wild oats"), the family has always tried to control these impulses in their daughters so as to protect their "reputations."[2]

Parents may be more inclined to call on the police or courts for help when their daughter runs away or otherwise misbehaves. Police, judges, probation officers, and other agents of the juvenile justice system often have served to reinforce society's different expectations for boys and girls.[3]

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[1]Tim Brennan, David Huizinga, and Delbert Elliott, The Social Psychology of Runaways (Lexington, Mass: D.C. Heath and Company), p. 138.

[2]Meda Chesney-Lind, "Young Women in the Arms of the Law," in Ruth Crow and Ginny McCarthy (eds,) Teenage Women in the Juvenile Justice System: Changing Values (Tucson, Arizona: New Directions for Young Women, Inc., 1979), p. 55.

[3]In addition to the Chesney-Lind article, see also Janice Linn, Kim Zalent, William A. Geller and Harris Meyer, Minors in Need: A Study of Status Offenders at the Juvenile Court of Cook County (Chicago, Ill.: Law Enforcement Study Group, 1979), pp. 48-49.

It may be true, of course, that girls in general face greater dangers than boys, simply because of the physical, economic, and social disparities which place girls at a disadvantage in many of the situations of everyday life. Protection is often cited as a justification for court intervention in the lives of youth. However, society's concern too often has been expressed through attempts to confine children, especially girls, in stereotyped role behavior rather than to further their personal growth and development. The question which faces the juvenile justice system is whether adjudications of delinquency--given the common association of delinquency with criminal behavior--secure detention, and placement in correctional institutions are appropriate ways of protecting and nurturing troubled, non-criminal youths.

A fourth finding concerns the confinement of status offenders in secure facilities. Despite strict statutory limits on the detention of status offenders, a substantial number of cases (35) were found in which the statutory limit had been exceeded. The average length of detention in these cases was 10.05 days and the longest period of confinement was 32 days. In June 1980, at the very end of the study period, the Minnesota Supreme Court ruled that courts could use their contempt powers to detain status offenders beyond the limits specified by statute, although they could only do so if certain conditions were met. It is not known at this time whether any significant change in detention practices has resulted from this decision.

A fifth finding concerns the out-of-home placement of status offenders. Even though they have not been charged with crimes, status offenders are frequently, perhaps more than criminal offenders, placed out of the home. Presumably these youths are not being "punished;" their high placement rate may reflect the judges' and probation officers' belief that these youths need help in the form of specialized treatment or at least a different environment. This study did not attempt to judge the appropriateness of the court's dispositions in each case. Nevertheless, in light of the high placement rate discovered, juvenile justice professionals may wish to re-examine their placement decisions and reconsider the use of alternatives such as day treatment and family-centered counseling.

These findings--the size of the status offender population, the lack of reasonable consistency in the selection of cases for court handling, the predominance of girls among status offenders subject to court intervention, the use of secure detention, and the high rate of placement--point to areas of concern which should be considered by policymakers and policy advocates as the debate over status offenders continues.

APPENDIX C

DELINQUENCY PROBLEMS AND POLICIES: A VIEW FROM MINNESOTA SCHOOLS

A Research Report
of the
Supreme Court Juvenile Justice Study Commission

by
Lee Ann Osbun
and
Peter A. Rode

October 1981

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INTRODUCTION

Both schools and juvenile courts necessarily are concerned with issues of school attendance and of illegal youthful behavior. Unfortunately, their attempts to deal with such problems have been hampered by definitional ambiguities and uncertain institutional relationships. Minnesota statutes, for example, include in the definition of "delinquent child" any child who is "habitually truant from school." But the meaning of "habitual truancy" nowhere is specified more precisely, leaving individual schools and courts to develop their own working definitions. Just as there is no statutory or statewide administrative definition of truancy, there is no statewide policy for determining when schools should refer truancy and other delinquent behavior to the juvenile justice system or for determining how courts should handle the cases they receive. Truancy and disciplinary problems routinely may be handled internally by some schools and routinely referred to the juvenile court by others. Similarly, courts vary in their willingness to accept certain kinds of cases and in the dispositions which they impose for various types of offenses. Recognition of such disparity provided impetus for the research described in this report. The purpose of the research was to discover the range of definitions and policies currently utilized in Minnesota schools and to obtain suggestions from school officials for improving the way in which truancy and other delinquent behaviors are handled by Minnesota schools and juvenile courts.

In order to obtain the desired information, a two page questionnaire containing both multiple response and open-ended questions was constructed by the staff of the Supreme Court Juvenile Justice Study Commission. This questionnaire was mailed by the Minnesota Association of Secondary School Principals to its membership of approximately eleven hundred persons. The questionnaire requested the following information:

1. Descriptive information on school enrollment, location, and grade range;
2. Information about the kind and severity of disciplinary problems experienced within the school;
3. Information concerning school policies for dealing with truancy and other delinquency problems, including the criteria used in referring such cases to the juvenile court; and
4. Opinions regarding compulsory attendance requirements and the effectiveness of current policies for dealing with truancy and other delinquent behavior.

FINDINGS

Number and Characteristics of Respondents

A total of 260 responses were received from 77 of the state's 87 counties. Of the respondents who identified their county, 40 (15.4%) were from Hennepin or Ramsey Counties, 23 (8.9%) were from one of the other five metropolitan area counties (Anoka, Carver, Dakota, Scott, and Washington), and 196 (75.7%) were from the remaining outstate counties. Most of the respondents were either secondary school principals (66.2%) or assistant principals (31.5%). Although schools of all sizes were represented, only 84 (or approximately one-third) of the respondents were from schools with more than 750 pupils. (See Table 1.) The schools varied also in the range of grades included: 55 (21.2%) of the schools responding included only grades nine or lower; 37 (11.2%) included only grades ten or higher; and 163 (62.7%) were "mixed range" schools that included grades from both of these categories.

TABLE 1

ENROLLMENT SIZE OF RESPONDING SCHOOLS

School Enrollment	Number of Respondents	
Under 250	50	(19.2%)
250-500	77	(29.6%)
500-750	49	(18.8%)
750-1000	32	(12.3%)
Over 1000	52	(20.0%)
Total	260	99.9%

Problems and Policies

Asked to identify the single most serious disciplinary problem in their school, 33.5% of those who returned the questionnaire listed truancy. Disobedience and disruption and alcohol and drug use were the next most frequently given responses to the question. (See Table 2.)

TABLE 2

IDENTIFICATION OF MOST SERIOUS DISCIPLINARY PROBLEMS

Most Serious Disciplinary Problem	Number of Respondents	
Truancy	87	(33.5%)
Disobedience/disruption	61	(23.5%)
Alcohol Use	27	(10.4%)
Drug Use	27	(10.4%)
Smoking	17	(6.5%)
Theft	10	(3.8%)
Student Fighting	6	(2.3%)
Vandalism	6	(2.3%)
Other	7	(2.7%)
No Response	12	(4.6%)
Total	260	(100.0%)

Given the fact that the highest percentage of respondents listed truancy as their school's most serious disciplinary problem and that over sixty percent of those questioned considered truancy a "very serious" or "moderately serious" problem, it becomes important to have some understanding of how schools deal with cases of truancy. As pointed out earlier, although "habitual truancy" constitutes delinquent behavior according to Minnesota statutes, the specific elements of that behavior are not defined. The schools responding to our survey employ extremely variant definitions of truancy. Furthermore, they have considerably different policies for deciding when a case of truancy should be referred to the county attorney or juvenile court.

Some schools provide quite specific definitions of truancy and list detailed steps to be taken when it occurs. One respondent, for example, attached a written policy statement which defines truancy as four unexcused absences from class in a week or four day-long absences in a month. After truancy as defined by this policy statement occurs, the school first schedules a conference with the student, follows this with a school-student-parent conference, and, finally, sends a letter of warning to the parents. If these steps prove ineffective in resolving the problem, the case is referred to the juvenile court. Other schools have far less specific policies, making judgments on referral or petition according to the circumstances of each particular case. It must be stressed that even when specified policies exist, there is very little consistency from school to school. Thus one school routinely refers cases to court on the third truancy (truancy is not defined)

when the child is younger than sixteen; another makes no referral until a student has been absent more than thirty days. Nearly half (48.1%) of the respondents said that they attempt to involve parents in resolving a truancy problem before referring the child to the juvenile justice system; this is the most striking similarity in policy to emerge from the responses received.

Of those officials responding, 177 (65.4%) reported that they had referred some cases of truancy to the juvenile justice system during the 1980-81 school year. Table 3 shows the number of truancy cases referred to court by the schools represented in the survey.

TABLE 3

NUMBER OF CASES REFERRED TO THE COURT OR COUNTY ATTORNEY, 1980-81 SCHOOL YEAR

Number of Cases	Number of Respondents	
None	88	(33.8%)
1-2	73	(28.1%)
3-5	54	(20.8%)
6-10	30	(11.5%)
11-20	8	(3.1%)
Over 20	5	(1.9%)
Unknown	2	(0.8%)
Total	260	(100.0%)

Differences emerged in the patterns of truancy referrals from respondent schools in the State's two largest counties, encompassing the metropolitan areas of Minneapolis and St. Paul. Over sixty percent of the respondents from Hennepin County referred two or fewer cases in 1980-81. In contrast, almost seventy percent of the respondents from Ramsey County reported referring three or more cases to court during the same time period. Given the relatively small number of schools responding from each county, this may not be indicative of overall patterns in the two counties. Certainly not all respondents within each county stated identical definitions of truancy or identical policies for referring truancy cases to court.

School policies for referring delinquency offenses other than truancy also vary widely. Many respondents indicated that they attempt to handle such offenses "internally," by requiring payment for damages or by using accepted school disciplinary measures. Some schools also refer cases of

alleged delinquency to the local police or police liaison program. (This appears to be a prevalent pattern in the metropolitan area.) Only a few schools refer all law violations directly to the court or county attorney. Direct referrals are more likely to occur for offenses--such as assault that results in physical injury, drug-selling, or major property damage--which are perceived as "serious." Again, however, the perception of "serious" varies from school to school.

The number of non-truancy delinquency referrals made directly to the court or county attorney in 1980-81 by schools responding to this survey is shown in Table 4. Analysis of data received in the survey suggests that, overall, the size of a school is more important than its geographical location within the state in determining the number of non-truancy delinquency offenses referred directly to the court or county attorney. As with truancy, however, Hennepin and Ramsey Counties show somewhat different patterns for referral of other delinquency offenses. While recognizing the limitations of generalizations made on the basis of relatively few respondents, the thirteen schools in Ramsey County seem to refer more alleged delinquency offenses to the court or county attorney than do the twenty-two schools from Hennepin County. Ninety-two percent of the schools from Ramsey County directly referred at least three non-truancy delinquency cases to the court or county attorney in the 1980-81 school year. In Hennepin County only forty-five percent of the responding schools referred three or more cases during the same time period.

TABLE 4

NUMBER OF NON-TRUANCY DELINQUENCY OFFENSES REFERRED DIRECTLY TO THE COURT OR COUNTY ATTORNEY, 1980-81

Number of Cases	Number of Respondents (all counties)	
None	112	(43.1%)
1-2	55	(21.2%)
3-5	47	(18.1%)
6-10	22	(8.5%)
11-20	12	(4.6%)
Over 20	6	(2.3%)
Unknown	6	(2.3%)
Total	260	(100.0%)

Opinions and Recommendations

After the survey respondents had indicated the kind and extent of delinquency problems occurring within their schools and their policies for referring such problems to the juvenile court, they were asked to assess the juvenile court's effectiveness in dealing with the cases referred to it. This assessment was made on the basis of a five-point scale ranging from a score of one for "not effective at all" to a score of five for "very effective." The results of the assessment are shown in Table 5. Over fifty-three percent of the outstate respondents ranked the court at the low end of the effectiveness scale, with scores of one or two. Only twenty-nine percent of the outstate officials gave the court "high" scores of four or five. Within the metropolitan area, respondents from Hennepin County gave more negative assessments of court effectiveness than did respondents from Ramsey or from the other five metropolitan counties. Additionally, analysis of the data indicates that those respondents who ranked the court lowest on the effectiveness scale were in general those who referred the fewest truancy and other delinquency offenses directly to court.

TABLE 5

EVALUATION OF COURT EFFECTIVENESS, BY LOCATION

Assessment of Court Effectiveness	Location									
	Hennepin County		Ramsey County		Other Metro Counties		Outstate Counties		All Counties	
1. Not effective	3	15.0%	1	8.3%	0	0	47	26.3%	51	21.8%
2.	6	30.0%	3	25.0%	5	21.7%	48	26.8%	62	26.5%
3.	8	40.0%	3	25.0%	8	34.8%	32	17.9%	51	21.8%
4.	3	15.0%	3	25.0%	9	39.1%	31	17.3%	46	19.7%
5. Very effective	0	0%	2	16.7%	1	4.3%	21	11.7%	24	10.3%
Total	20	100.0%	12	100.0%	23	99.9%	179	100.0%	234	100.1%
Mean Rating	2.6		3.2		3.3		2.6		2.7	

School officials also were asked to suggest law or policy changes which would enable the juvenile court to more effectively handle truancy and other delinquency offenses occurring in the schools. In answer to this question nearly one-third of the survey respondents suggested the need for "tougher"

juvenile courts which would impose more severe penalties for both truancy and other delinquency offenses. The second most frequent suggestion, offered by over one-fifth of the respondents, was that parents should be required to be more involved and to assume more responsibility in delinquency cases. Other recommendations included the following: faster court processing, particularly in truancy cases; greater consistency in the handling of delinquency cases, both within a given court jurisdiction and across jurisdictions; increased authority for school personnel; improved liaison between schools and the court; and more court involvement with children at an earlier age or less serious stage of delinquency. In terms of policy changes outside the court itself, several respondents reported the success of alternative programs for truants or recommended the institution of such programs.

Despite many perceived problems in the court's handling of truancy cases, very few of the school officials who answered the questionnaire believed that truancy should be removed entirely from the court's jurisdiction. Many, however, felt that truancy should be handled under the juvenile court's dependency and neglect jurisdiction rather than its delinquency jurisdiction. (See Table 6.) Opinion on this question does not appear to be related to the respondent's location. Overall, 47.3% of the respondents favored a jurisdictional change for truancy offenses while 35.9% believed truancy should be retained in the delinquency jurisdiction.

TABLE 6

OPINION ON APPROPRIATE JURISDICTION FOR STATUS OFFENDERS, BY LOCATION

Opinion on appropriate court jurisdiction for truancy offenses	Location									
	Hennepin County		Ramsey County		Other Metro Counties		Outstate Counties		Total	
Delinquency (no change)	9	40.9%	8	41.1%	9	39.1%	66	34.0%	92	35.9%
Dependency/neglect	11	50.0%	9	52.9%	11	47.8%	90	46.4%	121	47.3%
No court jurisdiction	0	0%	0	0%	1	4.3%	6	3.1%	7	2.7%
No opinion	2	9.1%	0	0%	2	8.7%	32	16.5%	36	14.1%
Total	22	100.0%	17	100.0%	23	100.0%	194	100.0%	256	100.0%

Finally, school officials were asked whether they favored lowering the age for compulsory school attendance. On this question, a marked difference appeared in the pattern of responses between the metropolitan and the outstate counties. (See Table 7.) Respondents from the metropolitan area were almost twice as likely as respondents from the outstate counties to favor a lower compulsory attendance age. While thirty-six (57.1%) of the sixty-three respondents from the seven metropolitan counties favored a lower age, only 36.9% of the outstate respondents favored such a change. In Hennepin and Ramsey Counties the percentage of respondents favoring a lower age was even higher: 68.2% for Hennepin and 55.5% for Ramsey. In contrast, 59% of the outstate respondents stated opposition to a lower compulsory attendance age.

TABLE 7

OPINION ON LOWERING THE COMPULSORY ATTENDANCE AGE, BY LOCATION

Opinion on Lower Compulsory Attendance Age	Location									
	Hennepin County		Ramsey County		Other Metro Counties		Outstate Counties		Total	
Favor lower age	15	68.2%	10	55.6%	11	47.9%	72	36.9%	108	41.9%
Oppose lower age	7	31.8%	7	38.9%	12	52.2%	115	59.0%	141	54.7%
No opinion	0	0%	1	5.6%	0	0%	8	4.1%	9	3.5%
Total	22	100.0%	18	100.1%	23	100.1%	195	100.0%	258	100.0%

SUMMARY AND IMPLICATIONS

Results of this survey clearly document previous impressions of extreme variability in the definitions of truancy utilized by schools throughout the state. Similar disparity is found in the policies followed by schools in deciding when truants should be referred to the juvenile court. If consistency is considered to be an essential element of equitable treatment, then the adoption (by statute or by administrative policy) of a statewide definition of truancy and statewide standards for school referral of truants to the juvenile court should be given priority. Schools' handling of delinquency offenses also is quite variable, and the establishment of statewide standards in this area might be an additional subject for consideration.

While many respondents reported satisfaction with the court's handling of truancy and other delinquency offenses referred to it, some offered suggestions for improving court effectiveness in these cases. The two suggestions made most frequently were: (1) the imposition of more severe sanctions by the court, to impress juvenile offenders with the seriousness of their law violations and to demonstrate the consequences of such violations; and (2) an increase in parental involvement in, and legal responsibility for, the delinquent actions of their children. The frequency of these suggestions indicates a possible need for re-evaluating both the dispositions available to and used by Minnesota juvenile courts and the limits of parental responsibility.

Since nearly one-half of the survey respondents favor moving truancy offenses to the court's dependency and neglect jurisdiction, it seems reasonable to infer that this issue will continue to be a controversial one both in the legislature and among school and juvenile justice personnel. While such a shift in jurisdiction might be consistent with a proposed increase in parental responsibility for delinquency (truancy), it is more difficult to reconcile with advocacy of swifter, more severe sanctions. Respondents appear in this respect to hold two different conceptions of the court's proper role in handling truancy and other delinquency offenses referred by the schools.

The survey results show a marked difference in response between school officials from the metropolitan counties (especially Hennepin and Ramsey) and those from outstate counties on the desirability of lowering the compulsory attendance age. While a lower age is favored by a high percentage of metropolitan respondents, it is opposed by a high percentage of outstate respondents. Given this split in opinion, it might be possible to consider a statutory provision which would specify conditions under which the court could waive the compulsory attendance requirement for certain juveniles.

At the very least this survey indicates that the implementation of statewide definitions and policies should be given serious consideration. Continued (and perhaps improved) communication between school officials and juvenile justice personnel is the obvious but essential condition for this effort.

APPENDIX D

PROSECUTING YOUTHS AS ADULTS: REFERENCE TO CRIMINAL COURT IN MINNESOTA, 1978-1981

A Research Report
of the
Minnesota Supreme Court Juvenile Justice Study Commission

by
Peter A. Rode
and
Lee Ann Osbun

revised
March 1982

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INTRODUCTION

In the continuing controversy over the purpose and practice of the nation's juvenile courts, increased attention has been focused on the issue of when, for purposes of the law, children no longer should be treated as children. Since the inception of separate juvenile courts for dealing with those defined by age as children, there have existed procedures for waiving the jurisdiction of the juvenile court and transferring minors to the "adult" legal system. The purpose of jurisdictional waivers is tied closely to the perceived purpose of the juvenile court. If children under a certain age are viewed as possessing incompletely developed human capacities and sensibilities, their behavior is properly interpreted in a manner different from that of the same behavior displayed by adults. In the case of legal wrong-doing, the juvenile court is presumed to guide, treat, and rehabilitate immature offenders in a way consistent with their youthful characteristics. Some youths, however, despite their chronological age, are deemed on the evidence of their attitude and actions to be beyond the scope of the juvenile court's available resources. No longer suitable for the specialized treatment normally accorded persons of their age, these youths must be transferred to the criminal justice system.

As John Conrad points out, the standards for waiver--the standards for deciding when juveniles are no longer appropriately treated within the juvenile system--go to the heart of concerns about the viability of the juvenile court as a social institution.

> To diminish responsibility for the commission of an offense on account of the youth of the offender can only be justified by attributing to children a lack of understanding and an inability to conform their conduct to accepted distinctions between right and wrong. The justification for special treatment for the child in trouble rests on the view that during the impressionable ages of early youth he may be susceptible to treatment intended to reduce the inclination to commit criminal acts.
>
> These are some of the elements of a momentous debate. Lack of confidence in the juvenile justice system's capability to rehabilitate, or at least to restrain, the occasional serious violent offender who comes under its jurisdiction will test the system and its assumptions; for if those assumptions no longer apply to the juvenile murderer,

> rapist, or thug, on what basis do they apply to any other juvenile offender? Is there a line that should be drawn? If so, where, at what age, for what offenses, and why?[1]

All fifty states, the District of Columbia, and the federal courts outside the District of Columbia provide for the prosecution in adult courts of persons under the age of eighteen.[2] Not all states specify a minimum age for transfer to the criminal court; of those which do, the minimum age ranges from ten to sixteen.[3] In the majority of jurisdictions the decision whether to treat a youth as a juvenile or an adult is made by the juvenile court judge according to legislatively set standards.[4] While the transfer criteria or standards vary, most reflect one or more of the factors suggested by the United States Supreme Court in Kent v. United States.[5] These factors include:

1. The seriousness of the alleged offense to the community and whether the protection of the community requires waiver;

2. Whether the alleged offense was committed in an aggressive, violent, pre-meditated or willful manner;

3. Whether the alleged offense was against persons or against property, greater weight being given to offenses against persons especially if personal injury resulted;

4. The sophistication and maturity of the juvenile as determined by consideration of his home, environmental situation, emotional attitude and pattern of living;

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[1]John P. Conrad, "Crime and the Child," in Major Issues in Juvenile Justice Information and Training: Readings in Public Policy, ed. John C. Hall et al. (Columbus, Ohio: Academy for Contemporary Problems, 1981), p. 184.

[2]Barbara Flicker, "Prosecuting Juveniles as Adults: A Symptom of a Crisis in the Juvenile Courts," in Hall, Major Issues, p. 351.

[3]U.S., Department of Justice, Law Enforcement Assistance Administration, Office of Juvenile Justice and Delinquency Prevention, A Comparative Analysis of Juvenile Codes, by Jane L. King, Community Research Forum, University of Illinois at Urbana-Champaign (Washington, D.C.: Government Printing Office, 1980), p. 10.

[4]Barry C. Feld, "Legislative Policies Toward the Serious Juvenile Offender: On the Virtues of Automatic Adulthood," Crime and Delinquency 27 (October 1980):500.

[5]Kent v. United States, 383 U.S. 541, 556-57 (1966).

5. The record and previous history of the juvenile; and

6. The prospects for adequate protection of the public and the likelihood of reasonable rehabilitation of the juvenile (if he is found to have committed the alleged offense) by the use of procedures, services and facilities currently available to the Juvenile Court.

Although different jurisdictions have different procedures and criteria for waiver, the mere existence of a waiver mechanism is indicative of the conflict between the traditional rehabilitative goal of the juvenile court and the need to protect society from youth who commit serious and violent crimes.[1] Attempts to resolve--or at least mitigate--this conflict have been a focal point of juvenile justice policy debates in Minnesota for the past several years.

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[1]See, for example, Marshall Young, "Waiver From a Judge's Standpoint," in Hall, Major Issues, p. 309; and Feld, "Juvenile Court Legislative Reform and the Serious Young Offender: Dismantling the 'Rehabilitative Ideal,'" Minnesota Law Review 55 (1980):170-171.

THE MINNESOTA CONTEXT

In Minnesota, a child who is at least 14 and who is alleged to have violated a state or local law or ordinance may be referred for prosecution as an adult if certain procedural and substantive requirements are met.[1] Prior to 1980, a decision to refer or "certify" a child for adult prosecution was contingent on the court's finding that the child was not suitable to treatment, or that the public safety was not served, by handling the child within the juvenile court. Although a finding that a child is unamenable to treatment or is a threat to the public safety still is necessary for a waiver of juvenile court jurisdiction, the 1980 legislature attempted to specify more clearly the factors which might justify such a finding. The Juvenile Court Act was revised to include a definition of the circumstances which establish "a prima facie case that the public safety is not served or that the child is not suitable to treatment under the provisions of laws relating to juvenile courts."[2]

According to these statutory revisions, a prima facie case for reference is established if the child was at least 16 at the time of the alleged offense and meets any of the following conditions:[3]

(1) Is alleged by delinquency petition to have committed an aggravated felony against the person and (a) in committing the offense, the child acted with particular cruelty or disregard for the life or safety of another; or (b) the offense involved a high degree of sophistication or planning by the juvenile; or

(2) Is alleged by delinquency petition to have committed murder in the first degree; or

(3) Has been adjudicated delinquent for an offense committed within the preceding 24 months, which offense would be a felony if committed by an adult, and is alleged by delinquency petition to have committed murder in the second or third degree, manslaughter in the first degree, criminal sexual conduct in the first degree or assault in the first degree; or

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[1] These requirements are set forth in Minn. Stat. 260.125.

[2] Minn. Stat. 260.125, Subd. 3.

[3] Sections (3), (4), and (5) were amended in 1981 to remove the requirement that delinquency be adjudicated for felony offenses committed within the preceding 24 months. It is now sufficient to show that such felony offenses were admitted or proven in court.

(4) Has been adjudicated for two offenses, not in the same behavioral incident, which offenses were committed within the preceding 24 months and which would be felonies if committed by an adult, and is alleged by delinquency petition to have committed manslaughter in the second degree, kidnapping, criminal sexual conduct in the second degree, arson in the first degree, aggravated robbery, or assault in the second degree; or

(5) Has been previously adjudicated delinquent for three offenses, none of which offenses were committed in the same behavioral incident, which offenses were committed within the preceding 24 months and which offenses would be felonies if committed by an adult, and is alleged by delinquency petition to have committed any felony other than those described in (2), (3) or (4).

Essentially, the statutory changes allow a prosecutor to present a prima facie case for referral based on the juvenile's age, alleged offense, and past record. If a prima facie case is unrebutted--that is, if the defendant does not introduce significant evidence bearing on the issues of suitability for treatment and dangerousness--referral for adult prosecution will occur.[1] The effect of the statutory changes is to initially shift the burden of proof from the prosecutor to the defendant in reference cases where the juvenile is at least 16 and meets the specified conditions. On the introduction of significant evidence bearing on the allegations of unamenability and dangerousness, the burden of proof moves back to the prosecutor. Previously, the Minnesota Supreme Court held that a juvenile's age and alleged offense were not in themselves sufficient to justify a finding of unsuitability to treatment or threat to public safety.[2] With legislative changes made in 1980, however, age and alleged offense are in specified circumstances sufficient to justify reference unless the juvenile can introduce evidence which demonstrates that he is suitable to treatment and will not endanger the public safety if retained in the juvenile

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[1] In re Welfare of Givens, 307 N.W. 2d 489 (Minn. 1981). In this case the state established a prima facie case for referral by showing that the juvenile was charged with first-degree murder and was at least 16 at the time of the alleged murder. The juvenile was referred for adult prosecution and appealed the reference order. The Minnesota Supreme Court, holding that the "appellant did not introduce any significant evidence bearing on the issue of amenability or dangerousness," affirmed the reference order on the basis of the state's establishment of an unrebutted prima facie case.

[2] In re Welfare of Dahl, 278 N.W. 2d 316 (Minn. 1979). The Minnesota Supreme Court vacated the reference order in this case on the grounds that "reference was made because of age and seriousness of the crime, neither of which meets the statutory requirements."

system. Since referral is dependent on a finding of either unsuitability to treatment or dangerousness,[1] the juvenile presumably must introduce evidence bearing on both of these factors if both are mentioned by the prosecutor.

In sum, while the juvenile court judge retains authority for making the reference decision, a prima facie case that a juvenile is not suitable to treatment or is a threat to the public safety is established if the juvenile is at least 16 and meets certain conditions regarding current charge and past record. In situations where a prima facie case cannot be established, unsuitability to treatment or dangerousness may be demonstrated according to previously developed standards. Although the Minnesota legislature stopped short of requiring the "automatic" referral of juveniles who meet certain conditions, it did specify characteristics which create a presumption in favor of reference. Reference for adult prosecution is not, however, limited to juveniles meeting the legislatively specified conditions.

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[1] State v. Hogan, 212 N.W. 2d 664 (Minn. 1973) and State v. Duncan, 250 N.W. 2d 189 (Minn. 1977).

STUDY DESIGN AND EXECUTION

The Supreme Court Juvenile Justice Study Commission's 1976 report described reference practices in ten Minnesota counties during 1973-1975, and a later study reported data on reference cases in all eighty-seven counties in 1978.[1] Given the continuing importance of the reference issue as well as recent statutory changes in reference criteria, the Commission decided in 1980 that further study should be undertaken. The objectives of the present study were: (1) to describe the number and characteristics of juveniles who were referred to adult courts or were involved in reference proceedings, and (2) to assess the impact of recent changes in the Juvenile Court Act which established more "objective" standards for reference.

Data on reference cases was collected in ten counties. The ten-county sample included small and medium-sized counties as well as the state's most populous urban centers. Hennepin, Ramsey, and Anoka were chosen to represent the seven-county metropolitan area and Cass, Goodhue, Lac qui Parle, Lake, Nobles, Otter Tail, and Stearns were selected to represent the eighty outstate counties. Three counties--Hennepin, Nobles, and Otter Tail--had been included in the Commission's 1973-1975 reference study.

In order to identify changes in reference practices over time the study covered a period of three and one-half years from January 1, 1978 to June 30, 1981. Delinquency cases were selected for analysis if the juvenile court petition was filed during the study period and if reference proceedings were initiated at some point during the court's consideration of the case.[2] Extensive

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[1] Supreme Court Juvenile Justice Study Commission, Report to the Minnesota Supreme Court, November, 1976, pp. 61-78. For the results of the 1978 survey see the Commission's staff report entitled "Certification of Juveniles in Minnesota in 1978," October, 1979.

[2] If several petitions were considered simultaneously by the court, the date of the initial petition was used to determine whether the case was eligible for inclusion in the study.

data on the juvenile's demographic characteristics and offense record, on the reference hearing and reference decision, and on the ultimate disposition decided upon by either the juvenile or adult court was collected for each case from court records.

To supplement the reference study, similar data was collected for cases which were never considered for referral to adult court but which nevertheless satisfied the prima facie criteria for reference established by the legislature in 1980. The selection of cases for this part of the study is discussed more fully later in this report.[1]

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[1]The Commission invites inquiries concerning the research design, data collection methods, and analytical procedures used in this study. Questions or comments should be addressed to: Research Director, Supreme Court Juvenile Justice Study Commission, 114 T.N.A. Bldg., 122 Pleasant St. SE, Minneapolis, MN 55455.

TRENDS IN THE USE OF REFERENCE PROCEEDINGS

During the course of the study 407 separate reference cases were identified and in two-thirds of these cases (273) the court decided in favor of adult prosecution. As Table 1 illustrates, reference cases were distributed very unevenly among the ten-county sample. Hennepin County provided more than half of the cases included in the entire study and more than three-fourths of the cases from the metropolitan area. The number of cases per capita was also significantly higher in Hennepin County than in either Ramsey or Anoka counties. Among the outstate counties reference proceedings were used frequently in three counties--Stearns, Otter Tail, and Cass--but were hardly ever used in the four remaining counties.

TABLE 1

FREQUENCY OF REFERENCE PROCEEDINGS
(January, 1978 through June, 1981)

	Cases Initiated (Motion Filed)	Cases Referred	Per Cent Referred
Metropolitan Sample:			
Hennepin	231	133	57.6%
Ramsey	62	42	67.7%
Anoka	14	11	78.6%
Outstate Sample:			
Stearns	39	36	92.3%
Otter Tail	30	24	80.0%
Cass	24	22	91.7%
Lake	5	4	80.0%
Nobles	2	1	50.0%
Lac qui Parle	0	0	0.0%
Goodhue	0	0	0.0%
Total Sample:	407	273	67.1%

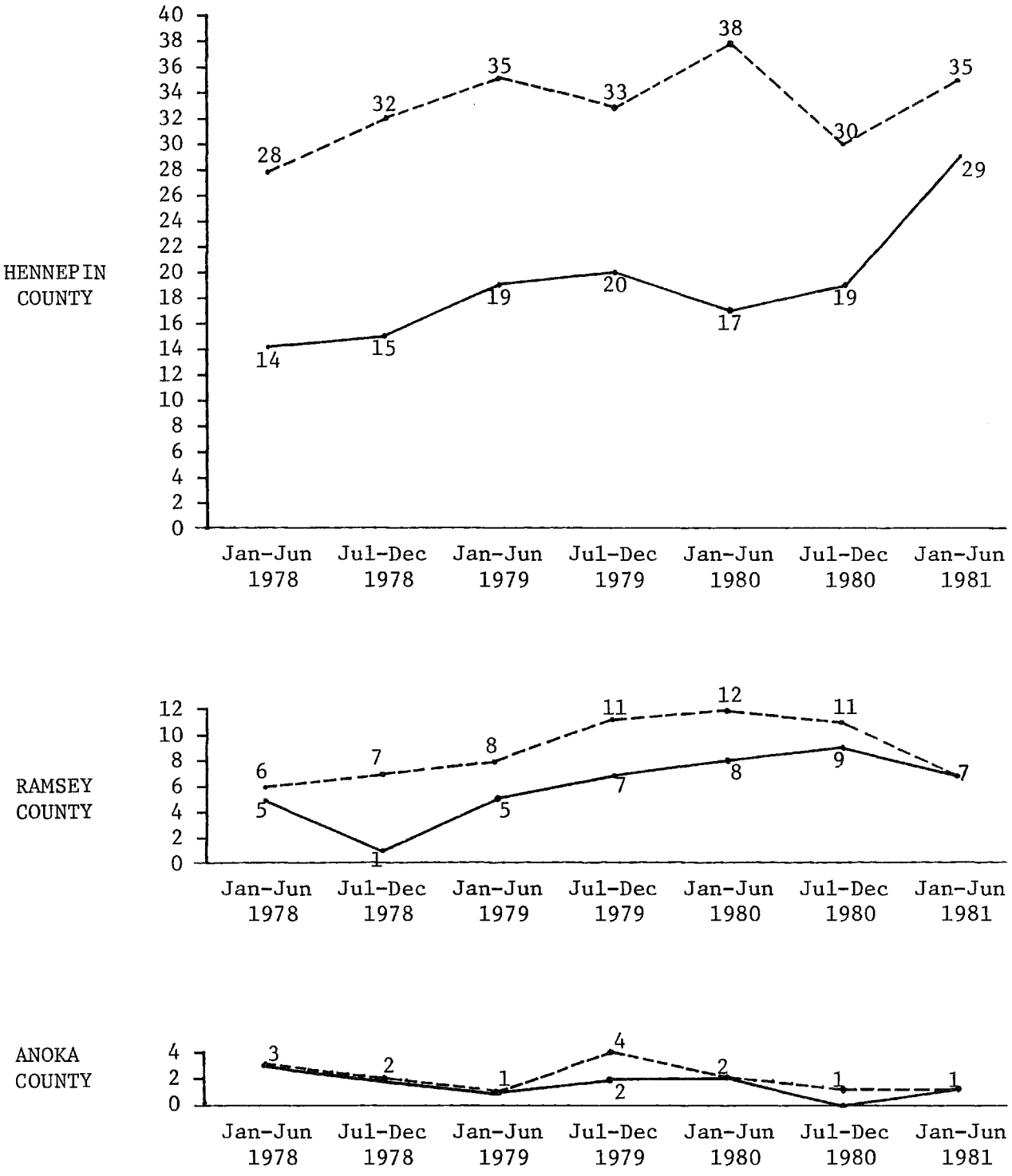

Fig. 1. Trends in the use of reference proceedings in three metropolitan counties, 1978-1981. The seven time periods along the horizontal axis refer to the date of the initial reference petition.

---------- Broken Line: Number of reference cases initiated.

———————— Solid Line: Number of referrals to adult court.

Metropolitan Counties

The graphs in Figure 1 illustrate trends in the use of reference proceedings over the course of the study period in Hennepin, Ramsey, and Anoka counties. The study period (January, 1978 to June, 1981) was divided into seven time periods each one-half year in length. Since the new reference standards allowing establishment of a presumptive case for reference went into effect on August 1, 1980, it is likely that changes attributable to the new legislation would have begun to appear during the July-December 1980 period and would have become fully evident during the January-June 1981 period.

As Figure 1 demonstrates, Hennepin County experienced an increase in the number of juveniles referred for adult prosecution at the very end of the study period. There was no noticeable increase, however, in the number of reference cases initiated by the county attorney. The rise in actual referrals to adult court was due not to additional cases in which reference proceedings were initiated but rather to an increase in the percentage of reference motions granted. For 1978, 1979, and 1980 slightly more than half of the motions for referral (53.4%) were granted by the court, while 84.9% of the cases initiated during the January-June 1981 period resulted in referral to adult court.

Neither Ramsey nor Anoka counties experienced substantial changes similar to the kind found in Hennepin County. As Figure 1 indicates, the use of reference proceedings increased very gradually in Ramsey County during the middle of the study period, but the number of reference cases initiated as well as the number of juveniles referred actually declined slightly towards the end of the period, after the 1980 legislative revisions were implemented. In Anoka County, no increase in the use of reference proceedings was found.

Examination of the demographic characteristics and delinquency records of juveniles for whom reference proceedings were initiated in the metropolitan counties confirms that the use of reference during the study period was marked more by the persistence of old patterns than by dramatic change. Where change did occur, it did not seem to be related directly to the establishment of new reference criteria.

TABLE 2

PROFILE OF JUVENILES INVOLVED IN REFERENCE PROCEEDINGS IN METROPOLITAN COUNTIES

	Before New Statute Implemented		After New Statute Implemented	
	Number	Percent	Number	Percent
Total Number	231	100.0%	76	100.0%
Age at Time of Offense:				
14	9	3.9%	2	2.6%
15	23	10.0%	7	9.2%
16	67	29.0%	19	25.0%
17	132	57.1%	48	63.2%
Race:				
White	130	56.3%	32	42.1%
Black	63	27.3%	21	27.6%
Native American	27	11.7%	20	26.3%
Other/Unknown	11	4.8%	3	4.0%
Primary Offense:				
Violent Felony	127	55.0%	37	48.7%
Property or Drug Felony	99	42.9%	38	50.0%
Misdemeanor	5	2.2%	1	1.3%
Number of Prior Felonies Admitted or Proven (ave.)	3.50		3.22	
Number of Prior Violent Felonies Admitted or Proven (ave.)	.47		.50	
Number of Years from First Delinquency Petition to Reference Petition (ave.)	3.09 yrs		3.28 yrs	
Prior Committment to Commissioner of Corrections:				
Yes	90	39.0%	40	52.6%
No	141	61.0%	36	47.4%

NOTE: The prima facie criteria for reference went into effect on August 1, 1980 and apply to offenses committed after that date. The right-hand column includes only those cases in which one or more of the alleged offenses occurred after August 1, 1980.

Most juveniles involved in reference proceedings in the metropolitan counties were seventeen years of age at the time of the offense. Many had already turned eighteen before the reference process was completed. Over 98% were males. The age and sex profile of juveniles involved in reference proceedings remained basically unchanged during the study period, but the proportion of minority youth increased substantially. (See Table 2.) Blacks and Native Americans accounted for 39.0% of reference cases before the new statute was implemented and 53.9% after implementation. The greater proportion of Blacks and Native Americans cannot, however, be attributed to the new reference statute. Additional data collected by the Commission indicates that white youths, not minority youths, constitute the great majority of juveniles whose records meet the requirements of a prima facie case for reference.[1] Had reference practices been significantly influenced by the newly-enacted prima facie criteria, minority involvement would have decreased rather than increased.

Little change occurred in the offense and prior record characteristics of juveniles considered for reference during the study period. (See Table 2.) Although legislative debate over the need for reform in reference criteria often centered around violent offenders, it is interesting to note that the proportion of juveniles accused of violent felonies failed to increase, and actually declined slightly, after the new legislation became effective.[2] After August, 1980 slightly over half (51.3%) of the juveniles for whom reference was sought in the metropolitan counties were charged solely with property or drug felonies or with misdemeanors. Burglary was the most common offense for which reference was sought--both before and after August, 1980.

Table 2 also indicates that, even though the state institutions at Red Wing and Sauk Centre are generally considered to be the last treatment options within the juvenile system, only about half of the juveniles involved in certification

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[1]As a supplement to the reference study, data was collected on cases meeting the prima facie criteria, regardless of whether the prosecuting authority had moved for reference. In the three metropolitan sample counties, 69.6% of the juveniles meeting the prima facie criteria were Caucasian, 26.6% were minority youths, and 3.8% were of unknown racial background.

[2]The category of violent felonies includes Murder I, II, and III, Manslaughter I and II, Criminal Negligence Resulting in Death, Assault I, II and III, Criminal Sexual Conduct I, II, III and IV, Kidnapping, False Imprisonment, Coercion, Terroristic Threats, Aggravated Robbery, and Simple Robbery, as well as attempts to commit any of the above.

cases after August, 1980 had previously been committed to a state institution. Prior to that, only 39.0% had previously been committed. While the existence of change appears to be undeniable, it cannot be attributed to the new reference statute. Once again, the direction of change is the opposite of what one might have expected, since the establishment of a prima facie case should presumably have reduced the prosecutor's burden of showing that suitable treatment options within the juvenile system had been exhausted.

Outstate Counties

An entirely different pattern of change emerged in the seven outstate counties. The overall trend is depicted in Figure 2. Referrals to adult court remained virtually constant during the early and middle segments of the study period and then dropped precipitously thereafter. An average of thirty juveniles per year had been certified through the middle of 1980, but only three were referred during the last six months of the study period. Along with the decline in the use of reference came substantial changes in the kinds of cases referred to adult court.

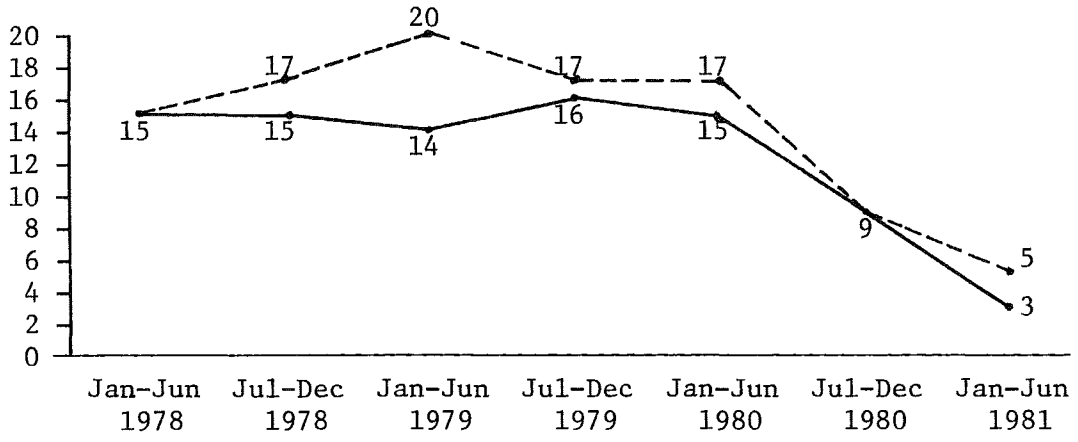

Fig. 2. Trends in the use of reference proceedings in seven outstate counties combined, 1978-1981.

---------- Broken Line: Number of reference cases initiated.

———————— Solid Line: Number of referrals to adult court.

Previous studies conducted by the Commission demonstrated that the purposes for which reference to adult court is used have in the past varied greatly across the state. In the metropolitan area, especially in Hennepin and Ramsey counties, reference was used primarily for relatively serious or habitual offenders who were eventually incarcerated in state prisons or county workhouses upon conviction in adult court. The intent was to utilize the more severe sanctions available in the adult system. In contrast, the outstate counties as a group used reference primarily for misdemeanor and underage offenders.[1] Juveniles were referred for minor offenses because traditional forms of juvenile court treatment, such as probation or counseling, were thought to be unnecessary or excessive. Most certified juveniles were ordered by the adult court to pay a small fine, typically under $50. A smaller number received a short jail term, usually less than a month, as their sentence.

Data collected for the present study indicates that this pattern persisted in many outstate counties until 1980, when juvenile courts were granted the authority to levy fines of up to $500. The authority to order fines as dispositions was not part of the reference statute but was contained in the same omnibus juvenile court bill as the reference criteria and also became effective on August 1, 1980. Before then, 60.9% of the juveniles considered for reference in the outstate counties were charged solely with misdemeanor or age-related offenses, 29.3% were charged with a property or drug felony, and only 9.8% were charged with a violent felony. The most common offense was possession or consumption of alcohol. Fewer than one-fourth (21.7%) had prior records involving felonies which were admitted or proven in court. Proceedings were conducted quickly and informally. The adult arraignment and the sentencing hearing often occurred immediately after the reference hearing and were presided over by the same judge. Defense counsel was present at only about half (55.4%) of the reference hearings. Slightly less than two-thirds of the juveniles convicted in adult court received a fine as their primary sentence.

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[1] It would be misleading to infer that this generalization applied uniformly among the outstate counties. Reference practices were determined primarily by local policies established by individual judges in individual counties. Thirty-three outstate counties reported no referrals in 1978, while fourteen counties reported five or more and accounted for more than two-thirds of referrals outside the metropolitan area. See the Commission's staff report "Certification of Juveniles in Minnesota in 1978," October, 1979.

The existence of two contrasting reference patterns--one predominant in the metropolitan area and one common in outstate Minnesota--can no longer be taken for granted. The dramatic decline in the use of reference in the outstate counties, identified in Figure 2, can be attributed entirely to a decline in referrals for minor offenses. Prior to implementation of the fining authority, juvenile courts in the seven-county outstate sample had referred an average of 20.8 juveniles per year for misdemeanors or underage offenses, and adult courts had imposed fines on juveniles in 16.4 cases per year. From January to June of 1981, however, only one juvenile was referred solely for a misdemeanor and only one juvenile received a fine as his primary sentence in adult court. Meanwhile, the number of referrals for felony-level offenses, which was never very large, remained constant.[1]

Further confirmation of the effect of the fining authority can be obtained from preliminary data collected by the State Court Administrator's newly-established State Juvenile Information System (SJIS). The Commission's 1978 statewide survey found that in 1978 Morrison County had certified fifty juveniles, or more than one-sixth of the total number for the entire state; forty-eight of the juveniles referred had been charged with misdemeanors or age-related offenses and forty-seven received fines in adult court. SJIS data indicates that the juvenile court in Morrison County granted only one motion for referral during the five-month period immediately following implementation of the fining authority.

In the outstate sample, only eight reference cases were found in which one or more of the alleged offenses was committed after August 1, 1980. Of the eight juveniles, six (75%) were accused of felony offenses and six had previous felony records. While the number of cases is very small, the evidence indicates that reference proceedings are now being used in outstate Minnesota primarily for more serious offenders.

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[1]In the seven outstate counties included in the study, the number of cases in which reference was sought for alleged felonies was as follows: five cases from July-December 1979, five cases from January-June 1980, five cases from July-December 1980, and four cases from January-June 1981.

EFFECT OF THE PRIMA FACIE CRITERIA

The legislature's intent in providing criteria for the establishment of a prima facie case for reference was to clarify existing reference standards and to increase the likelihood that serious offenders would be referred to adult court. In effect, the legislature established its own definition of the serious juvenile offender using the variables of age, alleged offense, and prior record. Juveniles who fit the definition are now presumed by law to be not suitable for treatment and to present a threat to public safety. Juveniles must present evidence to rebut this presumption in order to avoid adult prosecution.

As pointed out earlier the newly enacted standards do not require "automatic" referral of juveniles who meet the criteria. Prosecutors may still decide not to seek reference and judges may still find that the youth should be retained within the juvenile system. When the legislation was passed, many questions remained unanswered: How large is the class of juveniles defined by the criteria? Would prosecutors and judges interpret the criteria as a strict mandate for reference or as a set of advisory guidelines? Would juveniles meeting the criteria in fact be more frequently certified?

To address these questions, the Commission supplemented its reference study by collecting data on juveniles who satisfied the prima facie criteria, regardless of whether reference proceedings had been initiated.[1] Court records were searched in the ten sample counties to identify all juveniles meeting the criteria during three separate time periods: January-June, 1979; January-June, 1980; and January-June, 1981. Inclusion of the supplemental data makes

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[1]For purposes of this study, the term prima facie criteria refers to the criteria specified in Minn. Stat. 260.125 Subds. 3(2), 3(3), 3(4), and 3(5). These criteria are based solely on the juvenile's age, the offense alleged by petition, and prior record. There is another section of the new reference statute--Subd. 3(1)--which states that a prima facie case is established if the child "is alleged by delinquency petition to have committed an aggravated felony against the person and (a) in committing the offense, the child acted with particular cruelty or disregard for the life or safety of another; or (b) the offense involved a high degree of sophistication or planning by the juvenile." The data presented here excludes this section for two reasons. First, while age, alleged offense, and prior record are objective variables, terms like "particular cruelty" or "high degree of sophistication" are highly

it possible to examine the extent to which reference decisions conformed to the prima facie criteria during three comparable time periods. The complete research design is depicted schematically in the chart below, where "X" indicates the time periods for which data was collected.

Type of Case \ Time Period	Jan-June 1978	Jul-Dec 1978	Jan-June 1979	Jul-Dec 1979	Jan-June 1980	Jul-Dec 1980	Jan-June 1981
Cases in which reference motion was filed	X	X	X	X	X	X	X
Cases in which prima facie criteria were met			X		X		X

The new reference statute enacted in 1980 states that the offense to be used in applying the prima facie criteria is the offense alleged by the prosecutor on the delinquency petition. It should be noted, however, that this is frequently not the same offense which is ultimately admitted or proven in court. Application of the prima facie criteria would yield quite different results if the offense actually sustained in court were utilized. For example, throughout the entire 42-month study period, 56 juveniles certified to adult court in the ten-county sample possessed records sufficient to meet the prima facie criteria, but 20 of these (35.7%) would not have met the criteria if the offense for which they were eventually convicted in adult court had been utilized instead of the offense alleged by petition. Dismissal of charges accounted for 4 cases in which the criteria would no longer have been satisfied and reduction of charges accounted for 16 cases. There are, it appears, many instances in which a prima facie case may "deteriorate" between the point of petition and the point of conviction. It is important to reiterate, therefore, that the offense alleged by petition was utilized in this study to determine whether a particular case satisfied the presumptive criteria.

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subjective concepts which are open to interpretation and dispute. This section thus defeats the purpose for which objective criteria were established. Second, throughout the entire study reported here, only one case was found in which Subd. 3(1) was cited in the order for reference as a reason for certification.

According to the initial version of the criteria enacted in 1980, the number of delinquency adjudications for felony offenses committed in the previous two years was to be used to determine whether the juvenile's prior record was sufficient to establish a prima facie case. (In Minnesota, an adjudication of delinquency is a decision separable from the admission or proof of an offense.) One year later, the legislature modified the criteria by eliminating the requirement for an adjudication. Since August, 1981, any felony offenses committed during the previous two years which were admitted or proven in court can be counted towards a prima facie case. Since the adjudications standard was in effect at the time the study was conducted, it is the one used in the following analysis. Examination of the data indicates that, while elimination of the adjudication requirement will add slightly to the number of cases qualifying as prima facie cases, the general conclusions reached in this study would be the same regardless of the particular definition utilized.[1]

Table 3, which presents the results of the search process, indicates that the number of prima facie cases identified in the ten sample counties was rather small. Only six cases were found outside the metropolitan area during the three time periods studied. The new criteria thus appear to be virtually

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[1]The following chart illustrates the number of cases meeting the prima facie criteria when felony offenses admitted or proven in court are used to determine the juvenile's prior record. The number in parentheses is the number of cases meeting the prima facie criteria when the adjudication requirement is used. The gap between the two definitions narrowed toward the end of the study period, numbering only four cases from January to June 1981:

	Jan-June 1979	Jan-June 1980	Jan-June 1981
Hennepin	25 (19)	28 (24)	23 (22)
Ramsey	N/A	9 (3)	8 (5)
Anoka	4 (4)	0 (0)	2 (2)
Outstate Sample	2 (2)	3 (3)	1 (1)
	31 (25)*	40 (30)	34 (30)

*minus Ramsey

irrelevant to the kinds of delinquency matters heard in outstate courts. Hennepin County alone contributed well over two-thirds of the total number of cases. Table 3 also reveals that there was no decline in the number of juveniles meeting the criteria after the new reference statute went into effect. The study thus fails to provide support for the proposition advanced by some that the new criteria would deter significant numbers of serious offenders from committing further crimes.

TABLE 3

NUMBER OF PRIMA FACIE CASES IDENTIFIED
DURING SELECTED TIME PERIODS

County	Jan-June 1979	Jan-June 1980	Jan-June 1981
Hennepin	19	24	22
Ramsey	N/A	3	5
Anoka	4	0	2
Outstate Sample Counties	2	3	1
Total	25*	30	30

*Excluding Ramsey County. Due to a changeover in record-keeping procedures, 1979 data was not readily obtainable in Ramsey County.

Table 4 presents data on the extent to which reference proceedings were used in the prima facie cases found in Hennepin County, the only county where the number of cases identified was sufficient for detailed analysis. From January through June of 1981, prosecutors sought reference in 12 cases (54.5%) and judges ordered certification in 10 cases (45.4%). Each of these percentages is greater than the percentages reported for earlier periods, though the increase was rather modest, especially when January-June, 1979 is used as the basis for comparison instead of January-June, 1980.

TABLE 4

REFERENCE PROCEEDINGS INVOLVING JUVENILES
MEETING PRIMA FACIE CRITERIA:
HENNEPIN COUNTY

	Jan-June 1979		Jan-June 1980		Jan-June 1981	
Total Prima Facie Cases . . .	19	(100%)	24	(100%)	22	(100%)
Reference Proceedings Initiated	8	(42.1%)	8	(33.3%)	12	(54.5%)
Referred to Adult Court . . .	6	(31.6%)	3	(12.5%)	10	(45.4%)

Despite the increased use of reference depicted in Table 4, the evidence still indicates that reference decisions did not match the prima facie criteria very closely. Prosecutors in Hennepin County decided to seek reference for little more than half of the juveniles (12 of 22) who met the criteria during the first half of 1981. Fewer than half (10 of 22) were actually certified. Conversely, prima facie cases accounted for only 34.3% (12 of 35) of the cases in which reference proceedings were initiated during the same time period, and 34.5% (10 of 29) of the cases actually certified. Thus even after the new reference statute was passed, almost two-thirds of the juveniles certified did not have records which qualified as prima facie cases.

Earlier it was reported that the number and percentage of reference motions granted in Hennepin County increased significantly after the new reference statute was implemented, particularly from January through June, 1981. Can the increase in certifications be attributed primarily to the new reference criteria? The data indicates that the answer is "no". Figure 3 illustrates, for example, that the number of referrals to adult court increased significantly for juveniles who <u>failed</u> to meet the criteria as well as for those who <u>did</u> meet the criteria. Some factors other than the prima facie criteria alone must have brought about the rise in certifications that was reported.

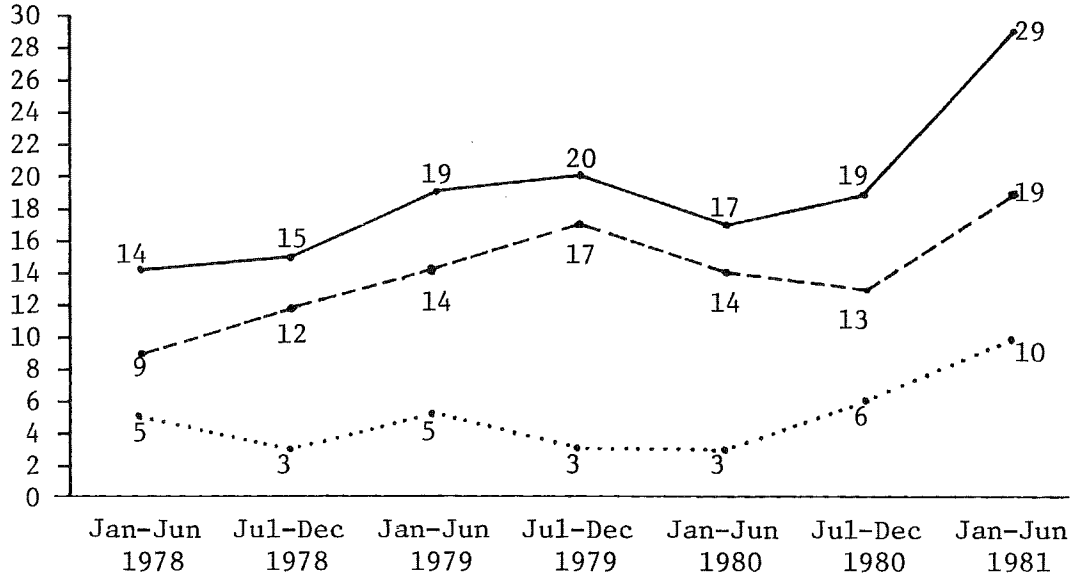

Fig. 3. Relationship of prima facie criteria to reference for adult prosecution in Hennepin County, 1978-1981.

——————— Solid Line: Total number of referrals to adult court.

– – – – – – – – – Broken Line: Number of referrals which failed to meet prima facie criteria.

..... Dotted Line: Number of referrals which satisfied prima facie criteria.

To summarize, no county in the study experienced a significant increase in reference cases and no county except Hennepin experienced an increase in actual referrals. Even the increase in referrals observed in Hennepin County cannot, for the most part, be attributed to the prima facie criteria. Despite some changes in the processing of juveniles who met the prima facie criteria, it appears that prosecutors and judges did not, in practice, find the new criteria particularly useful as guides for decision-making. During the first half of 1981 prosecutors in Hennepin County sought reference for slightly more than half of the juveniles meeting the prima facie criteria. Conversely, only about one-third of the juveniles on whom reference motions were filed met the criteria.

The failure of the criteria to influence reference practices more extensively appears to stem from the fact that the criteria are poor measures of the seriousness of juvenile misbehavior. The research team discovered many instances involving property offenders who, though satisfying the technical

requirements for a prima facie case, were relative newcomers to the juvenile court and had been exposed to very few of the resources available within the juvenile system. In most cases of this type, prosecutors did not seek reference. (See Table 5 for further information on cases in which no motion for reference was filed.) On the other hand, the research team reviewed many cases in which the juvenile possessed a lengthy felony record, had been exposed to the whole range of treatment options within the system, and yet failed to meet the prima facie criteria.[1]

TABLE 5

PROFILE OF JUVENILES MEETING PRIMA FACIE CRITERIA IN HENNEPIN COUNTY

	Reference Motion Was Not Filed		Reference Motion Was Filed	
	Number	Percent	Number	Percent
Total Number	37	100.0%	28	100.0%
Primary Offense:				
Violent Felony	8	21.6%	17	60.7%
Other Felony or Misdemeanor	29	78.4%	11	39.3%
Number of Prior Felonies Admitted or Proven (average)	4.11		4.50	
Number of Prior Violent Felonies Admitted or Proven (average)	.11		.68	
Number of Years from First Delinquency Petition to Reference Petition (average)	1.54 yrs		3.20 yrs	
Prior Commitment to Commissioner of Corrections:				
Yes	6	16.2%	15	53.6%
No	31	83.8%	13	46.4%

NOTE: This table is based on 65 cases in which the petition was filed between January and June of 1979, 1980, or 1981 and in which the prima facie criteria as initially enacted were satisfied.

[1] It should be noted that, although data has been presented primarily for Hennepin County only, several examples of the kinds of cases discussed in this paragraph were found in other counties as well. There is little reason to believe that Hennepin County's experience using the prima facie criteria has been unusual in this respect.

Table 6 illustrates some systematic differences between juveniles who met the prima facie criteria and those who were processed as reference cases in Hennepin County. Juveniles who met the criteria had on the average more prior felony offenses, but fewer previous violent felonies. Most were charged only with property or drug offenses, while the juveniles processed as reference cases were primarily charged with violent offenses. Juveniles who met the criteria had spent less time within the juvenile justice system, and fewer among this group had ever been committed to a state correctional institution. In short, the profile of juveniles identified by the prima facie criteria differed significantly from the profile of juveniles deserving of reference in the eyes of prosecutors and the courts.

TABLE 6

COMPARISON OF PRIMA FACIE CASES AND REFERENCE CASES IN HENNEPIN COUNTY DURING SELECTED TIME PERIODS

	Prima Facie Criteria Met		Motion for Reference Filed	
	Number	Percent	Number	Percent
Total Number	65	100.0%	109	100.0%
Primary Offense:				
Violent Felony	25	38.5%	61	56.0%
Other Felony or Misdemeanor	40	61.5%	48	44.0%
Number of Prior Felonies Admitted or Proven (average)	4.28		3.19	
Number of Prior Violent Felonies Admitted or Proven (average)	.35		.52	
Number of Years from First Delinquency Petition to Present/Reference Petition (average)	2.25 yrs		3.44 yrs	
Prior Commitment to Commissioner of Corrections:				
Yes	21	32.3%	48	44.0%
No	44	67.7%	61	56.0%

NOTE: The left-hand column includes all cases in which the petition was filed between January and June of 1979, 1980, and 1981 and in which the requirements for a prima facie case were met. The right-hand column includes all cases in which the petition was filed during the same time period and in which a motion for reference was filed. There are 28 cases which are counted in both columns.

POLICY IMPLICATIONS

The legislature's adoption of "objective" criteria which would establish a prima facie case for waiver of juvenile court jurisdiction was intended to enhance the probability that serious or violent offenders would be certified and to increase the consistency and predictability of reference decisions. These intended effects have not occurred to date. Although there have been some changes in the number and kind of juveniles certified for criminal prosecution in Minnesota, these changes appear to be the result of factors other than the prima facie standards. Furthermore, the prima facie criteria do not appear to be reliable guides to the reference decisions actually being made by prosecutors and judges and do not provide an adequate measure of serious delinquent behavior.

The use of reference for minor offenders in outstate counties declined dramatically after the juvenile court was granted the authority to levy fines of up to $500. Before that time, juveniles charged with relatively minor offenses were often referred to adult court because traditional juvenile court dispositions were thought to be inappropriate. Once referred, these juveniles typically were given a sentence which included a small fine. When the juvenile court was given fining authority, referral of such cases was no longer necessary.

While the number of cases is quite small, it appears that reference is now being used in outstate Minnesota primarily for more serious juvenile offenders. Very few cases petitioned into court in the outstate counties, however, meet the legislatively established prima facie criteria. In the three six-month periods examined (January through June of 1979, 1980, and 1981), only six prima facie cases were found among all the cases petitioned into court in the seven non-metropolitan counties included in the study. The recently adopted criteria thus seem to be irrelevant to the kinds of delinquency matters heard in most of Minnesota's juvenile courts.

In the three metropolitan counties (Anoka, Hennepin, and Ramsey) included in the Commission's study, a different situation emerged. In these counties the number of juveniles considered for reference was greater than in the outstate counties and nearly 98% of those considered were charged with felony-level

offenses. Reference never was routinely utilized in the metropolitan areas for misdemeanor or underage offenders; these counties therefore did not exhibit the change in reference practice attributable to the fining authority that was found in outstate Minnesota. In fact, in the metropolitan counties the use of reference during the forty-two month study period was marked more by the persistence of patterns than by their change. No significant change was found either in the number or characteristics of juveniles considered for reference or, with one exception, in the number or characteristics of juveniles actually certified. The exception to this generalization occurred in Hennepin County where there was an increase in the number of juveniles who were actually referred. This increase reflects an increase in the percentage of reference motions granted rather than an increase in the number filed and appears to have resulted from changed judicial practice within the county rather than from the establishment of the prima facie criteria. Most of the reference cases initiated in Hennepin County are now negotiated prior to a hearing on the reference motion. Juveniles on whom a reference motion is filed are given the opportunity to agree to a charge and sentence in criminal court as a condition of their referral and subsequent guilty plea. They thus exchange the reference process and the possibility of being retained in the juvenile system for a certain result in the criminal system.

After implementation of the 1980 legislation, Hennepin County also evidenced a slight increase in the proportion of juveniles referred to adult court who met the prima facie criteria. Even so, however, in approximately two-thirds of the twenty-nine cases referred in the first six months of 1981 (after the revised statute came into effect), the juveniles did <u>not</u> meet the presumptive criteria. Based on an examination of juveniles involved in reference proceedings in Hennepin County, it would appear that reference continues to be sought and to be granted in many cases in which a prima facie case cannot be established.

Even if juveniles who did not meet the presumptive criteria were certified, it might be expected that most juveniles who <u>did</u> meet the criteria also were referred for criminal prosecution. Meeting the criteria in itself creates a presumption that certification is the appropriate course of action. In Hennepin County, however, which was the only county in the study in which the number of prima facie cases was sufficient to justify further analysis, many juveniles who met the criteria were not even considered for reference. In the first six

months of 1981 (after the statutory revisions were made) twenty-two juveniles who were petitioned into court met the requirements for establishing a prima facie case. Reference was sought in only twelve and granted in only ten of those twenty-two cases.

To be sure, the prima facie criteria were not intended to provide for the "automatic" referral of certain juveniles. It was understood that discretion would remain with the juvenile court judge and that exceptions would occur. Yet, the large number of exceptions suggests that the criteria do not adequately reflect the wealth and variety of information and opinion considered in making reference decisions. This contention is supported by the fact that important differences in offense record and treatment history separate juveniles who meet the criteria from juveniles who are processed as reference cases.

In sum, the adoption of prima facie criteria for reference seems to have had little effect on the number or kind of juveniles certified for criminal prosecution in Minnesota. Changes which have occurred have been the result of other factors. The decline in certification in outstate counties is clearly attributable to the granting of fining authority to the juvenile courts. Juveniles charged with relatively minor offenses who at one time would have been referred to adult court for imposition of a fine can now be handled within the juvenile court. Similarly, while Hennepin County has witnessed an increase in the number of reference motions granted (but not in the number of motions filed), this increase most likely is due to changes in judicial practice rather than to changes in the reference statute.

The prima facie criteria do not provide reliable guides to reference decisions. Many juveniles are referred who are judged unamenable to treatment or a threat to public safety even though they do not meet the established criteria. And many who do meet the criteria are, with good reason, not considered for reference. Had the new reference criteria provided for "automatic" certification, it is clear that many juveniles thought by prosecutors and judges to be inappropriate candidates for reference would nonetheless have been tried as adults. The kinds of simple, "objective" criteria established do not provide sufficient or useful guidelines for deciding which juveniles should be referred for criminal prosecution. Other factors--such as the particular circumstances of the crime and the juvenile's age, sophistication, past offense record, and previous treatment history--continue to be salient in the reference decision.

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Changing boundaries of the
juvenile court