

**REPORT OF THE JOINT
SUBCOMMITTEE STUDYING THE**

**Creation of a
Clearinghouse for Juvenile
“Criminal” Records**

**TO THE GOVERNOR AND
THE GENERAL ASSEMBLY OF VIRGINIA**



House Document No. 36

**COMMONWEALTH OF VIRGINIA
RICHMOND
1988**

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Virgil H. Goode, Jr., Vice-Chairman
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Kenneth B. Rollins
Daniel W. Bird, Jr.
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Report of the Joint Subcommittee
Studying the Creation of a Clearinghouse
for Juvenile Criminal Records

To

The Governor and the General Assembly of Virginia
Richmond, Virginia
December, 1987

To: Honorable Gerald L. Baliles, Governor of Virginia,
and
The General Assembly of Virginia

AUTHORITY FOR STUDY

House Joint Resolution No. 320 (1987, Appendix A) authorized the creation of a seven-member joint subcommittee to study the feasibility and desirability of creating a central clearinghouse for criminal history records concerning juveniles. Delegate W. Roscoe Reynolds was the chief patron of the resolution. The joint subcommittee was specifically requested to undertake an assessment of (i) the methods available to judicial personnel to obtain accurate criminal history information as it pertains to juveniles, (ii) the advisability of maintaining a confidential and restricted access juvenile data bank within the Central Criminal Records Exchange or creating a separate but similar system to improve necessary access to juvenile records by judicial officials, and (iii) the costs of creating and maintaining any such system. The rationale supporting creation of a juvenile records clearinghouse, as expressed in H.J.R. No. 320, is to ". . . provide immediate and accurate presentencing information and thus enable the Commonwealth to intervene appropriately and effectively with juveniles whose crime patterns might be broken early, thus saving both human and financial resources of the Commonwealth."

The membership of the joint subcommittee was appointed as follows: Delegates W. Roscoe Reynolds, John G. Dicks III, and Kenneth B. Rollins were appointed by the Speaker from the House Committee for Courts of Justice; Senators Virgil H. Goode, Jr., and Daniel W. Bird, Jr., were appointed by the Senate Committee on Privileges and Elections from the Senate Committee for Courts of Justice; and the Honorable James L. Tompkins III, Judge of the Carroll County Juvenile and Domestic Relations District Court and Captain William R. Wagner, Jr., of the Bureau of Criminal Investigation, Department of State Police, were appointed by the Governor.

Delegate Reynolds was elected chairman and Senator Goode was elected vice-chairman. The subcommittee held two public meetings in Richmond. Additionally, the chairman and staff met for a work session with representatives of the Office of the Executive Secretary of the Supreme Court, the Office of the Attorney General, the Department of State Police,

the Department of Corrections, and the Department of Criminal Justice Services. The study was monitored by staff of the House Appropriations Committee.

The following groups were contacted to monitor and provide input into the study: Virginia Council of Juvenile and Domestic Relations District Court Judges (Hon. E. P. Grissom, Chesapeake); Virginia Association of Commonwealth's Attorneys; Office of the Executive Secretary, Virginia Supreme Court; Virginia State Police; Department of Corrections, Youth Information Services; Department of Criminal Justice Services.

EXECUTIVE SUMMARY

Following an analysis of the methods currently available for obtaining prompt, accurate and complete information on a particular juvenile's prior contact with the system and the feasibility and desirability of maintaining a confidential record of those contacts, the joint subcommittee makes the following recommendations:

1. That a centralized, automated system be created to maintain background information on juveniles who come into the criminal justice system to ensure proper evaluation and disposition of particular juvenile cases and allow statistical analysis of the data to be used in developing and implementing policies affecting the juvenile justice system.
2. That appropriate safeguards be established by statute and regulation adopted by the Department of Corrections to ensure the security of the system and confidentiality of the data in order to protect juveniles from any misuse of the data collected.
3. That authority be granted to the judiciary to release identifying information on fugitive juveniles charged with serious offenses in order to facilitate apprehension of the juvenile and protect both the juvenile and the public.
4. That efforts to improve criminal justice information systems in the Commonwealth, particularly as those systems affect juveniles, be continued and expanded to allow for proper evaluation of the criminal justice policies of the Commonwealth.

BACKGROUND

A recent study of criminal records of individuals born in 1958 who lived in Philadelphia from 1968 to 1975 established that only 7% of the more than 27,000 youths studied were chronically delinquent; but this small minority was responsible for 75% of all serious crimes committed by individuals in their age group.¹ There is increasing evidence that a significant number of adult serious offenders had frequent contacts with the criminal justice system as youths. The argument is made that early detection and prompt, appropriate disposition is the most effective means to deter habitual youthful offenders. Appropriate disposition requires complete and accurate information on the offense and the offender.

However, many states' statutes contain strict confidentiality provisions governing criminal history information of juveniles. Virginia is no exception. These provisions are intended to protect juveniles from the stigma associated with a criminal record. The theory is that the existence of and potential for access to these records will psychologically burden the juvenile, thereby interfering with his attempts at rehabilitation. Nonetheless, the required confidentiality makes it nearly impossible to tailor the disposition to the individual offender.

CURRENT VIRGINIA LAW - CRIMINAL HISTORY INFORMATION SYSTEMS

A. Central Repositories

The Central Criminal Records Exchange (CCRE), Chapter 23 of Title 19.2, Code of Virginia (§ 19.2-387, et seq.), is the "sole criminal record keeping agency of the state...." It is operated as a separate division within the Records Management Section of the Department of State Police. There are currently 57 persons employed within the CCRE responsible for maintaining over 600,000 records.

Records collected on adults by criminal justice agencies (i.e., courts and other governmental units engaged in "the administration of criminal justice") relating to arrests, detentions, indictments, informations and dispositions are received, classified and filed. Arrest reports, fingerprints of adults are required to be filed by the arresting law enforcement agency if the offense involved is one of those specified in § 29.1-390. The filing agency also indicates whether photographs are available.

A juvenile's fingerprints are filed with the CCRE if (i) the juvenile is 15 or older and is tried and convicted of a felony as an adult in the circuit court or (ii) the juvenile is 13 or older and is adjudicated delinquent on the basis of his commission or attempted commission of one of the following offenses: bodily wounding, use of a firearm in the commission of a felony, poisoning, extortion, robbery, rape, forcible sodomy, inanimate object sexual penetration, grand larceny, burglary, arson and related crimes or murder (§ 16.1-299.4). A copy of the arrest record, including the right index fingerprint, is sent to the clerk of the circuit or district court handling the case. The clerk is required to file a disposition report with respect to cases for which an arrest report is required. The arresting agency files the disposition report in other cases. Corrections officials are required to file reports detailing any changes in correctional status for individuals for whom reports were previously filed with CCRE. Officials who file the disposition and correctional reports are responsible for keeping the reports accurate and up-to-date (§ 19.2-390).

Access to the data on file with the CCRE is limited by statute (§ 19.2-389). The records are identified by the name of the individual and a ten-print fingerprint comparison. Additionally, each record is given a state identification number and, for offenses requiring filing with the CCRE, an F.B.I. identification number. Fingerprints may be shared between law enforcement officers (full-time police and sheriffs engaged in law

enforcement prevention and detection, game wardens of the Commission on Game and Inland Fisheries, members of the Regulatory Division of the A.B.C. Department and specially appointed railroad police; see § 9-169). Upon request, authorized officers and employees of criminal justice agencies may receive the criminal history record information on file with CCRE (See § 19.2-389). The records are maintained in an active file until actual notice of the death of the subject is received or after the individual reaches 81 years of age. Only the State Police are allowed access to the index created for these inactive files.

The Virginia Juvenile Justice Information System (VAJJIS), Chapter 10 of Title 16.1, Code of Virginia (§ 16.1-222, et seq.), is run through the Department of Corrections. The system is operated separately from CCRE and for a different purpose. VAJJIS is a management information, not a case tracking system. The court services units are responsible for filing the records of all referrals to intake. The records on file identify the juvenile subject only if the child was found to be delinquent. All other records are anonymous and are collected for statistical purposes only. The information is used to project monetary and personnel needs within the juvenile system.

The release of information in VAJJIS on identified juveniles (*i.e.*, those previously adjudicated delinquent) is authorized upon written request of a circuit or juvenile judge. However, these requests are rarely made. The length of time required to respond to the request makes this a less than satisfactory tool in sentencing and disposition.

B. Other Records Available (decentralized)

Fingerprints and photographs may be taken by law enforcement officers only if the juvenile is thirteen years of age or older and is alleged to have committed an act which would constitute a certain specified felony if committed by an adult. If the juvenile is fifteen or older, any felony charge may be the basis for taking photographs and fingerprints. There is no authority for fingerprinting or photographing juveniles under 13, regardless of the offense involved, except to match the juveniles' print with a latent print found during an investigation (§ 16.1-299 B).

All fingerprints and photographs taken are destroyed if (i) the juvenile is less than thirteen, even if he was adjudicated delinquent or (ii) the petition is dismissed or the juvenile is found not guilty, regardless of his age or the offense. Fingerprints of juveniles fifteen and over who are found guilty and tried as adults and those thirteen and over who are adjudicated delinquent due to their commission of the offense charged which resulted in their fingerprints being taken, are sent to the CCRE. The fingerprints and photographs of a juvenile thirteen or older who is found to have committed a delinquent act, but not one of the specified felonies, may be retained by the local law enforcement agency. This is not required (see § 16.1-299.3). The fingerprints may be entered into any local police department computer system, but the juvenile's name must remain confidential.

In addition to restrictions on taking and use of fingerprints and photographs, the Code of Virginia also prescribes limitations on other law

enforcement records (§ 16.1-301), court records (§§ 16.1-302 and 16.1-303) and certain reports and records relating to juveniles committed to the Department of Corrections (§ 16.1-300). Generally, the extent to which access to criminal records involving juveniles is allowed depends upon (i) the type of record and (ii) the purpose for which the record is sought. Section 16.1-309 provides that unauthorized disclosure of information derived from records entitled to confidentiality under Article 12 is punishable as a Class 3 misdemeanor (maximum \$500 fine).

Law enforcement records regarding a juvenile tried on a criminal charge as an adult pursuant to § 16.1-269 are not entitled to confidentiality. Law enforcement records in other juvenile cases are confidential, subject to certain statutory limitations. These records may be reviewed only by (i) a court which has the juvenile before it or (ii) officials of agencies to which the juvenile is committed or those responsible for his supervision on release. Probation officers and other professional court staff are granted access for purposes of preparing a presentence report. Officers of penal facilities and the parole board are granted access to facilitate supervision and decisions regarding parole and discharge. It must be noted that these authorized disclosure provisions for juveniles who have not previously been tried as adults are effective only if the existence of the records is known. That is, unless a judge, for example, knows or has reason to know that a juvenile has been in trouble before in another jurisdiction, he will not know to ask that jurisdiction for the records.

The statutes also provide for disclosure to other specified individuals and agencies but only upon court order. Furthermore, the court may order disclosure "...in the interests of the child or of national security..." (see § 16.1-301 A; § 16.1-309.1).

Section 16.1-301 C authorizes law enforcement agencies to exchange specific information on "current" juvenile arrests, but only for purposes of "current" investigations. The creation of a new local file on the juvenile by the investigating department is expressly prohibited.

Court records of cases involving juveniles, including information obtained by court officers or employees in the discharge of their duties, are also confidential. The case file includes the docket, all papers filed in the case, transcripts of testimony, findings, verdicts, orders, decrees, and social, medical, psychiatric and psychological studies. However, hearings involving alleged criminal violations or traffic infractions are public, unless the juvenile expressly waives this right (§ 16.1-302). The juvenile case files are maintained separate from adult case files. Access to the files is allowed, without the necessity of obtaining a court order and without regard to the reason for which the file sought to: judges and professional staff of the court in which the case was heard, agencies having legal custody of or supervising responsibility over the juvenile pursuant to court order or request, and the attorneys for parties to the case (§ 16.1-305 A.1, 2 and 3). Additionally, the court may, by order, grant access to any person having a "legitimate interest" in the case or court (§ 16.1-305A.4). Adult probation and parole officers may obtain access to a juvenile's case file, with a court order, but only for the purpose of preparing a presentence report in circuit court or a background

report for the Parole Board. Again, however, a court or probation officer having the juvenile currently before them would have to know of the existence of these records in another jurisdiction in order to obtain a court order allowing them access.

Court records involving juveniles adjudicated delinquent after July 1, 1977, on the basis of acts which would constitute felonies if committed by adults are sealed after five years and destroyed after twenty years. These records are retained by the juvenile court until destroyed. Other records in delinquency and CHINS cases heard after July 1, 1977, are destroyed when (i) five years have passed since the date of the last hearing and (ii) the juvenile is at least 19 years of age (§ 16.1-306 A). Once sealed, a juvenile's records may be made available only to judges, and then only for the purpose of sentencing (§ 16.1-306 B). Sealed records destroyed after twenty years are not subject to subsection F of § 16.1-306. That is, upon destruction, all index references need not be destroyed.

The statute also provides for expungement, upon petition of the juvenile and notice to the Commonwealth's attorney, of records of cases (i) involving felony-delinquencies decided on or after July 1, 1977 which have been sealed for ten years and (ii) in delinquency proceedings after July 1, 1977, not involving acts which would otherwise be felonies, in which the juvenile was not adjudicated delinquent or the petition was dismissed (§ 16.1-306 C). Once the court records are destroyed or expunged, it is as if they never existed (§ 16.1-306 F).

In general, § 16.1-300 provides that only persons with significant interests in the care or treatment of a juvenile in the custody of the Department of Corrections are allowed access to his social, medical, psychiatric and psychological records (e.g., the judge, attorneys, probation officers and other professional court staff, public or private agencies providing treatment, and legal guardians). The Department may prevent disclosure of these records to a parent or guardian provided that, upon objection, judicial concurrence in the refusal to disclose is obtained. The court having jurisdiction of the case may, by order, authorize disclosure of these records to any person or agency "having a legitimate interest in the case or the work of the court."

CONSIDERATIONS AND FINDINGS

1. Automated Data System

The joint subcommittee began deliberations by agreeing that judges and juvenile probation officers must have complete and accurate information relating to a juvenile who is brought to intake. This data is essential at intake to ensure that appropriate decisions are made regarding predispositional detention or release. Additionally, the data is essential for proper preparation of transfer reports to the circuit courts in cases of offenses by juveniles fifteen years of age and older which would constitute felonies if committed by adults. Later, this information would be used in preparing pre-disposition reports to assure proper sentencing and treatment.

Judges and juvenile court officials are limited in their abilities to obtain this information under current law. Because of the confidentiality provisions discussed, supra, information on a juvenile's prior contacts with the juvenile justice system is available only from a manual search of the court records of (i) the court which currently has jurisdiction over the juvenile or (ii) another court in which the juvenile previously appeared, if known. The joint subcommittee heard testimony that a juvenile can misrepresent his prior history in the juvenile system with relative ease. If he does not admit to prior appearances in other courts, or if that information does not otherwise come to light, the court is seriously disadvantaged in its attempts to tailor a specific penalty.

The joint subcommittee believes this lack of complete and accurate data works to the detriment of the juvenile and the public. The juvenile justice system should be designed to deter the youthful offender from continuing his criminal activities throughout his youth and into his adult years. Furthermore, sentences imposed upon repeat youthful offenders should better punish the offender and protect the public. The joint subcommittee found that creation of an automated central repository for identifiable juvenile records is essential to attainment of these goals (see Appendix B).

Initially, discussion focused on the feasibility of creating a unified criminal records and information system which would cover adults and juveniles. It was suggested that the system include all information utilized by law enforcement, the judiciary, corrections and policy planning coordinators. The chairman and staff met with representatives of the various state agencies involved to discuss the technical aspects of creating such a statewide system. Those present advised that similar discussions had been held over a number of years. Because of the diverse interests involved and the substantial costs, the discussions never progressed. It was agreed that such a system was desirable, but was not practically possible at this time. Further study is required. (See discussion of Improved Criminal Justice Systems at 3, infra.)

Representatives of the Department of Corrections advised the chairman of the Department's on-going project to revise its in-house information system to create a comprehensive case tracking system. In subsequent discussions, it was agreed that within this project, the current VAJJIS system could be modified and expanded to include a tracking mechanism for identifiable juvenile cases. The joint subcommittee recommends that VAJJIS be modified to include an on-line mechanism for obtaining relevant prior history information on juveniles. It is hoped that the system will be operational by July of 1989. The Department of Corrections indicated that an additional appropriation would not be necessary. Technical modifications and on-line computer terminals for each court services unit could be provided within the \$12 million appropriated for the project.

A number of statutory amendments are necessary to implement the system effectively (see Appendix C). The joint subcommittee was specifically concerned about ensuring the security of the system and confidentiality of the data obtained. Access to data which identifies a particular juvenile will be granted only to judges, Commonwealth's attorneys and juvenile probation officers. These individuals need the data to ensure appropriate referrals and disposition. Data submissions will not be required for

juveniles brought to intake on traffic offenses for which a term of confinement is not authorized. This data will be of no use in ensuring appropriate referral and disposition. The data will be secured from unauthorized disclosure by implementation of a level system of passwords.

In addition to the statutory safeguards, the joint subcommittee recommends that the Department of Corrections adopt regulations substantially similar to those adopted by the Department of Criminal Justice Services to govern the Central Criminal Records Exchange. The current regulations are comprehensive. They govern collection and storage of data, records of disseminations of data, access to the data, challenges to the accuracy of the data, responsibility for the system, and limitations and requirements for personnel and methods of collection, storage and dissemination. The joint subcommittee believes that companion regulations will secure the confidentiality and integrity of the new VAJJIS.

The joint subcommittee discussed the necessary contents of the new data system in great detail. Of significant concern was the need to ensure the accuracy of the data retrieved. In discussions with those familiar with similar systems, it was noted that fingerprints provide the most precise identifier. However, the joint subcommittee was concerned about the impact of wholesale fingerprinting of juveniles presented at intake on the overall goal of preserving the confidentiality of juvenile records to the greatest extent possible. In light of these concerns, it was agreed that the Department of Corrections would establish appropriate identifiers using a combination of factors. These factors would include a juvenile's surname, date of birth and social security number.

In all cases involving allegations of delinquency, it will be necessary to include identifying information in the data submission. These are the cases which the joint subcommittee believes have the most significant implications for the juvenile and the juvenile justice system. However, the joint subcommittee recognizes that other situations ancillary to a delinquency proceeding for which a juvenile may be presented at intake (e.g., cases involving runaways, children in need of supervision, allegations of neglect or abuse, etc.) may have significant bearing on determinations involving referral for treatment and other dispositions in future cases. Additionally, it would be helpful to a court to know whether a juvenile is the subject of any on-going proceedings in another jurisdiction. Therefore, the joint subcommittee recommends that the Department of Corrections be authorized to adopt regulations to require identifiable data on a juvenile in other cases. However, unless the juvenile is found guilty, the identifiable data will be deleted upon disposition and will not be accessible. The data will nonetheless remain in the system in anonymous form for statistical purposes and use in policy making.

Representatives of the Department of Corrections and the Office of the Executive Secretary expressed a belief that use of the on-line system would improve the accuracy of the data submitted. Entries will be keyed in by a single individual at each step of the juvenile's proceedings. The number of people submitting data will be significantly reduced, resulting in more consistency in the data submission process and, it is hoped, reducing the chances of error. The data entered will be immediately available statewide to persons with access to the system.

Finally, the joint subcommittee recommends that the statutory confidentiality provisions governing case files and juvenile records held by the Department of Corrections be modified to ensure consistency with their other recommendations. Judges and judicial officials and staff need access to the data contained in these files and records for the same reasons discussed, supra (see Appendix C - §§ 16.1-300 and 16.1-305).

The joint subcommittee believes these recommendations strike a proper balance between the need for (i) complete and accurate prior criminal history information to assure that the disposition is appropriate under the circumstances and deter future criminal activity and (ii) confidentiality to protect the reputation of a juvenile offender and facilitate his rehabilitation.

2. Fugitive Juveniles

The Virginia Chapter of the Fraternal Order of Police presented the joint subcommittee with a recommendation to expand the exceptions to the confidentiality of juvenile proceedings. The recommendation would apply to situations involving juveniles charged with certain delinquent acts who become fugitives from justice. George Austin, president of the Virginia Chapter, told the subcommittee of recent instances where law enforcement agencies were unable to obtain assistance from the media and the public in their attempts to locate a fugitive juvenile with a history of violent crimes and escapes.

As originally presented to the joint subcommittee, the recommendation would have allowed the release of identifying information whenever a juvenile charged with a delinquent act which would constitute a felony if committed by an adult becomes a fugitive. The recommendation had been drafted by Chris W. Hutton, Commonwealth's attorney for the City of Hampton, and was supported by Delegate Shirley F. Cooper.

The joint subcommittee was concerned that the proposal was too broad and might be subject to abuse. It was noted that identifying data could be released even if the underlying delinquent act was merely a property offense. In these cases, there is little reason to believe that the juvenile would pose a significant threat of injury to the public or to himself.

The joint subcommittee recommends that identifying data on a fugitive juvenile be released only where the underlying act would constitute a serious felony if committed by an adult (see Appendix D). It was noted that this recommendation is consistent with the policy decisions already made in connection with existing law governing the release of identifying information for juveniles adjudicated delinquent (see § 16.1-309.1). The joint subcommittee believes that allowing release of this information where the juvenile has been charged or adjudicated delinquent on the basis of acts which would be Class 1, 2 or 3 felonies or rape or robbery if committed by an adult strike a proper balance between the competing goals of protecting the public and affording the necessary confidentiality to protect the interests of the juvenile.

3. Improved Criminal Justice Data Systems

During the course of their deliberations, the joint subcommittee heard considerable testimony focusing on the needs for complete, accurate and accessible data on the entire criminal justice system. The data is necessary to ensure the development and implementation of policies consistent with the public interest. As noted above, implementation of an integrated criminal data system has been discussed for a number of years. However, a comprehensive analysis of such a project has never been undertaken.

Federal grant money is available for evaluation of criminal justice data systems in the state. The Division of Information Technology of the Department of Criminal Justice Services has experience in evaluation of existing systems and development on new systems. In order to facilitate the development and analysis of future criminal justice policies in the Commonwealth, the joint subcommittee recommends that the Department of Criminal Justice Services pursue available means of improving the processes by which relevant data is identified, collected, stored and disseminated through utilization of the resources and expertise of relevant state and federal agencies, as well as private companies and consultants.

Respectfully submitted,

W. Roscoe Reynolds, Chairman
Virgil H. Goode, Jr., Vice-Chairman
John G. Dicks, III
Kenneth B. Rollins
Daniel W. Bird, Jr.
Honorable James L. Tompkins, III
Capt. William R. Wagner, Jr.

Footnotes

1. Criminal Justice Newsletter, Dec. 16, 1985, p. 5.

Index to Appendices

Appendix A	House Joint Resolution No. 320
Appendix B	Chart of Current and Proposed VAJJIS Design Schedule for Project
Appendix C	Statutory Changes - Juvenile Records System
Appendix D	Statutory Changes - Fugitive Juveniles

GENERAL ASSEMBLY OF VIRGINIA -- 1987 SESSION

HOUSE JOINT RESOLUTION NO. 320

Requesting that a joint subcommittee be established to study the establishment of a central clearinghouse for juvenile records in Virginia.

Agreed to by the House of Delegates, February 8, 1987

Agreed to by the Senate, February 24, 1987

WHEREAS, recent studies have shown that early involvement in crime is a major factor in producing career criminals; and

WHEREAS, identification of juvenile repeat offenders and early intervention by court officials are imperative to prevent juveniles from continuing patterns of criminal conduct; and

WHEREAS, there is currently no centralized repository for juvenile criminal information in Virginia, making it extremely difficult, if not impossible, for court officials to obtain an accurate criminal history of a juvenile for the purpose of determining appropriate punishment or relief; and

WHEREAS, a central clearinghouse for juvenile records would provide immediate and accurate presentencing information and thus enable the Commonwealth to intervene appropriately and effectively with juveniles whose crime patterns might be broken early, thus saving both human and financial resources of the Commonwealth; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That a joint subcommittee be established to study the development of a central clearinghouse for juvenile records, the study to include, but not be limited to, an assessment of the methods, if any, currently available to court officials to obtain an accurate juvenile criminal history, the advisability of maintaining a confidential and restricted juvenile data bank with the Central Criminal Records Exchange for use by court officials, any other methods of improving necessary access to juvenile records, and the costs of such programs.

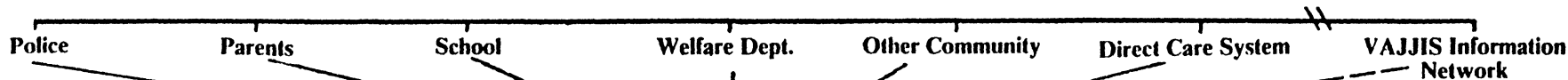
The joint subcommittee shall be composed in the following manner: three members from the House Courts of Justice Committee, appointed by the Speaker; two members from the Senate Courts of Justice Committee, appointed by the Senate Committee on Privileges and Elections; one judge of a juvenile and domestic relations district court and one representative of the Bureau of Criminal Investigation, Department of State Police, both to be appointed by the Governor.

The joint subcommittee shall report its findings and recommendations to the 1988 Session of the General Assembly.

The indirect costs of this study are estimated to be \$8,265; the direct cost shall not exceed \$3,700.

THE DECISION MAKING PROCESS AT JUVENILE COURT INTAKE

Sources of Data Regarding Juvenile Offender



EXAMPLES OF DATA NEEDED
 Is alleged offender known to other state juvenile courts? If known, what jurisdiction?
 What is court history? Under court supervision? What progress? Prognosis? Previously committed? Parents cooperate with supervision? Behavior in school? Previous diversionary placements? Progress? In detention before? Behavior?

DECISION

Manual Reporting
(Present System)

Detention/Court

Other Service

Diversion

Resolved

Report of Contact
(Proposed Automated System)

Counselor fills out Referral Complaint Form(1a); collects, and mails to MIS Data Entry Unit; data is manually "keyed" by MIS personnel.

Entered data is edited and errors collected and returned to court service units for correction and returned to MIS.

Each court contact is reported as if an unrelated case; numbers of referrals duplicated after adjudication phase.

Data available to Court/CSU/Regions in several weeks/months.

Enter on CSU "Screen"
 Identification data on juvenile (name, DOB, etc).

Offense, Intake decision.

Data transmitted to central data base via telephone (no paper needed); data entered one time locally, errors intercepted at time of entry-no central edit process needed.

Each juvenile's court contact is recorded in juvenile's own history; multiple contacts not recorded as multiple offenders.

Data immediately available to Court/CSU; almost as quickly available to other Courts/central offices/regions.

Each court computer will be secured from unauthorized use by a system of passwords unique to each court and classes of data will be available on a restricted basis according to the staff members authorized access level. Similar restrictions will apply to regional/central personnel.

Design Schedule

December 1987

System Design Group has first meeting: reviews system requirements as established by DOC/DYS/MIS; makes specific proposal as to scope of the proposed system, reviews prior survey information regarding system data elements as a beginning to the process of justification of continued use of prior data elements and proposed elements.

Reviews the four sub-systems of the first information system with a view of reducing the data collected to be applicable to the data base-on/site entry-on line-networked concepts of the new system.

Preliminary discussion as to the system capability in providing for tracking and locating offenders in the system, maintaining individual case court records, accessing the data base to ascertain prior contacts in other jurisdictions, information/system security.

The MIS representative to provide information as to system capabilities: what to expect from the "standalone" phase in the development of a state-wide system, forms/types/amount of data that can be collected, and how regionally/centrally required data can be transmitted.

January 1988

Installation of one PC and supporting hardware in main office of each juvenile court service unit and the four regional offices. Training to be furnished before the installation.

March 1988

Begin specific review of the four sub-systems: Juvenile Intake contacts/Court Dispositions, Direct Care, Detention Homes, Community Residential Care facilities, and Court WorkLoad Reporting. Determine effect on the sub-systems data collection elements and reporting methods. Include the proposed Client Profile sub-system. Make specific proposal for master list of data elements.

1 D 9/15/87 Devine C 11/2/87 owj

2 SENATE BILL NO. HOUSE BILL NO.

3 A BILL to amend and reenact §§ 16.1-223, 16.1-224, 16.1-225, 16.1-300,
4 16.1-305 and 19.2-387 of the Code of Virginia, relating to the
5 Virginia Juvenile Justice Information System; juvenile criminal
6 records.

7

8 Be it enacted by the General Assembly of Virginia:

9 1. That §§ 16.1-223, 16.1-224, 16.1-225, 16.1-300, 16.1-305 and
10 19.2-387 of the Code of Virginia are amended and reenacted as follows:

11 § 16.1-223. Receipt, etc., of data; forms for reports;
12 confidentiality.--A. The Virginia Juvenile Justice Information System
13 shall receive, classify and file ~~records~~ data required to be reported
14 by to it by § 16.1-224 of the Code. The Director is authorized to
15 prepare and furnish to all court service personnel ~~forms~~ automated
16 data processing equipment which shall be used for the making of such
17 ~~reports~~ the data submissions .

18 B. Records Data stored in the Virginia Juvenile Justice
19 Information System shall be confidential , and the . The information
20 from such ~~records~~ data which may be used to identify a juvenile shall
21 be released only ~~on the written order or instruction~~ of a judge of a
22 ~~circuit court or a judge of a juvenile and domestic relations district~~
23 ~~court, notwithstanding any provision of Chapter 11 (§ 16-1-226 et~~
24 ~~seq.)~~ of Title 16-1 to the judge, prosecuting attorney and probation
25 officers assigned to serve a court having the child currently before
26 it in any proceeding in accordance with standards adopted by the
27 Department of Corrections .

1 Such records shall not The data submissions may be made
2 available to the Central Criminal Records Exchange or any other
3 automated data processing system, notwithstanding any provisions of
4 Chapter 23 (§ 19-2-387 et seq.), of Title 19-2 to the contrary,
5 provided, however, that this prohibition shall not apply to
6 statistical unless the data not is identifiable with any a
7 particular juvenile. The Department of Correction shall promulgate
8 regulations governing the security and confidentiality of the data
9 submissions.

10 § 16.1-224. Data Submissions by court service units.--A. All
11 court service units serving juvenile and domestic relations district
12 courts shall make ~~reports~~ data submissions to the Virginia Juvenile
13 Justice Information System of any persons referred to an intake
14 officer of a court service unit pursuant to § 16.1-260 of the Code ,
15 except that no data submission shall be required for a juvenile
16 charged with a traffic infraction as defined in § 46.1-1 .

17 B. In the case of a juvenile who is alleged to be delinquent and
18 who is referred to a court service unit pursuant to § 16.1-260 of the
19 Code, the ~~report~~ data submissions required by ~~paragraph~~ subsection A
20 of this section shall contain the name , date of birth and, if any,
21 the social security number of the juvenile before the court. Such
22 ~~reports~~ The data submissions concerning all other children coming
23 before a juvenile and domestic relations district court, ~~including~~
24 traffic offenses, except those charged with traffic infractions,
25 shall not may, in accordance with standards adopted by the Department
26 of Corrections, contain information identifying the child and shall be
27 made for statistical purposes only .

C. The court service unit shall make a ~~report~~ data submission to

1 the Virginia Juvenile Justice Information System of the final
 2 disposition of each case reported to the System. ~~Only in the case of~~
 3 ~~a juvenile who is alleged to be delinquent shall such report contain~~
 4 ~~the name of the juvenile.~~ When the court service unit reports a
 5 disposition of a case which is other than a finding of guilty, the
 6 name and other personal identification of the juvenile shall be
 7 deleted from the ~~report~~ data submissions required by ~~paragraph~~
 8 subsection B of this section and from the report of final disposition
 9 required by this ~~paragraph~~ subsection .

10 § 16.1-225. Penalty for violation of confidentiality of
 11 records.--Any person who knowingly and ~~wilfully~~ willfully violates
 12 the provisions of this chapter which require confidentiality of such
 13 records shall be guilty of a Class 3 2 misdemeanor.

14 § 16.1-300. Confidentiality of Department records.--A. The
 15 social, medical, psychiatric and psychological reports and records of
 16 children who are committed to the Department of Corrections shall be
 17 confidential and shall be open for inspection only to the following:

18 1. The judge, prosecuting attorney, probation officers and
 19 professional staff assigned to serve ~~the court which committed the~~
 20 ~~child~~ a court having the child currently before it in any proceeding
 21 ;

22 2. Any public agency, child welfare agency, private organization,
 23 facility or person who is treating the child pursuant to a contract
 24 with the Department;

25 3. The child's parent, guardian, legal custodian or other person
 26 standing in loco parentis and the child's attorney;

27 4. Any person who previously has been a ward of the Department
 28 and who has reached the age of majority;

1 5. Any state agency providing funds to the Department of
2 Corrections and required by the federal government to monitor or audit
3 the effectiveness of programs for the benefit of juveniles which are
4 financed in whole or in part by federal funds;

5 6. Any other person, agency or institution, by order of the
6 court, having a legitimate interest in the case or in the work of the
7 court;

8 7. Any person, agency, organization or institution outside the
9 Department which, at the Department's request is conducting research
10 or evaluation on the work of the Department or any of its divisions.

11 A designated individual treating or responsible for the treatment
12 of a person who was previously a ward of the Department may inspect
13 such reports and records as are kept by the Department on such person
14 or receive copies thereof, when the person who is the subject of the
15 reports and records or his parent, guardian, legal custodian or other
16 person standing in loco parentis if the person is under the age of
17 eighteen, provides written authorization to the Department prior to
18 the release of such reports and records for inspection or copying to
19 the designated individual.

20 B. The Department may withhold from inspection by a child's
21 parent, guardian, legal custodian or other person standing in loco
22 parentis that portion of the records referred to in A hereof, when the
23 staff of the Department determines, in its discretion, that disclosure
24 of such information would be detrimental to the child, provided that
25 the juvenile and domestic relations district court having jurisdiction
26 over the facility where the child is currently placed shall concur in
27 such determination.

?8 If a parent, guardian, legal custodian or other person standing

1 in loco parentis requests to inspect the reports and records
2 concerning his child and if the Department withholds from inspection
3 any portion of such record or report pursuant to the preceding
4 provisions, the Department shall (i) inform the individual making the
5 request of the action taken to withhold any information and the
6 reasons for such action; (ii) provide such individual with as much
7 information about the child's progress as is deemed appropriate under
8 the circumstances; and (iii) notify the individual in writing at the
9 time of the request of his right to request judicial review of the
10 Department's decision. The circuit court having jurisdiction over the
11 facility where the child is currently placed shall have jurisdiction
12 over petitions filed by a parent, guardian, legal custodian or other
13 person standing in loco parentis for review of the Department's
14 decision to withhold reports or records as provided herein.

15 § 16.1-305. Confidentiality of court records.--A. Social,
16 medical and psychiatric or psychological records, including reports or
17 preliminary inquiries, predisposition studies and supervision records,
18 of neglected and abused children, children in need of services and
19 delinquent children shall be filed with the other papers in the
20 juvenile's case file. All juvenile case files shall be filed
21 separately from adult files and records of the court and shall be open
22 for inspection only to the following:

- 23 1. The judge, probation officers and professional staff assigned
24 to serve the ~~court~~ juvenile and domestic relations district courts ;
- 25 2. Representatives of a public or private agency or department
26 providing supervision or having legal custody of the child or
27 furnishing evaluation or treatment of the child ordered or requested
28 by the court;

1 3. The attorney for any party;

2 4. Any other person, agency or institution, by order of the
3 court, having a legitimate interest in the case or in the work of the
4 court; however, for the purposes of preparation of a presentence
5 report upon a finding of guilty in a circuit court or for the
6 preparation of a background report for the Parole Board, adult
7 probation and parole officers shall have access to an accused's or
8 inmate's records in juvenile court.

9 B. All or any part of the records enumerated in subsection A, or
10 information secured from such records, which is presented to the judge
11 in court or otherwise in a proceeding under this law shall also be
12 made available to the parties to the proceedings and their attorneys.

13 C. All other court records, including the docket, petitions,
14 motions and other papers filed with a case, transcripts of testimony,
15 findings, verdicts, orders and decrees shall be open to inspection
16 only by those persons and agencies designated in subsections A and B
17 of this section.

18 § 19.2-387. Exchange to operate as a division of Department of
19 State Police; authority of Superintendent of State Police.-- ~~(a)~~ A.
20 The Central Criminal Records Exchange shall operate as a separate
21 division within the Department of State Police and shall be the sole
22 criminal record keeping agency of the State, except for the Department
23 of Corrections pursuant to Chapter 10 of Title 16.1 (§ 16.1-222 et
24 seq.) and the ~~Division~~ Department of Motor Vehicles.

25 ~~(b)~~ B. The Superintendent of State Police is hereby authorized
26 to employ such personnel, establish such offices and acquire such
27 equipment as shall be necessary to carry out the purposes of this
chapter and is also authorized to enter into agreements with other

1 state agencies for services to be performed for it by employees of
2 such other agencies.

3 #

1 D 10/27/87 Devine C 11/2/87 owj

2 SENATE BILL NO. HOUSE BILL NO.

3 A BILL to amend and reenact § 16.1-309.1 of the Code of Virginia,
4 relating to release of identifying information on certain
5 juveniles.

6

7 Be it enacted by the General Assembly of Virginia:

8 1. That § 16.1-309.1 of the Code of Virginia is amended and reenacted
9 as follows:

10 § 16.1-309.1. Exception as to confidentiality.--Notwithstanding
11 any other provision of this article, where consideration of public
12 interest requires, the judge may make public the name and address of a
13 child and the nature of the offense for which a child has been
14 adjudicated delinquent (i) for an act which would be a Class 1, 2 or 3
15 felony , rape or robbery if committed by an adult, and (ii) in any
16 case where a child is sentenced as an adult in accordance with §
17 16.1-284.

18 Whenever a child, charged with a delinquent act which would be a
19 Class 1, 2 or 3 felony, rape or robbery if committed by an adult,
20 becomes a fugitive from justice any time prior to final disposition of
21 the charge, the Commonwealth's attorney may petition the court having
22 jurisdiction of the offense to authorize public release of the child's
23 name, age, physical description and photograph, the charge for which
24 he is sought and any other information which may expedite his
25 apprehension. Upon a showing of good cause, the court shall order
release of this information to the public.

1 Upon request, the judge or clerk may disclose if an order of
2 emancipation of a juvenile pursuant to § 16.1-333 has been entered,
3 provided (i) the order is not being appealed, (ii) the order has not
4 been terminated, or (iii) there has not been a judicial determination
5 that the order is void ab initio.

6 #

