

**REPORT OF THE VIRGINIA COMMISSION ON  
YOUTH ON**

**THE STUDY OF JUVENILE  
JUSTICE SYSTEM REFORM**

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



**HOUSE DOCUMENT NO. 37**

**COMMONWEALTH OF VIRGINIA  
RICHMOND  
1996**





# COMMONWEALTH of VIRGINIA

## Commission on Youth

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Senator Robert L. Calhoun. *Vice Chairman*

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January 10, 1996

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TO: The Honorable George Allen, Governor of Virginia

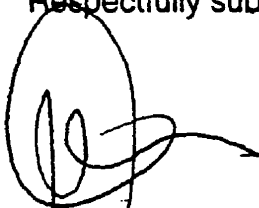
and

Members of the Virginia General Assembly

The 1995 General Assembly, through House Joint Resolution 604, requested the Virginia Commission on Youth to "undertake a comprehensive study of the juvenile justice system in Virginia with the goal of suggesting reform to increase the system's efficiency and effectiveness in responding to juvenile delinquency."

Enclosed for your review and consideration is the report which has been prepared in response to this request. The Commission received assistance from all affected agencies and gratefully acknowledges their input into this report.

Respectfully submitted,



Jerrauld C. Jones  
Chairman



Eric I. Cantor  
Task Force Vice Chairman

Delegate Eric I. Cantor  
Delegate L. Karen Darner  
Delegate R. Creigh Deeds

Delegate Arthur R. Giesen, Jr.  
Senator R. Edward Houck  
Delegate Thomas M. Jackson, Jr.  
Senator Yvonne B. Miller

Ms. Thomasina T. Binga  
Ms. Norma M. Clark  
Mr. Robert E. Shepherd, Jr.



**MEMBERS OF THE VIRGINIA COMMISSION ON YOUTH**

**From the Virginia House of Delegates**

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## **Juvenile Justice Subcommittee Commission on Youth**

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Delegate Eric I. Cantor  
Delegate Thomas M. Jackson, Jr.  
Delegate R. Creigh Deeds  
Senator Robert L. Calhoun  
Senator R. Edward Houck  
Mr. Robert E. Shepherd, Jr.

## **General Assembly Members**

Delegate Kenneth R. Melvin  
Delegate Thomas G. Baker, Jr.

## **General Assembly Appointments**

### **By the Senate**

Mr. J.D. Bolt  
Judge Frank Ceresi  
Mr. John Isom  
Mr. Jack Gallagher

### **By the House**

Mr. David Hicks  
Judge Charles McNulty III  
Mr. Melvin High  
Mr. Craig Cooley  
Ms. Anne Wilson

## **At-large Citizen Member Appointments**

Mr. Ramon E. Pardue  
Ms. Byrl Phillips-Taylor

## **Ex Officio Appointments**

Ms. Patricia L. West  
Mr. Robert N. Baldwin

## **Commission on Youth Staff**

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This project was supported in part by Virginia Department of Criminal Justice Services' Juvenile Justice and Delinquency Prevention grants (No. 96-A8757 and 96-B8378) awarded to the Virginia Commission on Youth. The opinions, findings, conclusions, and recommendations expressed in this report are those of the authors and do not necessarily reflect the views of the Virginia Department of Criminal Justice Services or the U.S. Department of Justice.



## I. Authority for Study

§9-292 of the *Code of Virginia* established the Commission on Youth and directs it to “. . . study and provide recommendations addressing the needs of and services to the Commonwealth’s youth and their families.” §9-294 provides that the Commission has the powers and duties to “. . . undertake studies and gather information and data in order to accomplish its purposes. . . and to formulate and present its recommendations to the Governor and members of the General Assembly.”

The 1995 General Assembly enacted House Joint Resolution 604 directing the Commission on Youth to conduct a study on juvenile justice system reform. The Commission on Youth, in fulfilling its legislative mandate, undertook the study.

## II. Members Appointed to Serve

The authorizing legislation established the composition of the Task Force. The following appointments to the Task Force were made in accordance with HJR 604.

Commission on Youth Members	Del. Jerrauld C. Jones (Norfolk) Del. Eric I. Cantor (Henrico Co.) Del. R. Creigh Deeds (Bath Co.) Del. Thomas M. Jackson, Jr. (Carroll Co.) Sen. Robert L. Calhoun (Alexandria) Sen. Edward R. Houck (Fredericksburg) Prof. Robert E. Shepherd, Jr. (Richmond)
Other General Assembly Members	Del. Thomas G. Baker, Jr. (Pulaski Co.) Del. Kenneth R. Melvin (Portsmouth)
Commonwealth’s Attorneys	J. D. Bolt (Grayson Co.) David Hicks (Richmond)
Local Law Enforcement	Chief Melvin High (Norfolk) Sheriff John Isom (Loudoun Co.)
Juvenile and Domestic Relations District Court	Judge Frank Ceresi (Arlington Co.) Judge Charles McNulty, III (Harrisonburg)
Defense Bar	Craig Cooley (Richmond)
Local Treatment Community	Jack Gallagher (Charlottesville) Ramon E. Pardue (Richmond) Anne Wilson (Falls Church)
Victim Representative	Byri Phillips-Taylor (Sandston)
Ex-Officio	Robert N. Baldwin (Supreme Court of Virginia) Patricia L. West (Department of Youth and Family Services)

### III. Executive Summary

The rise in the incidence of violent juvenile crime in Virginia and across the nation has prompted many state legislatures to re-evaluate the premises and structure of the juvenile justice system in their states. In addition to an increase in juvenile crime rates, the service system for juveniles in Virginia has changed radically since the last comprehensive review of juvenile justice conducted in 1977. The establishment of a separate juvenile correctional agency, the Comprehensive Services Act (CSA), and the Virginia Juvenile Community Crime Control Act (VJCCCA) reflect some of the major structural and funding changes to Virginia's juvenile justice system in recent years. However, these reforms did not attempt to reassess the philosophy of the juvenile justice system as enunciated in the Code. HJR 604 had as its study mandate a comprehensive review of the system, encompassing purpose, structure, funding and dispositions available for specific juvenile offender populations.

The HJR 604 Task Force held six meetings between April 1st and December 31st. These meetings provided members with data analyses, legal research, and results of surveys of Virginia juvenile justice practitioners and the general public. Given the short timeframe to address a wide array of issues, the 22-member Task Force broke into smaller workgroups to allow greater attention to be devoted to each of the study's topic areas. The four workgroups held ten meetings at which specific areas of reform were identified and discussed. Commission on Youth staff researched professional journals and other states' statutes and conducted data analysis on juvenile crime trends and service delivery systems. This information was synthesized by the full Task Force, resulting in the adoption of 55 recommendations for improving the juvenile justice system in Virginia.

On balance, the Task Force affirmed the successes of the current juvenile justice system. Overall, Court Service Unit staff exercise appropriate discretion in their diversion decisions and work effectively with other local human service agencies despite limited resources. Communities have developed innovative programs which respond to the diverse needs of their clientele. Staff in both secure and non-secure residential facilities intervene effectively in the lives of juveniles. Members of the judiciary make fair and sound decisions based on consideration of all the facts before them. Involvement of the private sector has served to expand the service options available to offenders and their families. While secure facilities in both community and institutional settings are dangerously overcrowded, front line and administrative staff are to be commended for continuing to provide meaningful interventions.

The problems identified in the juvenile justice system suggest recurring themes which the Task Force recommendations seek to address. The first is the absence of a comprehensive system of interventions to respond consistently and effectively at the early stages of problem behavior. Juvenile offenders develop over a period of time, providing indications of their future direction. Awareness of and responsiveness to the

young person's behavior, including attendance in school and active parental involvement, could avoid later court involvement. The early intervention system of response must be strengthened and supported on both the state and local levels. The second theme, recidivism, indicates that the court gives too many chances and seems to wait until the offender's behavior escalates before meaningful sanctions are imposed. Clear, predictable consequences must be provided to the offenders and their families if the system is to maintain credibility with the public. The third theme relates to the lack of available counseling services at the community level, specifically for sex offenders, aggressive youth, and drug traffickers. Lastly, the quality of institutional services must be improved in order for those youth who are committed to the state to receive the sound therapeutic and educational services necessary to capitalize on their time of confinement.

The recommendations are offered as a means to move the state closer to realizing its ideal—namely, to prevent young people from involvement with the juvenile justice system, but to provide them, once involved, with meaningful and predictable services which offer them the opportunity to reform and become productive citizens.

On the basis of its findings, the Commission on Youth offers the following recommendations in the areas of Truancy and Prevention, Court Services and Processes, Secure Facilities and Shelters, and Serious Juvenile Offenders.

#### **TRUANCY AND PREVENTION**

##### **Recommendation 1**

Increase the accountability for school identification of and intervention with truants.

##### **Recommendation 2**

Increase the sanctions for school non-attendance.

##### **Recommendation 3**

Implement truancy intervention programs in high-need schools.

##### **Recommendation 4**

Continue to support those prevention programs with positive evaluations.

##### **Recommendation 5**

Increase the collaboration and coordination between public and private sector prevention initiatives.

##### **Recommendation 6**

In deference to limited fiscal resources, target prevention initiatives to populations identified as being at high risk for delinquency.

##### **Recommendation 7**

Parents should be required to accompany their children to all court hearings.

**Recommendation 8**

Parents who refuse to comply with a court order should be held in contempt.

**Recommendation 9**

Failure of parents to supervise a minor should carry specific court penalties if the parents are unable to show they took reasonable steps to control the conduct of their child.

**Recommendation 10**

The court shall have the parent to pay for the programs and/or services which are included in a court order, based on its assessment of their ability to pay.

**COURT SERVICES AND PROCESSES**

**Recommendation 11**

The purpose and intent clause of Juvenile and Domestic Relations District Court law should be revised to include as purposes "safety of the community" and "rights of the victim," along with the "best interest of the child and family."

**Recommendation 12**

Court intervention for all offenders who have been found guilty for domestic abuse or delinquency should have as a goal holding offenders accountable for their behavior.

**Recommendation 13**

Diversion from the juvenile justice system should be guided by public protection , as well as family preservation, goals.

**Recommendation 14**

Both the parties and victims in all Juvenile and Domestic Relations District Court proceedings should be afforded fair hearings in which their constitutional and other rights are recognized.

**Recommendation 15**

Diversion from the filing of a formal court petition should occur only at the first contact with intake. All subsequent complaints for CHINSup and delinquency should be filed in petitions with the court.

**Recommendation 16**

A charge handled by Court Service Unit resulting in diversion should be formally noted on a juvenile's record and made available to other jurisdictions.

**Recommendation 17**

Each CHINS, CHINSup, and delinquent case seen at intake should be given a community sanction of restitution, community service or other services as determined by the Court Service Unit staff. This sanction should be developed after consideration of community resources and the nature of the event which brought the juvenile to court.

**Recommendation 18**

Court intake should be adequately staffed to provide a meaningful and significant court contact in every instance.

**Recommendation 19**

Status offenders, CHINS and CHINSup should remain within the jurisdiction of the Juvenile and Domestic Relations District Court, as well as human service and/or educational agencies.

**Recommendation 20**

Probation officers' caseloads should be lowered to support diversion work provided to status offenders, CHINS and CHINSup.

**Recommendation 21**

Community agencies to which non-delinquent youth are often referred should be funded adequately to provide necessary services to this population.

**Recommendation 22**

Victims of crime in Juvenile Court proceedings or their chosen representative(s) should have the right to be present at all phases of the court proceedings.

**Recommendation 23**

For cases in which a juvenile is charged with crimes of violence as cited in § 16.1-269.1(B), the court should be presumptively open. The court on its own motion, or on the motion of the Commonwealth or defense, may, for good cause shown, close the proceedings.

**Recommendation 24**

A comprehensive study of current statutory provisions regarding confidentiality and release of information resulting in a coherent policy for the Commonwealth should be undertaken by the legislature, law enforcement, the judiciary, and relevant public agencies.

**Recommendation 25**

Newly developed juvenile tracking systems should have the capacity for cross-jurisdictional transfer of information.

**Recommendation 26**

Each Juvenile and Domestic Relations District Court should conduct an analysis of their court docketing system, with the goal of instituting a docket management plan to reduce delays and provide increased predictability of court hearings.

**Recommendation 27**

Procedures addressing child endangerment and removal from the home in cases of suspected child abuse and neglect should be reviewed to insure that children are adequately protected.

**SECURE FACILITIES AND SHELTERS**

**Recommendation 28**

Support the expansion of community-based alternatives for youth who come before the criminal side of the Juvenile and Domestic Relations District Court.

**Recommendation 29**

The Department of Youth and Family Services, with input from local providers, should exercise strong leadership in developing a continuum of services for juveniles ranging from least restrictive community-based services through institutional placement and supervised release.

**Recommendation 30**

Encourage communities to leverage formula funds to more adequately address their juvenile justice populations.

**Recommendation 31**

Statutory provisions which would increase the length of stay or eligibility criteria for secure detention placement should be enacted only if funding is made available for expansion of current secure bed space.

**Recommendation 32**

Develop a standardized assessment instrument to provide guidance for secure detention placement.

**Recommendation 33**

Increase the involvement of mental health services at a community level for court-involved youth.

**Recommendation 34**

Provide mental health screening and services, if indicated, for juveniles entering secure detention.

**Recommendation 35**

Implement a planning process for the piloting of a multi-use residential facility.



**Recommendation 36**

Adequately fund public and private residential programs to serve CHINS and CHINSup populations.

**Recommendation 37**

Outfit selected residential facilities to securely hold juveniles who are flight risks.

**Recommendation 38**

Require the Department of Youth and Family Services to address service needs for non-delinquent population in their statewide plan as required under §16.309-4.

**Recommendation 39**

Probationary services should be adequately funded to allow for the provision of basic services to juveniles who come to the court.

**Recommendation 40**

Probation staff should be provided on-going training and skill development to enhance their ability to work effectively with the juveniles and their families.

**Recommendation 41**

Future Juvenile Correctional Center expansion should meet American Correctional Association standards for facility size.

**Recommendation 42**

The Department of Youth and Family Services, when building new facilities, should seek to "decentralize" institutional site placement and strive for the even distribution of facilities across the state.

**Recommendation 43**

Juvenile Correctional Centers must be adequately staffed with treatment, educational, and security personnel, with clear delineation of tasks among these groups.

**Recommendation 44**

The Department of Youth and Family Services should designate one facility for placement of juveniles under the Serious Juvenile Offender Statute (§16.1-285.1) and develop specialized programming to meet the needs of this juvenile offender population.

**Recommendation 45**

The Department of Youth and Family Services should stress the importance of parole/aftercare services through appropriate probation staffing levels in local Court Service Units.

**Recommendation 46**

Require state level interagency planning for at risk and troubled youth.

**Recommendation 47**

Establish an interagency data base to track juveniles' court contacts and service history.

**Recommendation 48**

Tie continued state funding for community services to evaluation of services by quantifiable objectives.

**SERIOUS JUVENILE OFFENDERS**

**Recommendation 49**

Indeterminate commitments to the Department of Youth and Family Services should not exceed periods of confinement for juveniles committed under the Serious Juvenile Offender Statute.

**Recommendation 50**

The Board of the Department of Youth and Family Services should establish written length of stay guidelines and provide for public comment to these guidelines.

**Recommendation 51**

Expand the eligibility criteria for the Serious Juvenile Offender Statute to include juveniles with a previous adjudication for a felony which carries a penalty of 20 or more years of confinement.

**Recommendation 52**

Expand the term of commitment under the Serious Juvenile Offender Statute to the juvenile's 25th birthday.

**Recommendation 53**

At the first annual review hearing after a juvenile committed under the Serious Juvenile Offender Statute reaches the age of 18, provide for the option of transfer to the Department of Corrections' Youthful Offender Program for completion of the term of confinement if the juvenile has not made progress during confinement in the Juvenile Correctional Center.

**Recommendation 54**

Provide an extended jurisdictional option to Circuit, as well as Juvenile, Court judges.

**Recommendation 55**

Require the Commonwealth's Attorneys to provide notice of the annual review hearings of juveniles committed under the Serious Juvenile Offender Statute to any victim(s) of the offense for which the juvenile was committed.

## IV. Study Goals and Objectives

The HJR 604 Task Force approved the study workplan at its first meeting. The goals of the study were established in the authorizing legislation and were marginally amended to meet the Task Force's specific interests.<sup>1</sup>

The study goals were as follows:

- ◇ Assess the Legal Procedures' Applicability to the Current Juvenile Offender Population;
- ◇ Review the Range of Community Options Available to the Juvenile Court;
- ◇ Ascertain the Efficiency of Maintaining Status Offenders within the Juvenile Justice System;
- ◇ Review Effect of Court Docketing Issues on System Management;
- ◇ Ascertain Training Support Available to Court Service Unit Staff and Judges, and
- ◇ Assess Impact of 1994 Legislation Amending Transfer And Determinate Sentencing Statutes.

To meet these study goals, the Task Force undertook the following activities:

- Analysis of Chapter 11 of the *Code of Virginia* and development of offender typologies based on the law and crime trends;
- Analysis of statutes from states selected on basis of the following criteria: have a juvenile population comparable in size to Virginia, are a contiguous state, or have recently enacted major changes to their Juvenile Codes (n=16);<sup>2</sup>
- Analysis of Virginia juvenile crime trend data from 1975 to 1994;
- Analysis of profiles of juveniles transferred and convicted in Circuit Court from 1988 to 1994;
- Analysis of serious juvenile offender determinate sentencing data;
- Survey of all Commonwealth's Attorneys, Juvenile and Domestic Relations District Court Judges, Circuit Court Judges, Public Defenders, and law enforcement agencies and, from the referenced sample of 12 localities, elementary, middle, and high school principals, Family Assessment and Planning Teams (FAPT), court-appointed attorneys, and Court Service Unit Directors to assess availability of resources and perceptions of adequacy of current service options;
- Analysis of pre- and post-dispositional placement and admissions data;

<sup>1</sup> Task Force members requested staff investigate impact of 1994 Serious Juvenile Offender legislation. Given limited staff resources, the study mandate related to training did not receive the in-depth analysis originally planned.

<sup>2</sup> States to be analyzed: Arizona, Colorado, Indiana, Pennsylvania, Minnesota, New York, Kansas, Oklahoma, North Carolina, District of Columbia, West Virginia, Maryland, South Carolina, Georgia, Florida, and Arkansas.

- Analysis of pre- and post-dispositional placement and admissions data;
- Review of Alternative Education Regional Pilots;
- Review of national literature on “restorative justice” and graduated sanctions models;
- Analysis of service options by Court Districts;
- Review of other states’ service delivery systems for status offenders;
- Analysis of trends of non-compliance with federal statute relating to status offenders;
- Review and synthesis of national research on status offenders and service systems;
- Review of Supreme Court’s calendar management and delay reduction activities; and
- Review and synthesis of national research on impact of legislation reform of transfer decisions.

## **V. Methodology**

The Study Methodology incorporated a variety of research methodologies to meet the study mandates. In addition to briefing the Task Force and workgroups on funding trends, data, and research findings from the field, staff conducted other research activities, including analyzing crime trends and researching legislation and budget initiatives from contiguous and analogous states. The Commission also conducted an extensive written survey of professionals in the field and presented poll results from a telephone survey of the general public. To elicit responses from the public to the draft recommendations, the Task Force held a public hearing on November 21st. Each of these activities is explained briefly below.

### **A. TASK FORCE AND WORKGROUP MEETINGS**

The full 22-member Task Force held six meetings between April 1st and December 31st. At the first organizational meeting on April 28th, there were presentations on the scope of the study, the study methodology, and background information relating to the structure of the juvenile justice system, relevant changes in the last decade to the Juvenile Code, funding trends, and juvenile arrest rates. Presentations at the second meeting on May 11th provided an overview of public and private sector services for the juvenile justice population, available dispositional options, shelter care systems, and current data on juveniles sentenced determinantly in Juvenile Court or transferred for trial in Circuit Court. The June 27th meeting was held in Norfolk and focused on truancy intervention models and national analysis of the impact of transfer provision amendments on the administration of justice.

From June through October, the Task Force functioned in part as four workgroups addressing different study issues. The composition of the workgroups was as follows:

Truancy and Prevention

Del. Cantor (Chairman), Sen. Houck, Mr. Pardue, Chief High, Mr. Hicks

Court Services and Processes

Sheriff Isom and Mr. Hicks (Co-chairmen), Del. Jones, Del. Jackson, Mr. Gallagher, Ms. Phillips-Taylor, Ms. Wilson, Ms. West, Ms. Kathy Mays (for Mr. Baldwin)

Secure Facilities and Shelters

Mr. Gallagher (Chairman), Del. Jackson, Mr. Pardue, Chief High, Ms. West

Serious Juvenile Offender

Del. Jones (Chairman), Del. Deeds, Sen. Calhoun, Del. Melvin, Del. Baker, Ms. Phillips-Taylor, Judge Ceresi, Judge McNulty, Mr. Cooley, Mr. Bolt

The Truancy and Prevention Workgroup, which met twice, focused on early intervention initiatives. The Court Services and Processes Workgroup, which was charged with examining dispositional options and court operational issues, met four times. The Secure Facilities and Shelters Workgroup met twice to discuss issues related to residential services. The Serious Juvenile Offender Workgroup, which examined the transfer and serious juvenile offender sections of the Code, met three times.

The full Task Force reconvened October 13th to receive the draft recommendations from the four workgroups and to learn the results of a public opinion poll on juvenile justice issues and the survey of juvenile justice professionals. The October meeting included as invited guests members of the Joint Audit Legislative Review Commission (JLARC) and the Executive Committee of the Governor's Commission on Juvenile Justice Reform. A meeting of workgroup chairs was convened in early November to review the recommendations and legislative drafts. On November 21st, the Task Force participated in a JLARC meeting to be briefed on that Commission's juvenile justice study. The Task Force subsequently approved its draft legislation and, in the afternoon, conducted its public hearing on the HJR 604 draft recommendations. The final Task force meeting was held December 13th, at which time the final package of recommendations and budget initiatives was approved.

## **B. JOURNAL REVIEW**

Juvenile justice reform has received tremendous attention in professional and academic journals over the last five years. Commission on Youth staff conducted an automated data search to identify relevant articles. Those which were included in the report are listed in the Bibliography.

It is important to note that this literature review is not to be construed as comprehensive. Given the rapidity of change in juvenile law in the last three years, the Commission on Youth staff relied primarily on journal articles. Often original research was cited in journal articles and the report authors herein relied on research analysis,

rather than on the primary source. Additionally, there are many articles addressing the pathology of violence and the challenge of local government to fund juvenile programs which were read, but not formally incorporated into the Final Report.

### **C. LEGISLATIVE REVIEW**

Legislative and budgetary initiatives impacting the juvenile justice system from across the country were identified through the National Council of State Legislatures' database. Through the library system of the Division of Legislative Services and through direct contact with state legislatures, the Commission on Youth obtained 26 states' juvenile justice statutes and budget initiatives. Selection for review was based on three factors: youth demographics comparative to Virginia; physical proximity to Virginia; and having recently-enacted changes to commitment procedures and/or court dispositions. All state Codes referenced are listed in the Bibliography.

### **D. CRIME TREND AND DISPOSITIONAL ANALYSES**

Several analyses were conducted to analyze the magnitude of and changes in juvenile crime and arrest trends nationally and in Virginia from 1975-1994. These analyses included:

- per capita and growth comparisons of state and national arrest and crime rate trends using Federal Bureau of Investigation Uniform Crime Reports and the most recent report of the National Council on Crime and Delinquency;
- changes in offense and offender demographic profiles for juveniles in Virginia;
- changes in crime clearance rates attributable to juvenile offenders in Virginia;
- changes in juvenile transfers to Circuit Court; and
- impact of the Serious Juvenile Offender Statute.

Crime data were analyzed from 1975, when Virginia began keeping track of uniform arrest statistics, to 1994, which was the most recent year of available data. This entire 20 year time period was analyzed to provide a longitudinal analysis and to avoid selectively presenting data from one base year versus another to illustrate trends in the data.

### **E. VIRGINIA JUVENILE JUSTICE EXPERTS' SURVEY**

The Commission on Youth administered surveys to 1,856 professionals who work with juveniles in the schools, community, courts and service delivery programs in Virginia. The surveys solicited opinions on numerous issues, including:

- the adequacy of current juvenile justice laws and Juvenile and Circuit Court dispositional options;
- the adequacy and availability of state-run and community-based programs for delinquents;
- procedures surrounding the commitment of juvenile offenders to Juvenile Correctional Centers;
- handling and processing of juvenile offenders by law enforcement;
- identification of and services to truants and their families; and
- identification of services and satisfaction with the Comprehensive Services Act.

Surveys were administered to all Circuit Court Judges, Juvenile and Domestic Relations District Court Judges, Commonwealth's Attorneys, Sheriffs, Chiefs of Police and Public Defenders. In addition, surveys were sent to other local experts in a sample of 12 court districts. These surveys were administered to Court Service Unit Directors, Family Assessment and Planning Teams, court-appointed counsel and principals of elementary, middle and high schools. The sample court districts were selected to coincide with districts selected for the intensive interviews by the Joint Legislative Audit and Review Commission (JLARC) in their juvenile justice study. The sample represented each region of the state and consisted of a mixture of urban, suburban and rural court districts as defined by population density. The overall survey response rate was 55%, with 70% of the total population groups and 47% of the sample groups responding.

#### **F. COMMONWEALTH POLL**

The Commission on Youth contracted with the Survey Research Laboratory of the Virginia Commonwealth University to conduct a public opinion poll on juvenile justice issues. The survey was administered to 811 adult residents of Virginia as part of the Fall 1995 Commonwealth Poll. The module of questions sought public attitudes on four general areas: the purpose or focus of the juvenile justice system; transfer of juveniles to adult courts; state spending on juvenile crime; and placement of juvenile and adult offenders pending trial. Questions for the poll were based on a review of national surveys on the same issues and were modified to fit the conditions of the juvenile justice system in Virginia.

#### **G. PUBLIC HEARING**

A public hearing was held on November 21st. Approximately 20 individuals representing 16 associations and organizations or speaking as concerned citizens provided over two hours of testimony. The public hearing provided the Task Force an opportunity to receive feedback from the field on the specific recommendations from the study. The majority of the testimony was in support of a system-wide focus on juvenile justice reform. Suggestions to improve accountability and emphasizing aftercare were incorporated into the HJR 604 Final Report.

## **VI. Evolution of the Juvenile Justice System**

### **A. NATIONAL PERSPECTIVE**

The concept of a separate system of justice for minors who violate the law is unique to this country. With the establishment of the first Juvenile Court in Chicago, distinctions between the adult and juvenile justice systems were given an administrative structure. The "parens patriae" philosophy of the juvenile court, with its primary focus on guiding children towards rehabilitation rather than retribution, was part of a larger social reform movement. Within 25 years of the creation of Chicago's juvenile court, all

states adopted a separate system of law for minors and a rehabilitative focus was the public policy of the United States' juvenile justice system.

However, as early as 1940, the philosophy of the juvenile court was criticized. The public perception in post-World War II America that there was a rise in outbreaks of youth violence and youth gangs led to great dissatisfaction with the leniency of the court.<sup>3</sup> Simultaneously, concerns were being raised that the Juvenile Court did not adequately distinguish between abused and dependent children or between lesser and more serious juvenile offenders. In the 1960's, both sides of the philosophical spectrum coalesced and became more organized. Two landmark decisions by the United States Supreme Court—*United States versus Kent*, 1966 and *In Re Gault* 1967—provided procedural safeguards for juveniles tried in court. These legal reforms led to the initiation of a five-year Congressional study on juvenile court practices. Congressional research substantiated the number of minor and non-delinquent juvenile offenders being held in secure settings and the number of juveniles held in adult jails. Congress also found that, in 1973, the juvenile justice system was severely underfunded and understaffed.

In response, the federal government enacted the Juvenile Justice and Delinquency Prevention (JJDP) Act of 1974. The Act had three components: 1) the removal of status offenders from secure correctional facilities; 2) the removal of juveniles from adult jails; and 3) the sight and sound separation of juveniles from adult inmates pending full jail removal.<sup>4</sup> In order to achieve the goals of the JJDP Act, formula funds were provided to states for the creation of community-based alternatives to institutional services.

## 1. Youth Violence

Much of the clamor behind a re-examination of the premises of the juvenile justice system has been fueled by a concern over the increase of youth violence. Specific Virginia Juvenile Crime Rates and clearance rates are provided in Section VI of this report. While the incidence of selected violent crimes committed by juveniles has dramatically increased, general juvenile crime rates have not. From 1975 to 1994, the proportion of Total Part I arrests attributed to juveniles declined 7.8%, from 32.3 to 24.5%. The growth in juvenile crime in the same period was 13%, which is dwarfed by the adult rate of growth of 66%.<sup>5</sup> However, since 1988, the juvenile homicide rates have more than doubled.<sup>6</sup> One of the two most often cited sources on the proportion of crime committed by juveniles is the National Crime Victimization Survey, which found in 1991 that approximately 28% of all crimes against persons were committed by juveniles.<sup>7</sup> Since the mid 1980's, there has been an 8-10% increase in the number of adolescents

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<sup>3</sup> Joe, Karen A., "The Dynamics of Running Away, Deinstitutionalization Policies and the Police," *Juvenile and Family Law Journal*, Vol. 46, No. 2, 1995.

<sup>4</sup> The Act has been annually reauthorized and, in 1989, a fourth mandate to assess and address the disproportionate representation of minorities in secure facilities was added. Provisions to the JJDP Deinstitutionalization of Status Offenders (DSO) mandates have been amended to the Act to allow the secure confinement of status offenders who violate court orders.

<sup>5</sup> Elliot, Delbert S., *Youth Violence, An Overview*, Philadelphia: Center for the Study of Youth Policy, U. Of Pennsylvania, Center for the Study of Youth Policy, December 1993.

<sup>6</sup> Snyder, Howard N. and Melissa Sickmund, *Juvenile Offenders and Victims: National Report*. Pittsburgh: National Center for Juvenile Justice, 1995.

<sup>7</sup> Elliot, *Youth Violence*.



involved in some form of violent crime. However, it is important to note that the total percentage of violent crime committed by juveniles has remained roughly 12% over the past three decades.<sup>8</sup>

It is the rate of increase in juvenile homicide which has spurred much of the debate and focus on juvenile crime. The classical longitudinal study by Wolfgang (1972, 1985) found that chronic juvenile offenders, defined as having five or more police contacts, represent 8% of the total juvenile population and that 18-25% of the juvenile offenders commit 52% of all juvenile crime.<sup>9</sup> Research conducted by the Rand Corporation has found the age of crime involvement commences at age 12, peaks between the ages of 16 and 17, and drops off dramatically at age 25.<sup>10</sup> Concern over violent crime by juveniles has prompted new emphasis on the need to research causes of violence in youth.

Research efforts targeting the connection between child abuse and later violent behavior have been replete with problems. These problems can be traced to the lack of both standard definitions and control groups. While a history of child abuse and neglect is well-documented in violent youth,<sup>11</sup> most abused children do not become abusive themselves.<sup>12</sup> Retrospective studies on juvenile delinquents have consistently found that these juveniles experience maltreatment at rates much higher than the general population.<sup>13</sup> However, other research suggests the experience of early trauma and congenital abnormalities place juveniles at risk for violent behavior.<sup>14</sup>

In 1993, the National Research Council found that adolescents growing up in poverty are at high risk for health and behavior problems, school failure, and delinquency. In 1991, nearly one-fourth of all families headed by adults between the ages of 25 and 34 had incomes below the poverty line. The Council further found that children in families with annual incomes below \$15,000 suffer a rate of physical abuse 3.5% greater than the general population.<sup>15</sup> The rate of sexual abuse is 6% greater. Social theorists have found the lack of parental supervision to be the strongest predictor of the development of conduct problems and delinquency. Early learning experiences in the family, characterized by ineffective monitoring and supervision and exposure to and/or tolerance of violence in the home, lead to violent behaviors.<sup>16</sup>

Regardless of the specific focus of the researcher, it has been substantiated that parents' ability to manage their lives and those of their children is crucial to the etiology of both child abuse and violent juvenile delinquency. To the degree that delinquency results from abuse, there are gender variations in how the behavior manifests itself. For crimes against persons committed by juveniles, 88% of the offenders were male.<sup>17</sup>

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<sup>8</sup> Schwartz, Ira, Russell Van Vleet, Frank Orlando, Suzanne A. McMurphy et al., A Study of New Mexico's Youthful Offenders. Philadelphia: Center for the Study of Youth Policy, U. Of Pennsylvania, January 1995.

<sup>9</sup> Schwartz, New Mexico's Youthful Offenders.

<sup>10</sup> Grayson, Joanna, "Youth Violence, the Child Abuse Connection," Virginia Child Protection Newsletter, Vol. 42, Summer 1994.

<sup>11</sup> Grey, Ellen, "Child Abuse: Prelude to Delinquency? Findings of a Research Conference conducted by the National Committee for the Prevention of Child Abuse" Office of Juvenile Justice and Delinquency Prevention, September 1986.

<sup>12</sup> Grey, "Child Abuse."

<sup>13</sup> Grayson, "Youth Violence."

<sup>14</sup> Grey, "Child Abuse."

<sup>15</sup> Grayson, "Youth Violence."

<sup>16</sup> Grayson, "Youth Violence."

<sup>17</sup> Snyder, Howard et al., Juvenile Offenders.

Females more often turn to self-punitive behaviors such as street prostitution and drug involvement.<sup>18</sup> However, if abuse of a child by a teenage mother is viewed as a form of delinquency, it is the most common violent delinquent act committed by females. Despite the absence of a definitive correlation between abuse and juvenile violence, the findings do substantiate an interaction between the two which should provide direction for efforts to reduce the rate of violent crimes by juveniles.

## 2. Juvenile Offenders in Circuit Court

The most significant changes in the juvenile justice system in the 1990's have been in the realm of confidentiality and in removing classes of juveniles from the jurisdiction of the Juvenile Court.<sup>19</sup> One manifestation of the system's increased emphasis on getting tough on juvenile crime is the removal of groups of juvenile offenders from the Juvenile Court jurisdiction for trial as adults. All states allow juveniles to be tried in adult court under certain circumstances. Cases are transferred in one of four ways: legislative transfer, judicial waiver, prosecutorial discretion, or limited Juvenile Court jurisdiction. Several states have provisions for returning excluded or direct file cases to Juvenile Court. All states except New York and Nebraska allow juvenile judges to waive jurisdiction in certain cases. A patchwork of approaches—total prosecutorial discretion, automatic transfer of offenses through legislative waiver, reverse jurisdiction (it is presumed the adult court has jurisdiction unless the juvenile can prove otherwise) and classification systems—have been examined and implemented in most states during the past three years.

One of the primary rationales behind the move to try more juveniles in adult court is that they will receive harsher sanctions than those available in the juvenile system. However, research by Kinder et al. in 1995, Bishop and Frazier in 1991, and Fagan in 1991 found that stiffer sentences are not provided in the adult system to juvenile property offenders, who comprise the largest group of offenders targeted in transfer provisions. The most recent research in the field by Kinder et al. analyzed 1993 cases transferred to adult court and compared them to those of juveniles adjudicated for the same offenses but retained in the juvenile system. They found that a larger proportion of the offenders sentenced by Juvenile Court judges received confinement than did those receiving adult sentences (20.7% versus 6.3%).<sup>20</sup> Virginia's Commission on Youth 1993 analysis reached a different conclusion: 63% of juveniles transferred in Virginia between 1989 and 1991 received incarceration.<sup>21</sup> It should be noted that Virginia's statute during that period of analysis was far more restrictive in providing for transfer than it currently is. However, Kinder's findings on the lack of rapidity with which cases are processed in the Juvenile Court versus adult court are applicable to Virginia. The findings that Circuit Court is less able to provide a swift response and that more cases are dismissed have also been borne out by studies conducted by the National Center for Juvenile Justice. The increased provision of

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<sup>18</sup> Grayson, "Youth Violence."

<sup>19</sup> Schwartz, *New Mexico's Youthful Offenders*.

<sup>20</sup> Kinder, Kristine, MSA, Carol Veneziano, Ph.D., Michael Fichter, Ph.D., Henry Azuma, Ph.D., "A Comparison of the Dispositions of Juvenile Offenders Certified as Adults with Juveniles Not Certified." *Juvenile and Family Court Journal*. Vol. 45, No. 2, Summer 1995.

<sup>21</sup> Virginia Commission on Youth, *House Document 33, The Study of Serious Juvenile Offenders*, Richmond: 1993.

procedural safeguards and the influence of jury trials have resulted in a larger number of transferred cases being dismissed.<sup>22</sup> Hamparian's work in 1982 found that youth tried in adult court are more likely to receive community service than incarceration. For juveniles sentenced to incarceration, over 40% of the cases carried a maximum sentence of less than one year.<sup>23</sup>

Research conducted on Virginia's transferred population predates the 1993 revisions to the statute which lowered the age of juvenile transfer to 14 and enumerated the factors for judicial consideration in transfer proceedings. Additional *Code* revisions permitted the transfer of an expanded group of juvenile offenders based solely on findings of competency to stand trial and probable cause that a crime had been committed. Under §16.1-269.B of the *Code of Virginia*, this group of offenders includes:

- juveniles 14 years and older charged with Class 1 or Class 2 felonies;
- juveniles 16 years and older charged with Class 3 felonies (murder, mob-related felonies, kidnapping or abduction, bodily wounding or assault) or any unclassified felonies carrying a penalty of more than 20 years confinement.

The *Code* revisions also stipulated that, once the juvenile is transferred, the Juvenile Court permanently loses jurisdiction over all subsequent criminal offenses committed by the juvenile (§16.1-271). Lastly, the dispositional options the Juvenile Court could impose on violent juvenile offenders were expanded to include determinate commitment to a Juvenile Correctional Center for up to seven years or age 21.<sup>24</sup>

### 3. Other States' Juvenile Justice Reform Initiatives

Since 1993, when the Virginia Commission on Youth conducted a state-by-state analysis of transfer and waiver provisions, a number of journal articles and national reports have provided comparison charts. The most recent version, by Eric Fritsch and Craig Hemmens and published in the 1995 Spring volume of the Juvenile and Family Court Journal, is provided in Appendix G.

The revision of Virginia's transfer statute in 1994 was one piece of a larger legislative initiative providing for additional dispositions at the Juvenile Court level. It is misleading to focus solely on transfer provisions in analyzing other states' experiences because, in the majority of states, those revisions were part of larger system reform efforts in which classification systems, treatment and prevention services were incorporated into the new schemas. While not intended as an exhaustive list, *Exhibit 1* provides key components of other states' juvenile justice reforms which extend beyond the transfer issue.

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<sup>22</sup> Kinder, "Comparison of the Dispositions of Juvenile Offenders."

<sup>23</sup> Kinder, "Comparison."

<sup>24</sup> Virginia Commission on Youth, House Document 81. The Study of Serious Juvenile Offenders, Richmond: 1994.

**Exhibit 1**

**Selected States' Juvenile Justice System Reform Initiatives**

Arizona	<p>Instituted juvenile hearing officers for pre-trial detention hearings and motor vehicle, tobacco, truancy, and local ordinance violations</p> <p>Ordered parents to perform community service</p> <p>Required Department of Corrections and state Supreme Court to develop risk assessment and length of stay guidelines for juvenile offenders</p> <p>Allocated \$2.9 million for probation and hearing officers to work in the courts and schools</p>
Colorado	<p>Required funding for any legislation which results in the net increase in periods of incarceration of juveniles</p> <p>Allowed court to issue bench warrants on parents and hold them in contempt for non-compliance</p> <p>Required all committed youth to hold institutional jobs with 80% of their earnings returned to the state to pay for their incarceration</p> <p>Opened Juvenile Court proceedings to the public</p> <p>Allocated \$200,000 appropriation for youth diversion</p>
Connecticut	<p>Created blended jurisdiction between juvenile and adult systems</p> <p>Expanded access to juvenile records (access by media remains restricted)</p> <p>Created network of community services and the development of intermediate sanctions for less serious offenders</p> <p>Required parental attendance in court</p>
Kansas	<p>Instituted determinate sentence for all classifications of juvenile offenders</p> <p>Required the development of a range of community-based alternatives</p> <p>Allocated \$2.5 million for community-based alternatives</p>
Minnesota	<p>Opened the court for all delinquency hearings</p> <p>Initiated violence prevention grants</p> <p>Required written criteria for all juvenile (criminal) court dispositions</p> <p>Required parents attend court hearings of their children</p> <p>Required county attorneys to develop diversion programs</p> <p>Funded early intervention pilots</p> <p>Established classification system</p> <p>Developed small regional correctional facilities for juveniles</p> <p>Allocated \$3.7 million in high risk youth prevention grants, \$1 million for probation officers, \$2.6 million for public defenders, \$500,000 for mental health screening of delinquents, \$100,000 for training and \$300,000 for planning efforts to design juvenile tracking system, and surveying existing programs and collaborative service system</p>
N. Carolina	<p>Established Family Resource Centers</p> <p>Established boot camps for 16 to 25 year olds</p> <p>Allocated \$3.7 million for school-based crime prevention initiatives</p>
New Jersey	<p>Established state/community partnership grant program to develop local</p> <p>Re-established juvenile divisions in law enforcement departments with more than</p> <p>Expanded the role juvenile conference committee to handle second-time minor</p>
New Mexico	<p>Developed three-tiered classification system for all delinquents</p> <p>Incorporated Mental Health and Developmental Disabilities Act requirements to appropriate delinquency proceedings</p> <p>Required cultural sensitivity training for all juvenile justice personnel</p> <p>Allocated \$800,000 for competency and mental health screenings</p>

### Exhibit 1

## Selected States' Juvenile Justice System Reform Initiatives

(cont.)	
Texas	Incorporated JJDP Act Deinstitutionalization of Status Offenders (DSO) mandate Provided municipal courts with concurrent jurisdiction over truancy cases Required mandatory parental attendance at all court hearings Developed first offender programs to be run locally by law enforcement and courts Created statewide juvenile data base Approved \$37.5 million bond authority to develop post-dispositional residential and day treatment programs
Washington	Established commission to assist communities in developing service continuums Required mental health screenings of prior to secure placement Established violence reduction fund ballot initiative in which 7.5% of state prison construction costs were provided for community prevention grants.

Source: Virginia Commission on Youth Analysis of Selected States' Juvenile Codes and Appropriations Acts, 1995.

All of the states mentioned enacted juvenile justice reforms having a dual focus: increasing penalties for violent and chronic juvenile offenders, usually through processing more juveniles in Circuit Court, and responding to early intervention and treatment needs to stem the tide of delinquency. Most states, while not formally embracing the "Restorative Justice" or "Accountability-Based" model of juvenile justice reform, have relied on its philosophical foundation. A multi-level approach is also incorporated in the Department of Justice Comprehensive Strategy for Juvenile Offenders.<sup>25</sup>

The HJR 604 Task Force on Juvenile Justice System Reform sought to recommend changes which address the variety of offenders who appear before the criminal side of Juvenile and Domestic Relations District Court. Task Force members looked to balanced models from other states and the Department of Justice to aid in their inquiry. As these models clearly influenced the direction of other states' reform activities, the basic tenets of these comprehensive approaches is described below.

The Accountability-Based Community Intervention Project represents an implementation strategy of the restorative justice and comprehensive strategy advocated by the U.S. Department of Justice. The Allegheny County (Pennsylvania) Juvenile Court undertook a three-year project to develop a system which would address intervention, treatment, and rehabilitation of serious juvenile offenders. The goals of the model were to 1) hold individual youth accountable for their actions, 2) protect the

<sup>25</sup> Wilson, John and James C. Howell, "Serious, Violent and Chronic Juvenile Offenders: A Comprehensive Strategy," Office of Juvenile Justice and Delinquency Prevention Fact Sheet #4, August 1993.

community, and 3) provide court-involved youth with the necessary skills and competencies to return successfully to the community.<sup>26</sup>

Risk and needs assessment instruments are relied upon to determine court intervention. The intensity of treatment and severity of sanctions grow proportionately with the severity and/or chronicity of the juvenile's offense(s). There is a range of graduated sanctions with companion intervention/treatment components:

- Immediate Intervention—Targets first-time offenders and minor offenders based on their probability of becoming chronic or serious offenders. The court sanctions routinely involve restitution and community services as determined by peer juries. Court-ordered services include victim mediation, house arrest, day treatment, and alcohol and drug treatment programs.
- Intermediate Intervention—Targets first-time serious and violent offenders or those who fail at the lower level. Court-ordered services include intensive supervision, weekend detention, boot camps, in-patient alcohol and drug treatment programs, and placement in residential facilities.
- Community Confinement—Targets violent felony offenders and those who fail at previous level. Confinement in secure community-based facilities offering individual, group and family counseling. Intensive aftercare for successful community integration is provided.
- Incarceration in State Institutions—Targets offenders who have failed at previous levels. Sentencing guidelines with minimum length of stay are imposed.

This approach, with different variations, has been adopted by a variety of states. Most states which have chosen to implement a graduated sanctions approach have also incorporated "system" reforms deemed integral to its success.<sup>27</sup> These system enhancements include: specified criteria for determining placement, risk and needs assessments, development of automated tracking systems, enhanced case management, and enhanced interagency collaboration. States adopting a graduated approach have done so in tandem with revisions to their transfer/waiver statutes. When combined, efforts which seek to remove classes of juveniles from the jurisdiction of the Juvenile Court, while enhancing services for the majority of juvenile offenders, have reaffirmed the appropriateness of a separate system of justice for juveniles.

## **B. VIRGINIA'S JUVENILE JUSTICE SYSTEM:**

Virginia began formal participation in the JJDP Act in 1976. Virginia's baseline data gathered in 1974 documented the number of juveniles (4,914) being held in adult jails.<sup>28</sup> In 1977, the state revised Title 16 of the *Code of Virginia*, which among other

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<sup>26</sup> Thomas, Doug and Hunter Hurst IV. *Accountability-Based Community Interventions Project for Allegheny County, Pennsylvania. Year One Final Report*, National Center for Juvenile Justice, Pittsburgh, 1995.

<sup>27</sup> Ambrose, Karen W.. "Reforming the Juvenile Justice System." *Policy Perspectives*, *George Washington University Journal of Public Administration*, Vol. 2, No. 1, Spring 1995.

<sup>28</sup> Virginia Department of Criminal Justice Services, *18th Annual State Compliance Monitoring Report*, Richmond: December 1994.

reforms, incorporated the mandates of the federal Act. Virginia's efforts in the 1970's and 80's paralleled those of the nation: the juvenile justice system maintained a rehabilitative focus; the system was guided by the standard of the best interest of the child and reliance on least restrictive placements. Nationally and in Virginia, the reaction to this policy direction was positive, except for frustration over the lack of control over status offenders as a result of the DSO movement. Virginia recorded 6,558 status offenders held in secure settings in 1980. The state's 1994 compliance report noted a 96.4% decrease to 236 non-delinquent youth held in secure settings.<sup>29</sup>

During the latter half of the 1970's and into the 1980's, Virginia's juvenile justice system was characterized by growth and a specialization of functions. The majority of police departments in urban areas had juvenile divisions. Many courts provided staffing for diversion programs and specific treatment interventions. Shelter services for runaway and homeless youth, drop-in centers and outreach services were expanding. Delinquency prevention programs were established. Learning centers developed transitional living programs. Interagency service delivery was in its experimental phase and was rapidly adopted in many jurisdictions. In 1989, the juvenile correctional component of the Department of Corrections was moved to a newly-created agency, the Department of Youth Services,<sup>30</sup> premised on the belief that juvenile delinquency required a separate, distinct set of laws and services. While the system struggled with inadequate financial resources and diverse service needs, the dissatisfaction expressed during this period was predominately about funding levels and the lack of available substance abuse treatment for adolescents.

Two legal responses to the growing diversity of juvenile crime have served to maintain a separate juvenile justice system. On the national level, *In Re Gault 1967* represented the introduction of legal protections to justify a separate standard of juvenile law. At the state level, the carving out of classes of juvenile offenders for adult court jurisdiction has served to preserve a separate system to respond to delinquent and status offender youth.<sup>31</sup>

## 1. Overview of Structure and Programs

Virginia's juvenile justice system must be viewed as consisting of three separate yet intertwining components: the body of juvenile law primarily found in Title 16 of the *Code of Virginia*,<sup>32</sup> the juvenile correctional agency (the Department of Youth and Family Services [DYFS]) and the statewide network of law enforcement, education and human service delivery systems, both public and private. Change in one part of the system inevitably impacts others. As with the juveniles and their families who appear before Juvenile and Domestic Relations District Court and present an interlocking set of needs and strengths, so does the system which has been set in place to respond.

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<sup>29</sup> Virginia Department of Criminal Justice Services, *Monitoring Report*.

<sup>30</sup> The Virginia General Assembly created the Department of Youth Services in 1989. The name change of Department of Youth and Family Services was enacted in 1990 to reflect the integral role the family plays in responding to delinquency.

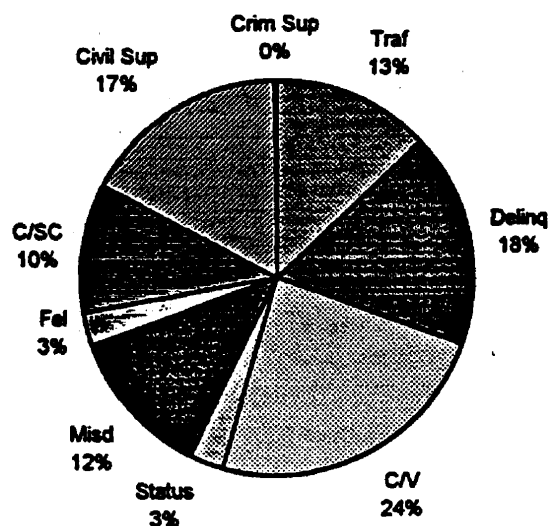
<sup>31</sup> This report focuses on only the criminal side of the Juvenile and Domestic Relations Court system, although the civil side represents the majority of cases heard.

<sup>32</sup> Title 16 of the *Code of Virginia* addresses Juvenile Court law; however, given the jurisdiction of the Juvenile and Domestic Relations District Court, Titles 20, 22, and 63 of the *Code* are also relevant.

Virginia established juvenile justice jurisdiction for courts in 1914 by legislation which in essence paralleled the law established in Chicago in 1899. Separate juvenile justice jurisdictions existed mainly, however, in larger communities, with the majority of localities having part-time judges and/or judges who split their responsibilities between District and Circuit Court cases. In 1948, a statewide Juvenile Court system was established. The current structure of a full-time, centrally administered Juvenile and Domestic Relations District Court system was established in 1973, with major Juvenile Code revisions to be enacted into law in 1977. Currently, there are 34 District Courts, three of them locally operated and the remainder administered by the state with court staff employed by the DYFS. Juvenile Court jurisdiction extends to both criminal and civil proceedings. All types of cases, except for juvenile traffic and criminal support, have increased since 1989. However, it is important to note that delinquency cases comprised only 17.7% of new cases heard in 1994. The most recent distribution of new cases is displayed in *Table 1*.

**Table 1**  
**Juvenile and Domestic Relations District Courts**  
**Caseload Distribution 1994**  
**(New Cases)**

	<i>Cases</i>	<i>Percent of Total</i>
<b>Juvenile</b>		
Traffic	54,115	13.0%
<b>Delinquency</b>	<b>73,789</b>	<b>17.7%</b>
Custody/Visit	99,927	23.9%
Status	10,734	2.6%
<b>Total</b>	<b>238,565</b>	<b>57.1%</b>
<b>Domestic</b>		
Misdemeanors	51,925	12.4%
Felonies	11,480	2.7%
Capias/Show Cause	43,230	10.4%
Civil Support	71,233	17.1%
Criminal Support	1,096	0.3%
<b>Total</b>	<b>178,964</b>	<b>42.9%</b>
<b>Total</b>	<b>417,529</b>	<b>100.0%</b>



Source: Supreme Court of Virginia, Office of the Executive Secretary, J&DR 1994 New Cases 9/7/95.

Each year the "criminal" side of Juvenile Court processes over 60,000 cases of juvenile delinquency and 8,000 non-delinquent cases, i.e., status, CHINS, CHINSup



(these offenses are explained in detail on-page 32 of this report). Total state expenditures for the Juvenile and Domestic Relations District Courts exceeded \$58 million in 1994.<sup>33</sup> From 1990 to 1996 there has been a 27% increase in the number of judges serving in Juvenile and Domestic Relations District Courts and a 12% increase in the number of clerks and support staff. Corresponding increases in probation staff have not occurred. The growth in caseloads is documented in *Table 2*.

**Table 2**  
**Juvenile and Domestic Relations District Courts**  
**Caseload Growth 1989-1993**  
**(New Cases)**

Type of Case	1989	1993	Growth
Juvenile Traffic	56,518	50,688	(10.3%)
Delinquency	51,449	65,587	27.5%
Custody/Visitation	63,567	97,090	52.7%
Status	6,832	9,963	45.8%
Domestic Misdemeanors	29,441	49,057	66.6%
Domestic Felonies	5,998	10,459	74.4%
Capias/Show Cause	24,952	42,229	69.2%
Civil Support	56,299	76,171	35.3%
Criminal Support	1,140	973	(14.6%)
Statewide Caseload Totals	296,196	402,217	35.8%

Source: Supreme Court of Virginia State of the Judiciary Report, 1993 and DYFS reported data 2/95.

According to the DYFS, 14,750 complaints were handled on a monthly basis in FY 94. Over 2,000 juvenile cases are placed on informal supervision and 9,582 juveniles are placed under official monthly supervision.<sup>34</sup>

The law stipulates that the Juvenile and Domestic Relations District Court provide intake screening and processing, diversion services, preparation of social histories, court supervision (probation and specialized court programs).<sup>35</sup> The organizational structure of the Court Service Units to fulfill their legislative mandates reflects tremendous variations. Depending upon the staff size, some courts have developed specialized units addressing specific components of service delivery, i.e., intake, diversion, intensive supervision, group counseling, and supervised release, while some have maintained a generic approach with all probation officers rotating duties.

The array of services provided by a given Court Service Unit is a reflection of a variety of factors. Clearly, population density and funding and staffing levels are the

<sup>33</sup> Virginia Senate Finance Committee, "Staff Briefing Paper to HJR 604 Task Force," Richmond: April 1995.

<sup>34</sup> Virginia Department of Youth and Family Services, "Briefing Paper, Juvenile Justice Community Facilities and Programs," May 1995.

<sup>35</sup> References are made to the "criminal" side of Juvenile and Domestic Relations District Court programs.

greatest predictors of program diversity offered by the court. However, the degree of judicial activism in developing and supporting program initiatives, willingness and ability of the locality to fund additional services, creativity of the Court Service Unit director and the degree of collaboration with other service agencies impact the types of programs and services offered. The diversity of program alternatives and collaborative relationships with the community's public and private providers is a strength of the state's juvenile justice system. However, this variety and diversity have also resulted in a lack of predictability and uniformity in dispositional sentences. As *Tables 3 and 4* show, research conducted in 1994 pursuant to HJR 446, a legislative study of Secure Juvenile Detention, found variations in the availability of pre- and post- dispositional options in Virginia.

**Table 3**  
**Availability of Post-Dispositional Alternatives**  
**in Selected Court Districts**

Juvenile and Domestic Relations Court District	Independent Living	Day Treatment	Intensive Supervision	Home Based Services	Non-Secure Residential	Specialized Probation
1 Chesapeake	√ (P)	√ (P)	√	√ (P)	√	√(R)
2 Va. Beach		√ (C)		√ (C)	√	
2A Accomack			√	√ (R)		
12 Chesterfield	√ (CSA)	√ (CSA)	√ (G)	√ (G)	√	
15 Fredericksburg	√ (CSA)	√ (CSA)	√ (CSA)	√	√	
16 Charlottesville			√(CSA)		√	
21 Martinsville				√	√ (C)	
23 Roanoke Co.				√ (CSA)	√	√
23A Roanoke			√	√ (CSA)	√	
24 Lynchburg			√(CSA)	√	√	√
30 Wise	√ (R)	√ (R)			√	
31 Prince William		√ (CSA)		√ (CSA)	√	√

(P) Purchase of service through local budget, (G) Discretionary grant, (C) Contract for service through local budget, (R) Referral to Community Agency, (CSA) Comprehensive Services Act Fund Pool

Source: Virginia Commission on Youth phone survey of Court Service Unit Directors, November 1994.

**Table 4**  
**Availability of Pre-Dispositional Options**  
**Statewide**

Juvenile and Domestic Relations Court District	Electronic Monitoring	Less Secure Detention	Crisis Shelter Care	Outreach Detention	Intensive Supervision	House Arrest
1- Chesapeake	√		√	√	√	√
2- Virginia Beach	√		√	√		
2A-Accomack						√
3- Portsmouth	√			√		
4- Norfolk	√		√	√		
5- Suffolk				√		
6- Emporia	√		√	√	√	
7- Newport News	√	√		√		√
8- Hampton		√		√		
9- Williamsburg	√			√		√
10- Appomattox						
11- Petersburg	√					
12- Chesterfield						√
13- Richmond City	√					√
14- Henrico			√	√	√	√
15- Fredericksburg				√		√
16- Charlottesville						√
17- Arlington				√*		
18- Alexandria	√	√	√	√*	√	√
19- Fairfax	√	√	√	√	√	√
20- Fauquier						
21- Martinsville			√	√		√
22- Danville				√		
23- Roanoke Co.			√	√		
23A- Roanoke City	√		√	√		
24- Lynchburg		√	√	√		√
25- Staunton						
26- Winchester						
27- Radford						
28- Bristol				√		
29- Tazewell						
30- Wise			√			
31- Prince William	√			√		√

Source: Virginia Commission on Youth Telephone Survey of Court Service Unit Directors (Nov. 1994) and the DYFS/Commission on Youth Court Service Unit Program Alternatives Survey, Fall 1994.

All Juvenile and Domestic Relations District Court Service Units provide the following services as required by Code:

- 24-hour Intake (§16.1-260) — Probation officers are required by statute to be available on a 24-hour basis. Coverage during non-office hours is often rotated among intake staff. While magistrates are authorized to issue detention warrants, in practice, the decision is made in consultation with the intake officer, who is often more familiar with alternative community resources, the juvenile, and the juvenile's family. Travel for intake officers to the site where the juvenile is held in custody during non-office hours is problematic in larger geographic districts. The intake officer makes an assessment as to whether immediate detention and or custody is warranted and, based on that decision, will either prepare to file a petition for formal court processing or will divert the case from formal processing and make a referral to a court-offered service or a service available in the community from the public or private sector.
- Diversion from Formal Court Processing (§16.1-227.1) — All court service intake officers are authorized to determine if probable cause exists and if filing a petition for formal court intervention is in the best interest of the juvenile and the juvenile's family. Many different types of issues are brought to the court for intervention. Cases involving family disputes, status and CHINS offenses may be more amenable to human service, as opposed to juvenile justice, forms of intervention. Diversion to community agencies through formal or informal referrals is a primary activity of intake officers. The Joint Legislative Audit and Review Commission (JLARC) analysis of 3,000 FY 92 Juvenile Court cases substantiated that relatively few delinquent charges (21%) are diverted from court processing.<sup>36</sup> The percentage of felony cases is even smaller, averaging a 7% diversion rate. Once a case is diverted for court processing, there is no formal record kept of the interaction with the Court Service Unit. The absence of baseline information on a juvenile may result in the mislabeling of an offender as "first-time" at what is, in fact, a second or third contact with the court. Dale Elliot's work profiling the progressive record of juvenile offenders does identify numerous (defined as more than three) informal contacts with the Juvenile Court for minor and or status offenses prior to a petition being filed.<sup>37</sup> The diversion from court processing which does occur appears to target those cases in which the nature of the charge or the facts behind the case validate alternative form of intervention. Often unofficial supervision and counseling by the Court Service Unit is offered as a form of diversion. In FY 94, over 2,000 cases a month were receiving unofficial supervision by the Court.<sup>38</sup>

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<sup>36</sup> Virginia Joint Legislative Audit and Review Commission, "Staff Briefing to HJR 604 Task Force on Juvenile Delinquents and Status Offenders: Court Processing and Outcomes," Richmond: November 1995.

<sup>37</sup> Elliot, Youth Violence.

<sup>38</sup> Virginia Youth and Family Services, "Briefing Paper."

Law enforcement also exercises discretion in its handling of cases. While no hard data exists to verify how often offenses of a less serious nature are handled by local law enforcement, station adjustments, in which an officer meets with the juvenile and/or their parents and no charges are formally filed, are still fairly common practice. Many times a juvenile is picked up, given a warning, and let go.

Law enforcement's frustration with the processing of cases and the perceived leniency of the juvenile justice system has resulted in some officers determining that they would rather not bring a case to court to file a petition and "lose a day in court." This form of diversion, however, is reported only anecdotally, as currently no data systems capture the type of police contact not resulting in formal action.

- Case Investigations and Report Writing (§16.1-237A) — All courts rely on the work of the probation staff to bring relevant information to the case. The social histories and transfer reports which attempt to provide an overview of the juvenile's family, school, neighborhood, and significant events are prepared for the majority of cases and help the judge fashion a dispositional option. There is tremendous variation in the thoroughness of these reports and how often they are updated when new charges are filed. If a juvenile is committed to state care, the information does not routinely follow the juvenile to the Juvenile Correctional Center. While administrative standards address the necessary components of these reports and the specific areas to be addressed in transfer reports are detailed in the *Code*, a previous review of Court records by Commission on Youth staff revealed uneven information-gathering and retrieval capabilities on the part of the individual courts.
- Probation Services (§16.1-237) — Juveniles can be placed on probation either formally or informally. In FY 94, 9,582 juveniles were placed under formal probation on a monthly basis. As has been noted earlier, the staffing level to respond to so many probationers has since 1989 been insufficient. The average caseload in the courts ranges from 60 to 80 cases per worker.<sup>39</sup> From a purely statistical standpoint—given the amount of time probation officers must spend in court, completing paperwork, and traveling to the juvenile's home or placement—current caseloads result in a probation officer's having less than ten minutes per case per week. In reality, weeks may pass without there being contact between the juvenile and the probation officer. As with other direct service workers, probation officers are placed in a reactive mode in which they respond to one crisis on their caseload after another. The youth who is doing marginally well or has not violated the law will go unseen for many weeks. Many courts have attempted to respond to the workload by establishing intensive supervision programs in which the caseload does not exceed 15 juveniles. Intensive supervision often entails daily or twice weekly

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<sup>39</sup> Virginia Youth and Family Services, "Briefing Paper."

visits with the juvenile and their family. Close communication with the juvenile, school, and family allows probation officers to monitor their adjustment and behavior on a daily basis. As resources have become tighter, "competition" for entry into intensive supervision programs has increased.

Except for three districts, Court Service Units are state-operated and probation staff are state employees. Despite the variations of staffing patterns and program options provided by the Court Service Units, their role and the dispositions available to the Juvenile and Domestic Relations judges are prescribed by the *Code of Virginia*. The *Code* provides for a large degree of flexibility and individualization in case handling. Juvenile law is premised on the view that the crafting of dispositions should be based on the review of the offender in the context of the offense. The adult justice system delivers sentences predominately based on the offense. This distinction is grounded in a respect for child developmental theory and the premise that minors are different from adults by the capacity to be strongly influenced by factors around them, in terms of being led into criminality and of rehabilitation. As a result, juvenile law does not provide a sentencing grid for judges to determine sentences, but rather presents a list of options which are delineated by the types of offense for which the juvenile has been adjudicated. These dispositional options are summarized in *Table 5*.

While in the last decade there have been significant changes in juvenile law which will be addressed thoroughly in the following section, the structure of judicial decision-making has remained basically the same for the past 25 years. At intake, Court Service Unit staff determine probable cause and whether the filing of a petition is warranted. If a petition is to be filed, the juvenile may be held in secure detention for up to 48 hours pending a detention hearing. At the detention hearing, the judge determines whether the juvenile is to remain confined prior to the adjudicatory hearing at which guilt or innocence is established. Depending on the nature of the case, other non-court agencies may be involved in the gathering of facts prior to the dispositional hearing. As stated earlier, social histories are compiled by the court staff and presented to the judge to help guide the dispositional sentence. The *Code* establishes time limitations for all phases of the legal progress with the caveat that these periods can be extended for "good cause shown." The impact on extending time limitations for trial can have the impact of further burdening overcrowded secure detention homes, which are predominately used for the pre-trial secure holding of juveniles. The passage of time may have an impact on the willingness of witnesses to come forward and testify. Some of the youth charged in court have private counsel, but the majority are represented by court-appointed counsel who are compensated at a rate of \$100 per case. Commonwealth's Attorneys must be present in the prosecution of felony cases and have discretion to be present for other cases, although they are notified when a local school files a truancy petition.

**Table 5**  
**DISPOSITIONAL OPTIONS**  
**Provided by Code of Virginia**

DISPOSITIONS §16.1-278.4—16.1-278.8	CHINS	CHINS -up	FMO	CMO	EO	FVO	CVO
Remain with parents, subject to limitations the Court may order	√	√	√	√	√	√	√
Order parents to participate in programs for rehabilitation of parent and juvenile	√	√	√	√	√	√	√
Order parents to participate in programs for rehabilitation of the juvenile		√					
Fine parents \$100/day each day they refuse to cooperate with the school and their program(s)		√					
Excuse juvenile over 14 from school	√	√					
Permit local DSS or public agency designated by CPMT* to place juvenile	√	√					
Parent guilty of contributing to the delinquency of a minor		√					
Transfer legal custody to relative, other person or agency	√	√	√	√	√	√	√
Require juvenile to participate in public service projects	√	√	√	√	√	√	√
Probation		√	√	√	√	√	√
Defer disposition for period not to exceed 12 months			√	√	√	√	√
Place on probation under conditions; upon fulfillment of conditions dismiss case without adjudication			√	√	√	√	√
Impose fine on juvenile not to exceed \$500			√	√	√	√	√
Suspend driver's license				√	√		√
Make restitution			√	√	√	√	√
30 days in detention						√	
Six months in detention				√	√		√
Determinate commitment to DYFS				√	√	√	√
Indeterminate commitment to DYFS					√		√
Transfer for trial in Circuit Court					√		√
<b>LEGEND</b>							
CHINS	Child In Need of Services (i.e., non-delinquent behavior, truant, runaway beyond parental control etc.)						
CHINSup	Child In Need of Supervision (CHINS before the court who has not complied with court orders)						
MO	Minor Offender (Misdemeanor charges are lesser felonies)						
CMO	Chronic Minor Offender (Repeat misdemeanor, lesser felony charges)						
EO	Escalating Offender (Previous misdemeanor, lesser felony charges increasing in severity)						
FVO	First time Violent Offender (Class 1, 2, 3 felonies; for this table, offender was age 12 to show variations in dispositions based on age of the offender)						
CVO	Chronic Violent Offender (Class 1, 2, 3, felonies with previous felony convictions)						

\* Community Policy and Management Team (CPMT) established by Comprehensive Services Act

Source: Virginia Commission on Youth Graphic and Analysis of Chapter 11, *Code of Virginia*.

Dispositions made by the court are influenced by the network of services available to the community. If the judge determines that the juvenile does not need to be served residentially, the judge may place the juvenile on probation, as well as order the juvenile and their family participate in a variety of in-home services, counseling, and/or educational services available. Many public mental health and private non-profit agencies provide therapeutic services to these juveniles. The judge may consider out-of-home placement for treatment or public safety reasons. Consideration for placement in a residential facility requires the involvement of the local decision-making structure of the Comprehensive Services Act (CSA).

The Comprehensive Services Act for At-Risk Youth and Families, which was enacted in 1992, created a collaborative system of services and funding for troubled and at-risk youth and their families. The legislation restructured Virginia's funding system to create a locally managed system to fund services previously controlled by seven state agencies and nine separate funding streams. In FY 95, over \$72 million in state and federal funds were distributed to localities.

Of the eight funding streams which were pooled, two of them—the "286" and "239" funds—previously provided services to court-involved juveniles. Both refer to Code citations and were used by individual Court Service Units to purchase treatment services from private providers. The majority of these treatment services were residential care services, with approximately one-fourth of the providers offering in-home day treatment programs. Prior to the implementation of the CSA, the "286" program was chronically plagued by waiting lists and budget shortfalls. According to information gathered by the DYFS in FY 91, 47% of the juveniles on the "286" waiting list ended up being committed to the Department.<sup>40</sup> The other funding streams funded purchased day and residential services for special education and foster care clients. Both of these populations have some sufficiency requirements to comply with federal regulations. This dichotomy between the funding requirements of the populations served has created two distinct groups within the CSA structure, currently referred to *mandated* and *non-mandated* youth. The Community Policy and Management Team (CPMT), which is comprised of the local agency heads and private provider and parent representatives, must develop an annual allocation plan identifying amounts forecasted to be spent on mandate and non-mandated youth. In order to reserve a portion of funds for those youth who do not fall under the federal requirement of sum sufficiency, the CSA created a protection level of funding allowing localities to reserve a portion of funds to serve the non-mandated populations. A minimum protection level was established at \$10,000 per locality. Unfortunately, recent analyses conducted by the CSA show that the majority of localities are not using their protected dollars and are not serving the non-mandated population with the CSA structure. The perception of accessibility to CSA funds for court-involved youth was analyzed by Commission on Youth surveys of professionals in the field. These are discussed in Section VII. It is unclear if the unavailability of community service funds for court-referred youth has resulted in increased commitments to the DFYS. What is clear is that the cost of

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<sup>40</sup> Terms *mandated* and *non-mandated* refer to the federal funding requirement, as the CSA statute in Virginia mandates all populations be served.



serving the CSA population has increased since its inception and incentives for communities to provide and fund service alternatives to the juvenile justice population have not been adequate.

## **2. Recent Changes in Juvenile Law**

As has been mentioned earlier in the report, the establishment of a separate full-time Juvenile and Domestic Relations District Court system is a relatively new development in Virginia. Laws addressing delinquency and status offenses were recodified and put in a separate chapter of law in 1977. Since 1977 there have been a number of legislative revisions to the *Juvenile Code* which can be characterized by a lessening of the distinction between juvenile and criminal law. With respect to the impact on the concept of a separate system of justice for minors charged with criminal acts, there have been five major areas of juvenile law revision since 1977:

1. administrative structure of juvenile correctional services;
2. detention of juveniles;
3. status offenders;
4. juvenile records; and
5. transfer to Circuit Court.

The majority of the responsibilities of the Board and the Director of the DYFS were carved out from the Department of Corrections where, prior to 1989, juvenile correctional programs were housed as a division within the Department of Corrections. The 1988 General Assembly created a separate juvenile correctional agency, effective 1990. The rationale behind this development has been discussed earlier in the report. The DYFS was given the responsibility for administering the state-operated Court Service Units, group homes, institutions, and delinquency prevention programs. In 1991 and 1992, the agency was authorized to provide for the private construction financing and operation of local and regional detention facilities.

In 1985 the General Assembly passed House Bill 1417 which provided specific guidelines for the detention of juveniles (specifically prohibiting the secure confinement of non-delinquent youth), established time limitations for secure confinement, authorized determinate commitment to the state, and authorized the post-trial sentencing of juveniles to secure detention. The legislation also prohibited the placement of juveniles in adults jails for longer than six hours. Detention of a juvenile was thus permissible only if there was a finding on the part of the intake worker or the magistrate that there was probable cause to believe the individual committed a Class I misdemeanor or felony, *and* clear and convincing evidence existed that release would present harm to the juvenile *or* there was a threat of escape from the court's jurisdiction.

Since 1985, both the use of detention and the length of time for which a juvenile could be held pre-dispositionally have been expanded. As of 1986, juveniles who absconded from a non-secure facility could be held for up to three days and, in 1988, the General Assembly permitted the placement of juveniles in an adult jail detention if the juveniles posed a threat to the juvenile detention home. The secure confinement of non-delinquent youth was allowed in cases of violations of court orders in 1989. In

1990, the law was amended to allow juveniles to be taken into immediate custody without a warrant or detention order, based on probable cause for assault and battery or carrying a concealed weapon on school property. Bills passed in 1992 established criteria for limited detention of non-delinquent juveniles taken into custody during non-office hours.

All states have classifications for those juveniles who commit acts which, were it not for their age, would not be considered crimes. Acronyms such as MINS (Minors in Need of Services), PINS (Persons in Need of Services), and CHINS (Children in Need of Services) describe those juveniles who come into contact with the justice system due to problematic, but not criminal behavior, i.e., running away, tobacco offenses, truancy. Prior to 1989 in Virginia, most juveniles who came into contact with either the juvenile justice or child welfare system were considered CHINS. In 1989, legislation became effective which defined "children in need of services" to include only those whose behavior, conduct or condition results in a serious threat to their well-being or physical safety and created a new category of "children in need of supervision." This new classification included children who were (i) habitually truant and a reasonable effort had been made by the school to effect their attendance, (ii) children who habitually run away or run away from a court-ordered placement and allowed the court to impose a maximum of 30 days in secure detention while an inter-agency staffing plan was developed. The timeframe for the detention of these juveniles who had violated court orders was later reduced to ten days by the 1994 General Assembly.

One of the most active areas for legislative reform in Virginia and many other states relates to access to and confidentiality of juvenile records. Fingerprints, as well as photographs, can be taken of every juvenile 14 years of age or older charged with a felony. These fingerprints and photographs may be disseminated only to determine eligibility to possess or purchase firearms, prepare pre-sentence investigation reports, and make fingerprint comparisons. The fingerprints maintained on the Central Criminal Record Exchange must be destroyed when individuals reach the age of 29 if they have not been convicted of a felony in the intervening years. The Commonwealth's Attorney and the Department of Youth and Family Services have the authority to petition for the release of identifying information about a juvenile charged with a serious crime who becomes a fugitive from justice. In the name of public interest, the court is now required to release the names and addresses of juveniles found guilty of certain serious crimes and in every case where juveniles are sentenced as adults. Since 1989, law enforcement officers are allowed to disclose to school personnel information concerning juveniles suspected of committing delinquent acts on school property or at school-sponsored events. Further expansion of exceptions to confidentiality to allow schools to discipline juveniles occurred in 1994, when courts became required to notify school superintendents of delinquency findings involving certain acts of serious offenses and drug violations. In 1995 the General Assembly authorized judges to release the names and addresses of juveniles 14 years or older who are "charged with an act of violence and the consideration of the public interest requires disclosure." In the same year, the requirement for the courts to give notice to the schools was moved to an earlier stage in the process. Under the new legislation, giving notice would occur at the pre-adjudication stage, when intake officers would be required to give notice of

the filing of petitions to superintendents, who may disclose the information to a juvenile's principal. Further, the principal may, after the juvenile is taken into custody, disclose this information to persons in actual physical danger.

These expansions in the exception to confidentiality runs counter to another Code cite §16.1-308 which provides that a finding of guilt "shall not operate to impose any of the disabilities ordinarily imposed for the conviction of a crime." With this statute still in the Code, it appears there is a lack of coherent policy in the area of confidentiality of juvenile records.

With respect to the transfer statute, in 1994 the General Assembly adopted legislation developed by the Commission on Youth which dramatically altered the transfer procedure and expanded the options available to juvenile court judges to respond to the violent and/or chronic offending juvenile. Under previous law, to transfer a juvenile to Circuit Court the court needed to find (i) probable cause, (ii) competency, (iii) that the interests of the community require that the juvenile be placed under legal restraint, and (iv) that the juvenile is not amenable to treatment. The amenability and legal constraints findings have been replaced with a specific list of factors the court needs to consider in deciding whether the juvenile is a "proper person" to remain within the juvenile justice system. The age for transfer was dropped from 15 to 14. Automatic transfer was authorized for particular violent crimes from the age of 14 without the judge's having to make findings which speak to the juvenile's being a "proper person." The 1994 amendments also terminated the jurisdiction of the Juvenile Court over subsequent charges against the juvenile and over any future criminal acts once the juvenile is tried and convicted in Circuit Court.

Determinate sentencing options were also expanded and the age for eligibility lowered to parallel the transfer statute. Under the Serious Juvenile Offender statute, the judge can sentence certain juvenile offenders to the DYFS up to the age of 21 for a maximum of seven years. The legislation built in an annual review of the juvenile's progress and the opportunity to amend the original sentence of confinement. Prior to the adoption of these amendments, the Juvenile Court judges could only commit an offender to secure confinement at a Juvenile Correctional Center for a determinate period between six and twelve months.

### **3. Juvenile Crime Trend Analysis**

Virginia began keeping data on reported crimes and arrests in the Uniform Crime Reports in 1975. A number of data analyses were conducted to examine the magnitude of and changes in juvenile crime in Virginia during this time period. These analyses included:

- comparison of Virginia's juvenile crime trends with national juvenile crime trends;
- changes in Virginia juvenile arrests by offense and offender demographic profiles; and
- changes in crime clearance rates attributable to juvenile offenders.

Where possible, crime data were analyzed for the 20 year period 1975 through 1994 to provide a longitudinal analysis and to avoid presenting data from one base year versus another to selectively illustrate trends in the data.

### **Virginia and National Juvenile Crime Trends**

In order for the Task Force to get a better understanding of the scope of Virginia's juvenile crime problem, Virginia's juvenile crime statistics were compared to national crime statistics. Using the most recent report of the National Council on Crime and Delinquency, Virginia arrest trends were compared to national arrest trends in eight areas (see *Exhibit 2*).<sup>41</sup>

The analyses suggested that Virginia's juvenile crime trends are similar to national juvenile crime trends in a number of ways. First, the overwhelming percentage of juvenile arrests nationally and in Virginia are for property felony crimes and less serious Part II misdemeanors and status offenses. Juvenile arrests for property and less serious offenses accounted for 97% of the 1992 juvenile arrests in Virginia and 94% of the national juvenile arrests. Second, juvenile arrests for serious index crimes are increasing nationally and in Virginia at a slower rate than adult arrests for the same offenses.<sup>42</sup> From 1983 to 1993, adult arrests for index crimes increased nationally at arrests for serious offense grew period by 38.7% compared to a 13.3% growth in juvenile serious offense arrests during the same ten year period. Third, the proportion of the youth population ages 10-17 arrested for violent crimes grew nationally and in Virginia from 1982 to 1992; however, in both cases the percentage of juveniles remains very small. In 1982 3/10 of 1% of the youth population in America had been arrested for a violent crime—by 1992 the percentage had increased to 5/10 of 1%. The proportion of youth arrested for a violent crime in Virginia was behind the national proportion during the 10 year period. One-tenth of 1% of Virginia's youth were arrested for violent crime in 1982 and, by 1992, 2/10 of 1% had been arrested for these offenses.

While some of Virginia's juvenile crime trends mirror the strength and direction of national trends, others are growing either in an opposite direction or at a much faster rate. Nationally, from 1983 to 1993 the proportion of total arrests attributed to juveniles decreased 2%, from 18% to 16%. However, although Virginia was below the national average in the proportion of juvenile arrests during the ten year period, the proportion of juvenile arrests in Virginia *increased* from 10.4% in 1983 to 12.8% in 1993. In addition, while the proportion of juveniles arrested for violent crimes is lower in Virginia than nationally, the percentage is increasing in Virginia at a faster rate. From 1982 to 1992, the proportion of juveniles arrested for violent crimes increased 3/10 of 1%—from 17.2% to 17.5%. During the same ten year period, the proportion of violent crime arrests attributable to juveniles increased 1%, from 12.1% to 13.1%.

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<sup>41</sup> Jones, Michael A. and Barry Krisberg, Images and Reality: Juvenile Crime, Youth Violence and Public Policy, National Council on Crime and Delinquency, San Francisco: June 1994.

<sup>42</sup> The Federal Bureau of Investigation defines Serious (Index) offenses to include: murder/Nonnegligent manslaughter, forcible rape, robbery, aggravated assault, burglary, larceny, arson and motor vehicle theft.

**Exhibit 2**  
**Juvenile Crime Trends**

National Trends	Virginia Trends
1. 94% of the juveniles arrested in 1992 were arrested for property and less serious offenses.	1. 96.8% of juveniles arrests in Virginia in 1992 were arrested for property and less serious offenses.
2. Juvenile arrests for property offenses, particularly burglary and larceny, represented 85% of all juvenile arrests for serious crimes in 1992.	2. Juvenile arrests for property offenses represented 90.3% of all juvenile arrests in Virginia for serious crimes in 1992.
3. Over the past 10 years the proportion of total national arrests by persons under the age of 18 years has declined from 18% to 16%.	3. From 1983-1993 the proportion of total arrests by persons under the age of 18 years in Virginia <i>increased</i> from 10.4% to 12.8%.
4. Over the past 10 years the proportion of arrests for serious (index) crimes by persons under the age of 18 years has decreased from 31% to 29%.	4. From 1983-1993 the proportion of arrests for serious (index) crimes by persons under the age of 18 years in Virginia also decreased 5/10 of 1% - from 25.0% to 24.5%.
5. From 1982-1992, adult arrests for serious (Index) crimes increased at a rate three times that for juveniles - 5% for juveniles versus 15% for adults.	5. From 1982-1992, adult arrests for serious (Index) crimes in Virginia increased at a rate <i>more than twice</i> that of juveniles - 13.3% for juveniles versus 38.7% for adults.
6. Between 1982 and 1992 the proportion of the youth population in America arrested for violent crime increased from 3/10 of one 1% to 5/10 of 1%. <sup>43</sup>	6. Between 1982 and 1992 the proportion of the youth population in Virginia arrested for violent crime increased from 1/10 of 1% to 2/10 of 1%.
7. In 1982, 17.2% of all arrests for violent crimes were of juveniles; by 1992 the proportion had increased slightly to 17.5%.	7. In 1982, 12.1% of all arrests for violent crimes in Virginia were of juveniles; by 1992 the proportion had <i>increased</i> to 13.1%.
8. Juvenile arrests for murder and rape represented less than half of 1% of all juvenile arrests in 1992.	8. Juvenile arrests for murder and rape represented 4/10 of 1% of all juvenile arrests in Virginia in 1992.
<p>Serious (Index) Offenses are defined as the Federal Bureau of Investigation (FBI) offenses of: murder/nonnegligent manslaughter, forcible rape, robbery, aggravated assault, burglary, larceny, arson and motor vehicle theft. Violent Crimes are defined by the FBI and include: murder/nonnegligent manslaughter, forcible rape, robbery, and aggravated assault.</p> <p>Sources: Jones, <u>Images and Reality</u> and Virginia Commission on Youth Analysis of Virginia Uniform Crime Reports Data 1975-1994.</p>	

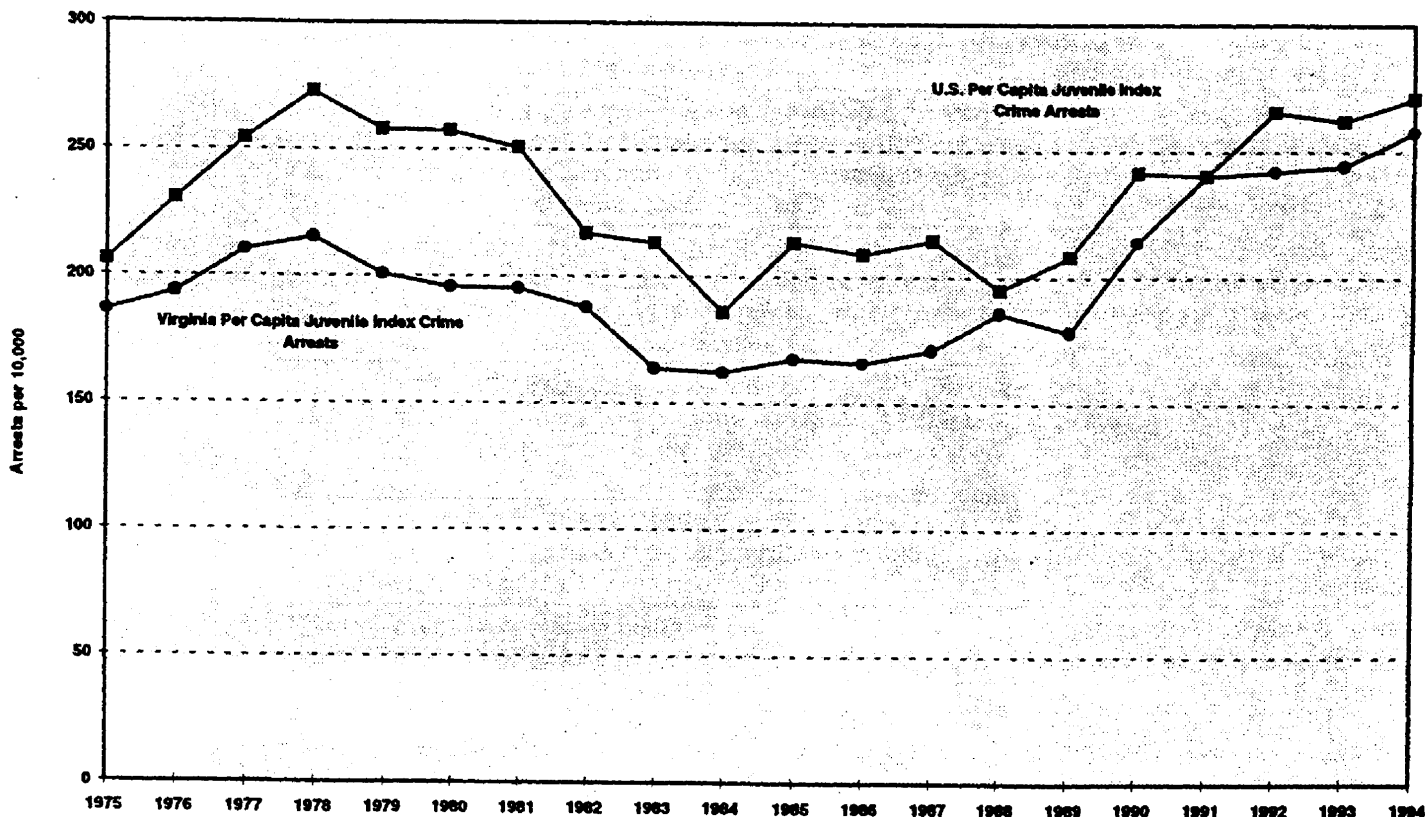
Another Virginia and national comparative analysis of juvenile index crime arrests was completed using state and national Uniform Crime Reports from 1975 to 1994. The juvenile arrests were standardized by U.S. Census data for juvenile populations to determine the per capita juvenile arrests for the serious index crimes during each year of the 20 year period. As *Chart 1* illustrates, per capita juvenile arrests for index crimes in Virginia is lower than the national per capita data for every year except 1991, when both the national and state figures were 240 arrests per 10,000

<sup>43</sup> Population figures were based on U.S. Census data for juveniles ages 10-17 years.

juveniles. During the 20 year period, however, per capita arrests for serious index crime offenses grew 39% in Virginia, while growing 32% nationally.

In summary, while Virginia remains below the national average on indicators measuring juvenile arrests for total index and violent crimes, the rate of growth in Virginia's violent crime arrests of juveniles is faster than the national growth.

**Chart 1**  
**Per Capita Juvenile Index Crime Arrests in the U.S. and Virginia**  
**1975-1994**

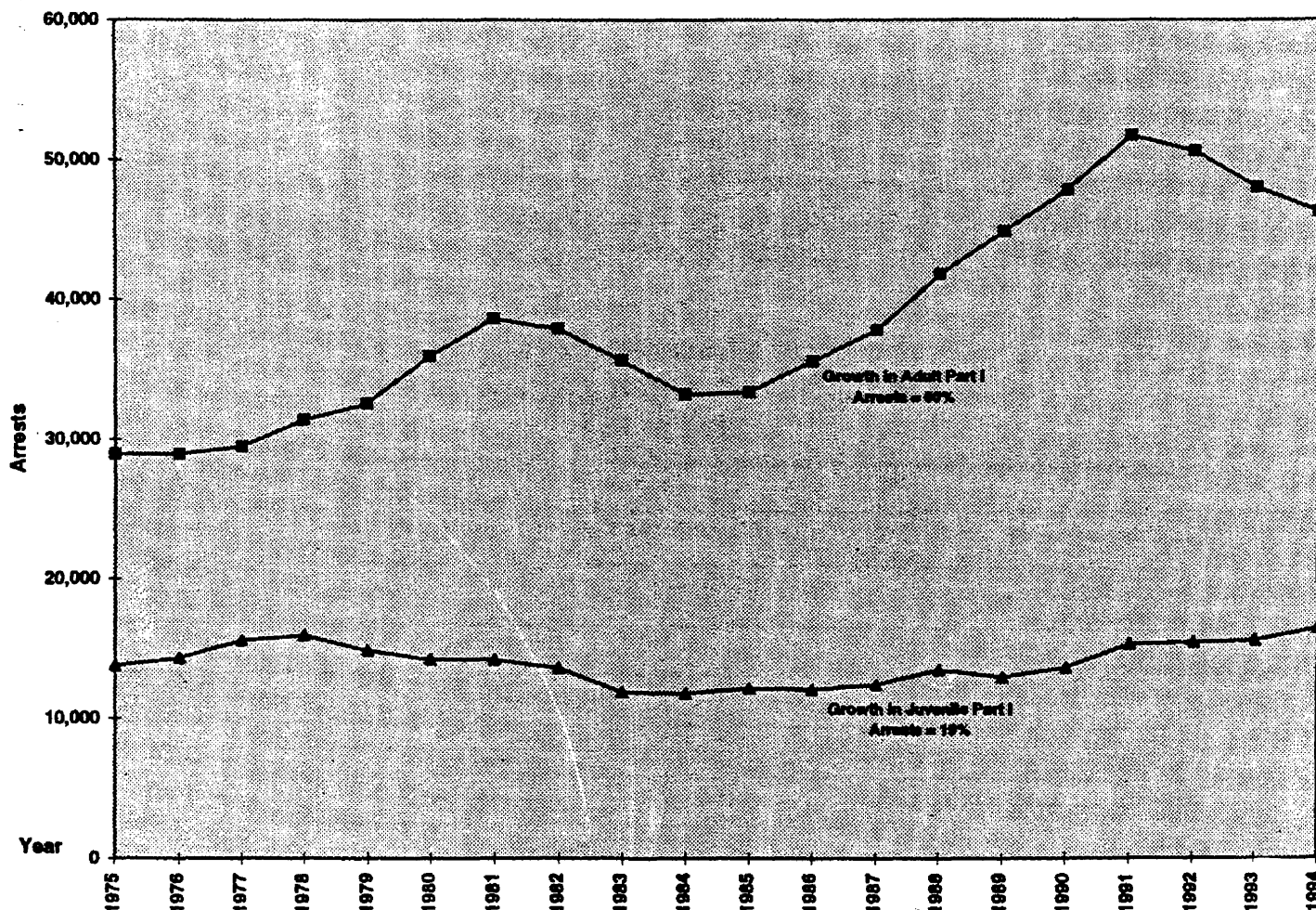


Source: Virginia Commission on Youth Analysis of U.S. and Virginia Uniform Crime Reports 1975-1994 and U.S. Census Data.

**Changes in Virginia Arrests 1975-1994**

Trends in adult and juvenile arrests were analyzed to provide the Task Force with a perspective on (i) the proportion of arrests attributable to each of the two groups in Virginia, (ii) changes in the long-term arrest trends for serious offenses by both groups, (iii) changes in the short-term arrest trends for serious offenses by both groups,

**Chart 2**  
**Growth in Virginia's Juvenile and Adult Part I Arrests**  
**1975-1994**



Source: Virginia Commission on Youth Analysis of U.S. and Virginia Uniform Crime Reports 1975-1994 and U.S. Census Data.

and (iv) changes in the age demographics for juvenile offenders arrested for violent crimes. In 1994, adult arrests accounted for 74% (46,272 of 62,691) of the total arrests for Part I offenses in Virginia. In addition, from 1975 to 1994, adult arrests for Part I offenses grew at a rate three times that of the juvenile rate of growth for the same offenses.<sup>44</sup> As *Chart 2* illustrates, in 1975 there were 28,934 adult Part I arrests and, by 1994, there were 46,272 arrests, representing a growth of 60%. During the same 20 year period, juvenile Part I arrests grew 19%—from 13,783 in 1975 to 16,419 in 1994.

<sup>44</sup> Part I offenses are defined by the Federal Bureau of Investigation to include all Serious (Index) offenses plus negligent manslaughter. Negligent manslaughter arrests were available for Virginia; however, were not available nationally to use in prior analyses.

While juvenile Part I arrests in Virginia have been growing at an overall slower rate than adult Part I arrests since 1975 and, though they remain a small proportion of the statewide total (26% in 1994), different longitudinal trends have been emerging in the arrest data for specific offenses by the two groups over the past 20 years. Adult Part I arrests peaked in 1991 at 51,719 and since this time there has been a 12% decline in these arrests. However, since 1991, juvenile Part I arrests have increased 7%. In addition, as *Table 6* shows, since 1975, juvenile arrests for violent crime have increased 55%, compared to a 47% increase for adults. Unlike the adult violent crime trends, arrests of juveniles have increased for every category of violent crime.<sup>45</sup> Juvenile arrests for murder/nonnegligent manslaughter increased 55% since 1975, while adult arrests for murder/nonnegligent manslaughter decreased 25%. In addition, juvenile arrests for aggravated assault have grown at twice the rate of adult arrests.

**Table 6**  
**Virginia Juvenile and Adult**  
**Part I and Violent Crime Arrest Trends**  
**1975-1994**

Part I Offenses	1975 Juvenile Part I Arrests	1994 Juvenile Part I Arrests	Percent Growth 1975-1994	1975 Adult Part I Arrests	1994 Adult Part I Arrests	Percent Growth 1975-1994
Murder/Nonnegligent Manslaughter	42	65	55%	553	413	(25%)
Negligent Manslaughter	22	6	(73%)	181	41	(77%)
Forcible Rape	79	92	16%	573	720	26%
Robbery	588	592	0.7%	1,767	1,994	13%
Aggravated Assault	426	1,006	136%	5,013	8,486	69%
Burglary	4,517	2,429	(46%)	5,182	4,725	(9%)
Larceny	7,009	10,207	46%	14,336	27,587	92%
Motor Vehicle Theft	977	1,768	81%	1,136	2,024	78%
Arson	123	254	107%	193	282	46%
<b>Total Part I Arrests</b>	<b>13,793</b>	<b>16,419</b>	<b>19%</b>	<b>26,934</b>	<b>46,272</b>	<b>69%</b>
<b>Violent Crime Arrests</b>	<b>1,135</b>	<b>1,755</b>	<b>55%</b>	<b>7,906</b>	<b>11,613</b>	<b>47%</b>

The Federal Bureau of Investigation defines violent crimes to include murder/nonnegligent manslaughter, forcible rape, robbery and aggravated assault.

Source: Virginia Commission on Youth: Analysis of Virginia Uniform Crime Reports 1975-1994.

Although Part I arrests for adults grew at a faster rate than juvenile arrests, when analyzed longitudinally since 1975, very different trends can be found between the two groups when data for these arrests are analyzed for most recent five year period. As *Table 7* shows, violent crime arrests for both juvenile and adult offenders have increased since 1990. Adult violent crime arrests increased 32% and juvenile violent crime arrests increased 49%. In addition, comparable trends between the two groups can be seen within the various violent crime categories. Both groups had a decrease in their arrests for murder/nonnegligent manslaughter and forcible rape and both groups

<sup>45</sup> Violent crimes are defined by the Federal Bureau of Investigation to include: murder, nonnegligent manslaughter, rape and aggravated assault.



realized significant increases in arrests for aggravated assault. However, trends in arrests for robbery between the two groups are noticeably different. Adult arrests for robbery grew 5% since 1990, while juvenile arrests for this crime increased 55%—from 381 in 1990 to 592 in 1994.

Differences in arrest trends between juveniles and adults are even more dramatic when the larger offense classification of all Part I offense is examined. Part I offenses includes the violent crimes, property felony crimes and negligent manslaughter. Since 1990, adult total Part I arrests have declined 4% and arrests for seven of the nine offense categories have declined. However, since 1990 juvenile total Part I arrests have increased 21% and have increased or stayed constant in seven of the nine offense categories.

**Table 7**  
**Virginia Juvenile and Adult**  
**Part I and Violent Crime Arrest Trends**  
**1990-1994**

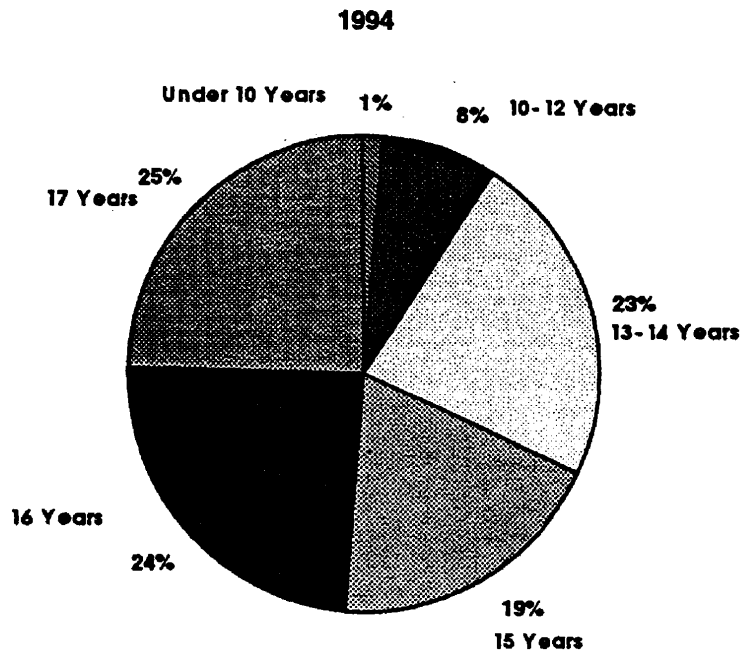
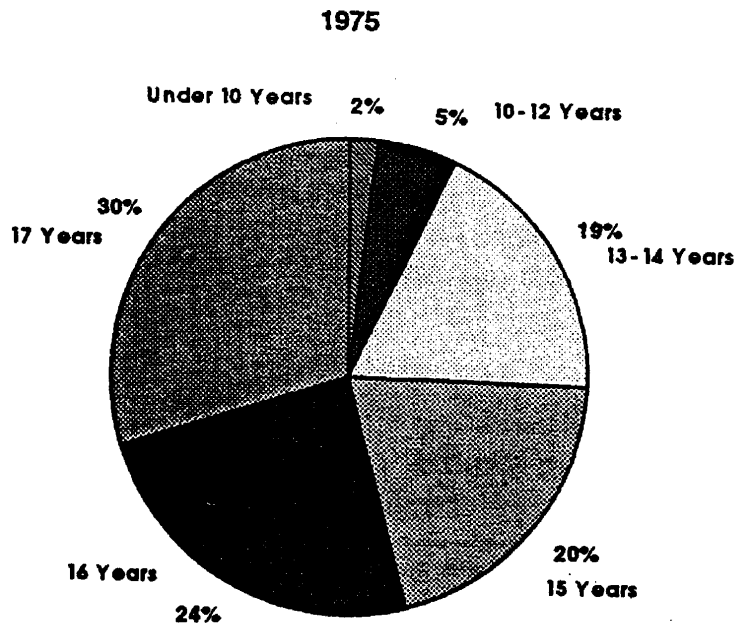
Part I Offenses	1990 Juvenile Arrests	1994 Juvenile Arrests	Percent Growth 1990-1994	1990 Adult Arrests	1994 Adult Arrests	Percent Growth 1975-1994
Murder/Nonnegligent Manslaughter	66	66	0	445	413	(8%)
Negligent Manslaughter	2	6	200%	42	41	(3%)
Forcible Rape	101	92	(9%)	834	720	(14%)
Robbery	381	592	55%	1,909	1,994	5%
Aggravated Assault	628	1,006	60%	5,636	8,436	51%
Burglary	2,341	2,429	4%	5,779	4,725	(19%)
Larceny	8,090	10,207	27%	30,864	27,587	(11%)
Motor Vehicle Theft	1,860	1,768	(5%)	2,042	2,024	(1%)
Arson	157	254	62%	307	282	(9%)
<b>Part I Arrests</b>	<b>13,625</b>	<b>16,419</b>	<b>21%</b>	<b>47,889</b>	<b>46,273</b>	<b>(4%)</b>
<b>Violent Crime Arrests</b>	<b>1,175</b>	<b>1,756</b>	<b>49%</b>	<b>8,824</b>	<b>11,613</b>	<b>32%</b>

The Federal Bureau of Investigation defines violent crimes to include murder/nonnegligent manslaughter, forcible rape, robbery and aggravated assault.

Source: Virginia Commission on Youth Analysis of Virginia Uniform Crime Reports 1975-1994.

While the number of juvenile arrests for serious and violent crimes has grown since 1975, the age demographics of Virginia's juvenile offenders arrested for violent crimes has also changed. As *Chart 3* illustrates, the ages of offenders arrested for violent crimes appear to be getting lower. In 1975, 26% of all juvenile violent crime arrests were for youth 14 years of age and younger, and the largest proportion of violent crime arrests among the age groupings was 17 year old juveniles. By 1994, the proportion of violent crimes arrests attributable to juveniles 14 years of age and younger had grown to 32% and the proportion of 17 year olds arrested for violent crimes had decreased by 5%.

**Chart 3**  
**Virginia Violent Crime Age Breakdown**  
**1990 and 1994**



Federal Bureau of Investigation (FBI) defines Violent Crimes to include: Murder/Nonnegligent Manslaughter, Forcible Rape, Robbery and Aggravated Assault. Property Crimes include: Burglary, Larceny, Motor Vehicle Theft and Arson.

Source: Virginia Commission on Youth Analysis of Uniform Crime Reports 1975-1994.

In summary, Virginia's arrests for juvenile offenders for Part I offenses, index crime offenses, and violent crimes represent much smaller proportions of the statewide totals than do the adult arrests for these crimes when examined both longitudinally and in the most recent five year period. However, while adult arrests for most Part I offenses have been declining in the past five years, the number of juvenile arrests for these offenses is continuing to increase and the age demographics of offenders charged with violent crimes show the age of offenders is getting lower.

### **Virginia Crime Clearance Rates 1975-1994**<sup>46</sup>

The Task Force reviewed two series of analyses to measure juvenile criminal activity. The first analysis involved analyzing the changes in juvenile arrests rates. The second analysis involved examining crime clearance rates attributable to juvenile offenders. The Virginia Uniform Crime Report System Crime Index measures the probable extent, fluctuation, and distribution of crime reported in Virginia.<sup>47</sup> The Crime Index from 1975 to 1993 was analyzed to present the Task Force members with a profile of the changes in the overall percentage of reported crimes statewide which were "cleared" or resolved by an arrest and the proportion of these "cleared" crimes that resulted in arrests of juvenile offenders.

As *Exhibit 3* illustrates, a small percentage of all reported crimes are "cleared" by law enforcement with an arrest. From 1975 to 1993, the number of reported index crimes increased 19.8%—from 223,025 to 267,136. During this 19 year period, only 25% of the crimes were "cleared" by an arrest, with juvenile arrests accounting for 4.6% of the clearances. However, as *Table 8* shows, the percentage of crimes cleared by law enforcement varies by the type of offenses, with greater clearance rates for violent crimes. While 26% of all reported crimes in Virginia were "cleared" by an arrest in 1993, the percentage of violent crimes cleared was 59% compared to 23% of property crimes. In addition, the clearance rates for three of the four violent crimes were greater than 70%.

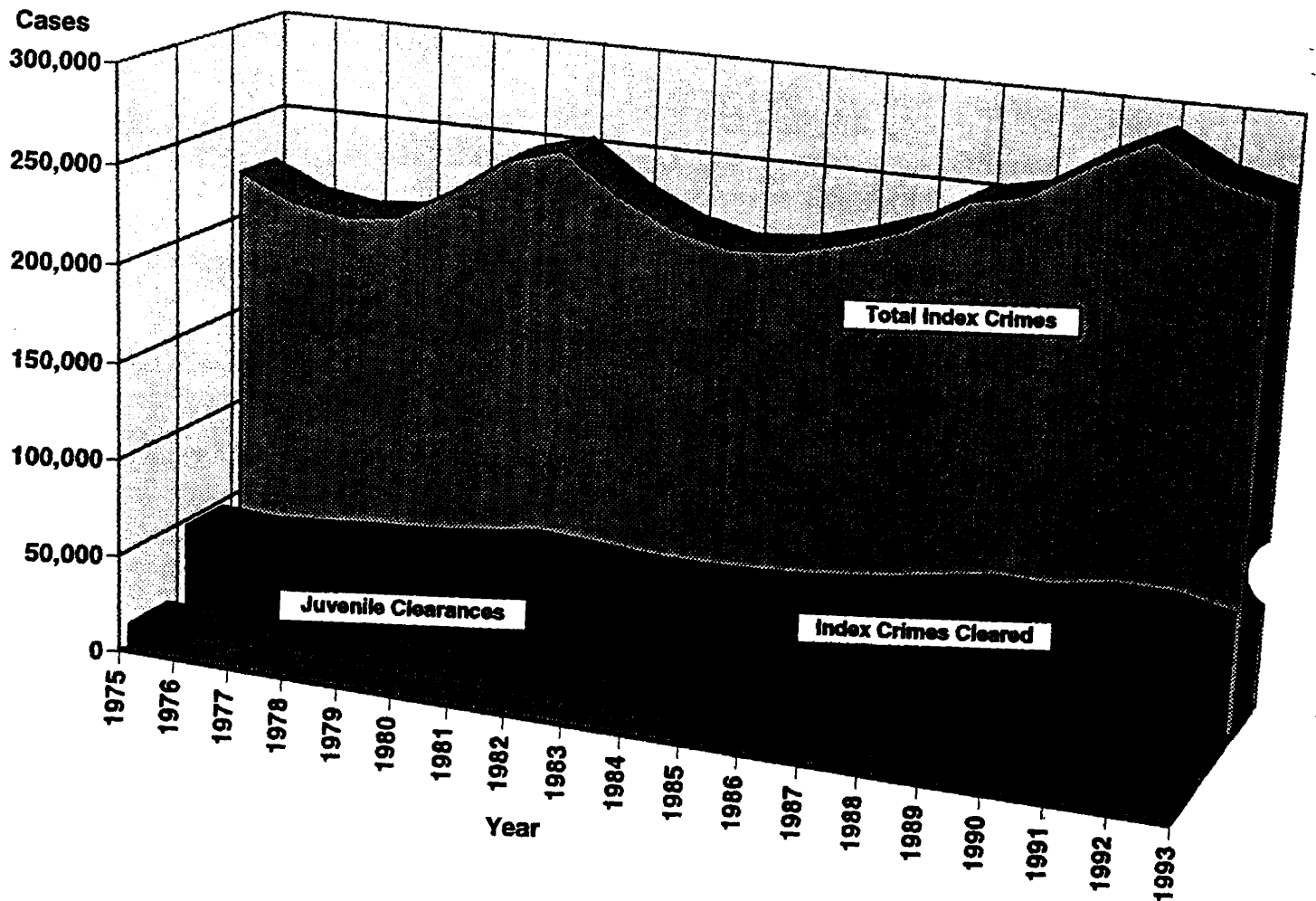
The percentages of 1993 "cleared" crimes attributable to juvenile arrests were small. Statewide, 4.4% of the reported crimes were cleared by juvenile arrests in 1993, with 6% of the violent crime clearances and 4% of the property clearances attributable to juvenile offenders. When comparing these clearance trends to juvenile arrest statistics, unique patterns emerge. While 11,900 crimes were cleared by juvenile arrests in 1993, these crimes yielded 15,572 arrests, suggesting that juveniles commit crimes in groups. This perceived phenomenon was supported by juvenile justice experts on the Task Force who suggested that, indeed, juveniles, more than adult offenders, tend to commit crimes in groups.

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<sup>46</sup> Clearance rates were analyzed 1975 through 1993. Available juvenile clearance information not attainable prior to publication.

<sup>47</sup> *Crime in Virginia 1993*, p. 44.

**Exhibit 3**  
**Virginia Index Crimes**  
**1975-1993**



Source: Virginia Commission on Youth Analysis of Uniform Crime Reports 1975-1993.

Table 8

1993 Modified Clearance Rates<sup>48</sup> for Index Offenses

Crime Classification	Number of Index Offenses	Total Offenses Cleared	Percent of Offenses Cleared	Cleared Offenses Attributable to Juveniles	Percent of Index Offenses Cleared by Juvenile Offenders	1993 Juvenile Arrests
Murder/Nonnegligent Manslaughter	539	435	80.7%	45	8.3%	77
Forcible Rape	2,084	1,469	70.5%	163	7.3%	116
Robbery	9,216	3,292	35.7%	368	4.0%	579
Aggravated Assault	12,322	8,949	72.6%	795	6.5%	798
Burglary	43,338	9,482	21.9%	1,598	3.7%	2,315
Larceny	181,104	40,723	22.5%	7,491	4.1%	9,822
Motor Vehicle Theft	18,533	5,354	28.9%	1,169	6.3%	1,645
Arson <sup>49</sup>	2,096	569	27.1%	281	13.4%	218
<b>Total</b>	<b>269,232</b>	<b>70,273</b>	<b>26.1%</b>	<b>11,900</b>	<b>4.4%</b>	<b>16,572</b>
<b>Violent Crimes</b>	<b>24,161</b>	<b>14,145</b>	<b>58.5%</b>	<b>1,361</b>	<b>5.6%</b>	<b>1,570</b>
<b>Property Crimes</b>	<b>245,071</b>	<b>56,128</b>	<b>22.9%</b>	<b>10,539</b>	<b>4.3%</b>	<b>14,002</b>

Federal Bureau of Investigation (FBI) defines Violent Crimes to include: Murder/Nonnegligent Manslaughter, Forcible Rape, Robbery and Aggravated Assault. Property Crimes include: Burglary, Larceny, Motor Vehicle Theft and Arson.

Source: Virginia Commission on Youth Analysis of Virginia Uniform Crime Reports 1994.

**Dispositions for Serious and Violent Juvenile Offenders**

Juvenile transfer/convictions in Circuit Court from 1986 to 1994 were analyzed to provide the Task Force with a perspective on the number, demographics and offense profiles of juveniles sentenced as adult offenders. Data from the Presentence Investigation Data Base (PSI) was used as the basis for the analysis. Chart 4 shows the number of transfer/convictions in Virginia from 1986 through 1994. During the nine year period, juvenile transfer/convictions grew 66%—from 235 in 1986 to 389 in 1994. The largest number of transfer/convictions occurred during 1992, when 400 transfer/convictions occurred.

**Demographic Profile of Offenders**

The majority of the juvenile offenders transferred/convicted in Virginia's Circuit Courts are black males. Exhibit 4 presents a profile of the juvenile offenders transferred/convicted during 1994.<sup>50</sup> In 1994, there were 389 transfer/convictions. Of this number, 98% (382) of the juveniles were males, 75% (290) were black and 59% (228) were 17 year olds. In addition, although 17 year olds were the largest group of offenders, 68% (264) of the juveniles had a highest grade of educational achievement of 9th grade or less—meaning that the majority were at least two years behind their age-appropriate grade in school. Finally, 58% of the juveniles transferred/convicted

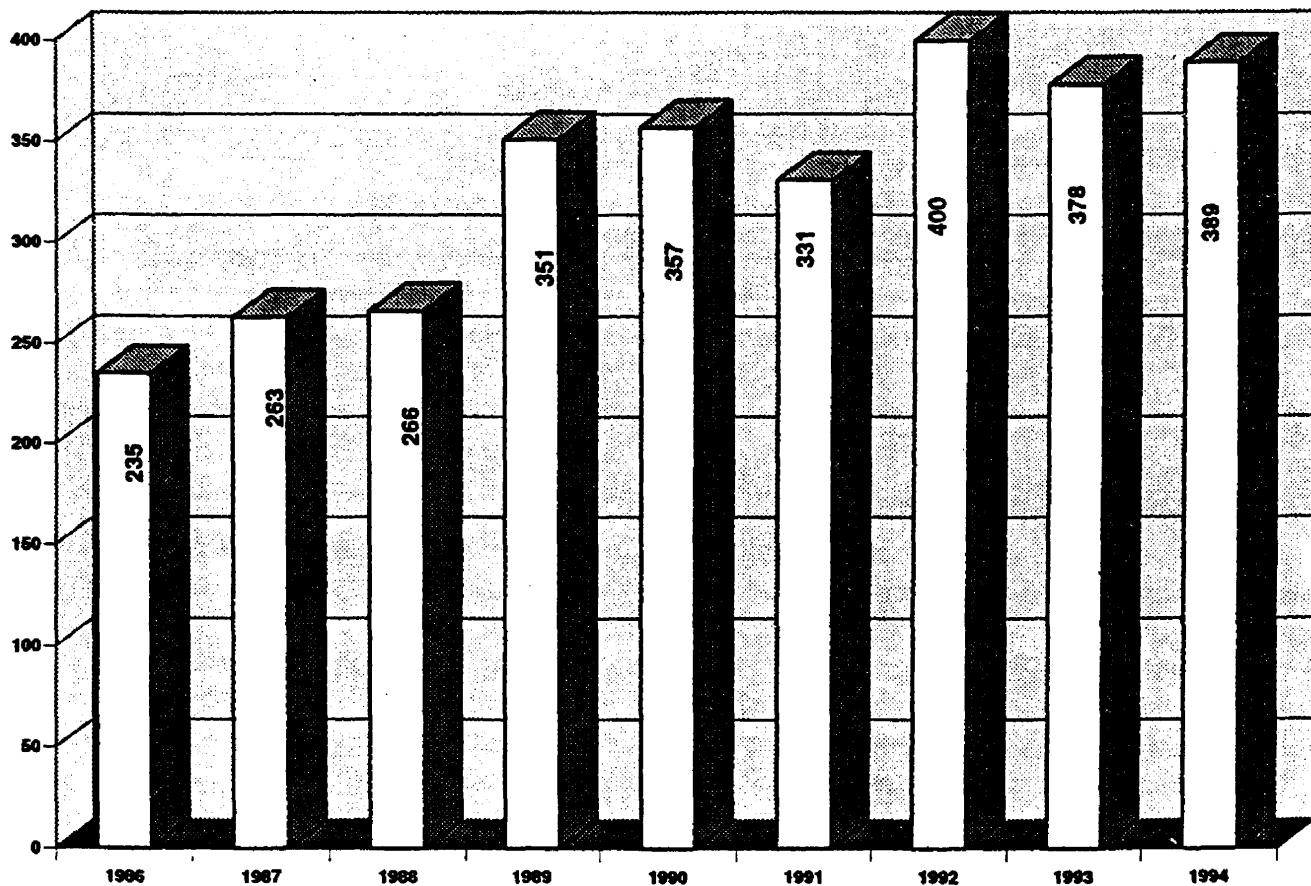
<sup>48</sup> Clearance rates attributable to juveniles include only those cases where the offender(s) were under the age of 18; if a case was cleared with both juvenile and adult offenders, the case would be included in the adult clearance rate.

<sup>49</sup> Arson is not included in the Virginia Uniform Crime Report's statewide Clearance Rate; Arson is a Part I Offense and the Federal Bureau of Investigation (FBI) includes arson in a Modified Clearance Rate Index which is represented in this analysis.

<sup>50</sup> Virginia Department of Criminal Justice Services analysis of Presentence Investigation Data Base, October 1995.

had a prior Juvenile Court delinquent adjudication for an offense against property and 33%, an offense against person.

**Chart 4**  
**Juvenile Transfer/Convictions in Circuit Court**  
**1986-1994**



Source: Virginia Department of Criminal Justice Services Analysis of Presentence Investigation Data Base, October 1995.

### Offense/Sentence Profiles

The majority (54%) of the juveniles who were transferred/convicted in 1994 were for property and drug offenses. Violent crimes accounted for 46% (179) of the transfer/convictions, with robbery comprising the single largest violent crime offense category. In addition, drug sales/possession accounted for 21% (81) of all transfer/convictions.

The overwhelming number of juveniles transferred/convicted in Circuit Court were given prison or jail sentences. As *Exhibit 4* illustrates, 22% (86) of the juveniles did not receive incarceration in a state or local facility as part of their sentence. Nine percent (33) of the juveniles were sentenced to local jails and, of the juveniles receiving prison sentences, only 4% (15) were sentenced as Youthful Offenders. The largest percentage of juveniles (66%) received a prison sentence. The average prison

**Exhibit 4**  
**Juvenile Transfer/Convictions:**  
**Demographic, Offense and Sentence Profiles**  
**1994**

<b>Age</b>		<b>Convicted Offenses</b>	
14 Year Olds	6 ( 2%)	Murder/Manslaughter	47 (12%)
15 Year Olds	52 (13%)	Rape	12 ( 3%)
16 Year Olds	103 (27%)	Robbery	78 (20%)
17 Year Olds	<u>228 (59%)</u>	Assault	42 (11%)
	389	Burglary	40 (10%)
		Auto Theft	24 ( 6%)
<b>Sex</b>		Other Larceny	31 ( 8%)
Males	382 (98%)	Other Felony	34 ( 9%)
Females	<u>7 ( 2%)</u>	Drug Sales	61 (16%)
	389	Drug Possession	<u>20 ( 5%)</u>
			389
<b>Race</b>		<b>Circuit Court Sentences</b>	
Black	290 (75%)	No Incarceration	86 (22%)
White	89 (23%)	Jail Sentence	33 ( 9%)
Other	<u>10 ( 2%)</u>	Youthful Offender	15 ( 4%)
	389	Sentence	244 (63%)
<b>Prior Juvenile Adjudications</b>		Prison Sentence	10 (2.6%)
Drug Offense	18%	1 Life Sentence	<u>1 (.3%)</u>
Offense Against Person	33%	2 Life Sentences	389
Offense Against Property	58%		
<b>Highest Level of Education Achieved</b>		<b>Duration of Prison Sentences</b>	
6th Grade or Less	15 ( 4%)	Average Prison Sentence	13.0 Years
7th Grade	36 ( 9%)	Murder	25.6 Years
8th Grade	103 (27%)	Rape	8.6 Years
9th Grade	110 (28%)	Robbery	14.8 Years
10th Grade	55 (14%)	Assault	12.2 Years
11th Grade	35 ( 9%)	Burglary	14.0 Years
12th Grade or Higher	28 ( 7%)	Auto Theft	4.5 Years
Missing Values	<u>7 ( 2%)</u>	Other Larceny	4.7 Years
	389	Other Felony	8.0 Years
		Drug Sales	7.8 Years
		Drug Possession	2.4 Years

\* Percentages do not total 100% due to rounding.

Source: Virginia Department of Criminal Justice Services Analysis of Presentence Investigation Data Base, October 1995.

sentence was 13 years for all non-life sentences. The range of the average prison sentences was 2.4 years for drug possession to two life sentences for murder/manslaughter.

**Impact of Serious Juvenile Offender Statute**

The 1994 Session of the General Assembly enacted the Serious Juvenile Offender Statute (§16.1-285.1) which extended the period of incarceration which Juvenile and Domestic Relations District Court Judges could impose. The sentences were lengthened from six months to a maximum of seven years or to when the juvenile reached age 21. In addition, the legislation established parameters for the annual judicial review of juveniles to assess progress and early release.

The Task Force received information on the initial impact of the legislation to provide a comparative perspective on the demographics/offenses of these juveniles and those transferred/convicted in Circuit Court. From July 1, 1994 to May 5, 1995 there were 108 juveniles determinately sentenced by Juvenile Courts to the Department of Youth and Family Services' (DYFS) Juvenile Correctional Centers.

As *Exhibit 5* illustrates, the race and sex of the juveniles sentenced as Serious Juvenile Offenders were similar to those juveniles transferred/convicted in Circuit Court. Seventy-seven percent (83) of the juveniles were black and 96% (104) were males. However, older juveniles comprised a much smaller percentage of those

**Exhibit 5**  
**Serious Juvenile Offender Statute:**  
**Demographic, Offense and Sentence Profiles of Juveniles**  
**1994**

<b>Age</b>		<b>Offenses</b>	
14 Year Olds	10 ( 9%)	Murder	3 ( 2.8%)
15 Year Olds	15 (14%)	Rape/Forcible Sodomy	6 ( 5.6%)
16 Year Olds	33 (31%)	Robbery	28 (25.9%)
17 Year Olds	<u>50 (46%)</u>	Aggravated Assault/ Malicious Wounding	7 ( 6.5%)
	108	Burglary/Breaking & Entering	9 ( 8.3%)
<b>Sex</b>		Larceny/Unauthorized Use	24 (22.2%)
Males	104 (96%)	Drug (Sales & Possession)	22 (20.4%)
Females	<u>4 ( 4%)</u>	Other Offenses	<u>9 ( 8.3%)</u>
	108		108
<b>Race</b>		<b>Sentence Groups</b>	
Black	83 (77%)	Less than 12 Months	9 ( 8.3%)
White	21 (19%)	12-23 Months	43 (39.8%)
Other	<u>4 ( 4%)</u>	24-35 Months	18 (16.7%)
	108	36-47 Months	26 (24.1%)
		48-59 Months	9 ( 8.3%)
		60-84 Months	<u>3 ( 2.8%)</u>
			108

Source: Virginia Department of Criminal Justice Services Analysis of Presentence Investigation Data, October 1995.



sentenced as Serious Offenders. Forty-six percent (50) of the Serious Offenders were 17 year olds, whereas 59% of the transferred/convicted juveniles were 17 year olds.

In terms of the offense profiles, a slightly smaller percentage of the Serious Offenders—41%—were sentenced for a violent crime, compared to 46% of the transferred/convicted juveniles. Finally, the sentences given to Serious Juvenile Offenders were significantly less than those given to transferred/convicted juveniles. The average determinate sentence was 26.1 months and a plurality of juveniles were sentenced to less than two years. On the other hand, transferred/convicted juveniles received an average Circuit Court sentence of 13 years.

## **VII. Attitudes and Opinions on Juvenile Justice in Virginia**

### **A. SURVEY OF JUVENILE JUSTICE PRACTITIONERS**

Given the scarcity of data available to assess the impact of legislative reform, the juvenile justice system is often shaped by public perception and theories of justice administration. As proceedings are closed to the public, there is little knowledge of the handling of actual cases. Judicial canon prohibits members of the bench from offering unsolicited opinions on reform. Additionally, those who work on a daily basis with juvenile offenders have no organized mechanism for providing input into system changes. Given the enormous knowledge base of daily practitioners, the Task Force sought to incorporate their views through structured surveys. In attempting to understand juvenile justice professionals' views on issues, the Task Force undertook the administration of 1,856 statewide surveys to Juvenile Justice experts and statewide service providers. Ten different survey instruments encompassing 261 different questions were developed. The surveys were designed to get at the technical areas of expertise and the attitudes of respondents on issues with which it was felt they would be informed. Surveys were sent to all Juvenile and Domestic Relations District Court Judges, Circuit Court Judges, Commonwealth's Attorneys, Sheriffs, Chiefs of Police and Public Defenders. In addition, surveys were sent to individuals in the following categories in 12 sample court districts: Court Service Unit Directors, Family Assessment and Planning Teams of the Comprehensive Services Act, Court Appointed Counsel and principals of elementary, middle and high schools.

The 12 sample court districts were selected to coincide with the districts chosen by the Joint Legislative Audit and Review Commission (JLARC) for structured interviews during their 1995 Juvenile Justice Study. The districts were in the seven statewide regions and represented a mix of urban, suburban and rural districts based

on population density. The sample court districts contributed 40% of the statewide intakes in FY 92 and 50% of the state's juvenile population in the 1990 census. The sample court districts included:

Virginia Beach (2nd District)	Albemarle County (16th District)
Norfolk City (4th District)	Fairfax County (19th District)
Sussex County (6th District)	Roanoke City/County (23rd District)
Gloucester County (9th District)	Bedford County (24th District)
Richmond City (13th District)	Shenandoah County (26th District)
Henrico County (14th District)	Scott County (30th District).

Two procedures were used to assist the Commission on Youth staff with the design and development of survey instruments. First, the Judicial members of the Task Force and the President of the Virginia Council of Juvenile and Domestic Relations District Court Judges assisted with the identification of legal issues and drafting of court related questions. Second, a workgroup of state and local juvenile service providers was convened to identify areas of questioning and to review drafts of the survey instruments. The workgroup consisted of representatives from the areas of education, the courts, social services, law enforcement and treatment. The workgroup met on two occasions to complete their work.

Numerous follow-up attempts were made to encourage a high response rate to the surveys. The law enforcement, judicial and prosecutorial representatives of the Task Force wrote and spoke to their colleagues encouraging their participation. The President and Executive Director of the Virginia Sheriffs' Association and the Executive Director of the Virginia Association of Chiefs of Police contacted the members of their organization to encourage responses. Additionally, the State Superintendent of Education and staff from the Department of Education wrote local superintendents to encourage school support for the surveys. Finally, the Commission on Youth staff sent letters and fax reminders and made phone calls to offices of non-respondents.

The response rate to the surveys varied between the total population groups and the sample population groups. The overall response rate for the surveys was 55%; however, 70% (471) of the total population professionals responded and 47% (557) of the sample population professionals responded. The response rates for the various survey groups are in *Table 10*.<sup>51</sup>

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<sup>51</sup> One Juvenile Court Judge responded to the survey effort but wrote that she could not answer the questions because they did not reflect her views; one Circuit Court Judge sent a letter addressing juvenile justice issues in lieu of the survey and three Sheriffs responded to the survey saying that they do not have law enforcement duties and do not interact with juvenile offenders. Therefore, the number of Juvenile Court Judges' surveys analyzed was 69; the number of Circuit Court Judges surveys' analyzed was 98; and, the number of Sheriffs' surveys analyzed was 93. In addition, 14 principals responded to the survey but did not complete the survey form because (a) their schools were vocational or gifted schools, (b) they were elementary school principals and had never had problems with truancy or (c) they were principals new to a school and were not aware of the previous truancy problems. Therefore, the number of school surveys analyzed was 452.

**Table 10**  
**HJR 604 Juvenile Justice Survey Response Rates**

<b>◆ Total Population Groups: 70% (471 of 674)</b>	
Juvenile and Domestic Relations District Court Judges	78% (70 of 90)
Circuit Court Judges	71% (99 of 140)
Commonwealth's Attorneys	66% (80 of 121)
Sheriffs	77% (96 of 124)
Chiefs of Police	59% (107 of 180)
Public Defenders	100% (19 of 19)
<b>◆ Sample Population Groups: 47% (557 of 1,182)</b>	
Court Service Unit Directors	92% (12 of 13)
Elementary, Middle and High School Principals	53% (466 of 884)
Family Assessment and Planning Teams	47% (35 of 75)
Court Appointed Counsel	21% (44 of 210)

Source: Virginia Commission on Youth Analysis of Virginia Surveys, Fall 1995.

The surveys were analyzed and data was presented to the Task Force on issues related to seven topical areas. However, it is important to note that the number of responses to the survey questions will vary for the following reasons:

- not all respondent groups were asked the same questions due to their areas of expertise;
- respondents chose not to answer particular questions;
- respondents "rated" factors rather than "ranking" them in priority order as instructed; and
- some Judges sit in more than one court and the responses to the question varied depending on the court.

A discussion of each of the seven areas follows. More comprehensive survey results can be found in Appendix D.

### **1. Purpose and Intent of the Juvenile Code**

The *Code of Virginia* in §16.1-227 expresses the intent of the Juvenile and Domestic Relations District Court law and states that this law shall be "interpreted and construed so as to effectuate" the following purposes:

- (1) *To divert from or within the Juvenile Justice System, to the extent possible, consistent with the protection of the public safety, those children who can be cared for or treated through alternative programs;*
- (2) *To provide judicial procedures through which provisions of this law are executed and enforced and in which the parties are assured a fair hearing and their constitutional and other rights are recognized and enforced;*

(3) *To separate a child from such child's parents, guardian, legal custodian or other person standing in loco parentis only when the child's welfare is endangered or it is in the interest of public safety and then only after consideration of alternatives to out-of-home placement which afford effective protection to the child, his family and the community; and*

(4) *To protect the community against those acts of its citizens which are harmful to others and to reduce the incidence of delinquent behavior.*

The judicial and legal respondents were asked a series of questions concerning the purpose and intent of the Code as expressed in §16.1-227. Eighty-six percent (276 of 322) of the respondents indicated that none of the four purposes expressing the intent of the law should be deleted. The percentage of respondents indicating that one or more of the four purposes should or should not be deleted is shown in the following:

Purpose	Don't Delete	Delete
(1) Diversion	93% (300)	7% (22)
(2) Judicial Procedures	98% (314)	2% ( 8)
(3) Basis for Removal	94% (304)	6% (18)
(4) Community Protection	97% (313)	3% ( 9)

The one group that had any noticeable responses in favor of amending the intent of the Juvenile Code was the Commonwealth's Attorneys. Twenty-five percent of the prosecutors (20 of 79) indicated that one or more of the purposes should be deleted.

Respondents were asked if the intent of the Juvenile Code should be amended to include additional purpose(s). Eighty-two percent (263 of 322) of the respondents indicated that §16.1-227 should not be amended to include additional purposes. Of the respondents indicating that additional purposes should be included, the purposes most often suggested for inclusion in the statute were:

- to provide punitive sanctions to juvenile offenders when appropriate,
- to hold children and their parents accountable for their conduct;
- to provide prevention, treatment and rehabilitation to juveniles and their families; and
- to express the civil jurisdiction of the courts in cases of child custody, visitation and support, and protection of children who suffer from abuse and neglect.

Finally, 71% of the respondents did not favor re-ordering the purposes to prioritize one over another. The majority of those respondents who did want to prioritize the purposes indicated that "public safety" (as listed in Purpose 4) should be stated first.

## **2. Transfer to Circuit Court**

The *Code of Virginia* in §16.1-269.1-9 establishes the parameters for juvenile transfer and trial in Circuit Court. The judicial and legal respondents were asked a

series of questions concerning the authority to seek transfers and the current criteria that must be met prior to transfer. A majority of the respondents, 68% (219 of 322), indicated that the decision to transfer all juvenile felony cases should not be based solely on the discretion of the Commonwealth's Attorney. As the following illustrates, at least two-thirds of each group surveyed, with the exception of Commonwealth's Attorneys, indicated their opposition to this discretion.

<b>Respondent Group</b>	<b>Do Not Favor Prosecutor's Decision</b>	<b>Favor Prosecutor's Decision</b>
J&DR Court Judges	81% (56)	14% (10)
Circuit Court Judges	66% (65)	30% (29)
Commonwealth's Attorneys	44% (35)	55% (44)
Public Defenders	89% (17)	11% ( 2)
Court Service Unit Directors	83% (10)	17% ( 2)
Court Appointed Counsel	82% (36)	7% ( 3)
<b>Statewide Totals<sup>52</sup></b>	<b>(219)</b>	<b>(90)</b>

The most frequently mentioned reasons for opposing the Commonwealth's Attorney exercising sole discretion to transfer all juvenile felony cases were:

- prosecutors can be affected by public opinion, politics, and media pressure;
- discretion could result in inconsistent prosecution of similar types of cases across jurisdiction; and
- prosecutors (as opposed to Juvenile Judges and Court Service Unit staff) are not trained in the rehabilitative, treatment or psychological needs of juveniles.

The reasons mentioned most often for favoring giving the prosecutors the discretion to transfer all felony cases were:

- the Commonwealth's Attorney is the elected constitutional officer and thus reflects the views of the community;
- the prosecutor has the greatest knowledge of the facts of the case and the seriousness of the offense; and
- the Commonwealth's Attorney is charged with protecting the community and public safety is the foremost concern.

Circuit Court Judges were asked if the Circuit Court should process all felony charges against juvenile offenders. Ninety-one percent (89 of 98) of the Circuit Court Judges did not feel it appropriate for their courts to process all juvenile felonies. In addition, a majority of these judges (55%) felt that their pre-bench training in juvenile law, child development, and community services was inadequate to prepare them to handle all juvenile felony cases.

<sup>52</sup> Percentages may not total 100% due to missing values where respondents chose not to answer: J&DR Judges (N=66), Circuit Court Judges (N=94), Commonwealth's Attorneys (N=79) and Court Appointed Counsel (N=39).

Judicial, legal and law enforcement respondents were also asked whether the minimum age of transfer should be changed from the current standard of 14 years. A very slight majority (56%) did not indicate that the minimum age should be changed. The percentage of each group favoring and not favoring a change in the current age standard is illustrated in the following:

Respondent Group	Do Not Favor Changing Minimum Age	Favor Changing Minimum Age
J&DR Court Judges	75% (52)	25% (17)
Circuit Court Judges	54% (53)	45% (44)
Commonwealth's Attorneys	39% (31)	61% (49)
Public Defenders	68% (13)	32% ( 6)
Sheriffs	46% (43)	52% (48)
Chiefs of Police	51% (54)	49% (53)
Court Service Unit Directors	75% ( 9)	25% ( 3)
Court Appointed Counsel	80% (35)	20% ( 9)
Statewide Totals	(290)	(229)

Of those respondents who indicated the minimum age of transfer should be changed, the majority stated that there should not be age restriction. The reasons given most often for lowering the age of transfer included:

- many violent crimes are being committed by younger, more sophisticated offenders;
- age should be a factor for transfer and not a barrier; and
- punishment should reflect the crime, not the age of the offender.

### 3. Juvenile Court Dispositional Options

The survey respondents were asked to respond to a series of questions related to the desirability of a number of Juvenile Court dispositional options not currently in use in Virginia. First, the judicial, legal and law enforcement groups were provided definitions of three alternative Juvenile Court sentencing options and asked whether they would recommend their use in Virginia. These three options were defined in the survey to include the following:

#### Extended Jurisdiction Sentencing

*A Juvenile Court disposition where an offender could receive (1) a determinate Juvenile Court sentence which is imposed for the duration of the Juvenile Court's jurisdiction and (2) an adult sentence which is stayed. If the juvenile violates the terms of the Juvenile Court sentence or commits a subsequent offense, the conditions of the stayed adult sentence are then executed.*

### Youthful Offender Sentencing

A Juvenile Court disposition where a juvenile offender could receive a determinate sentence in Juvenile Court which exceeds the traditional age jurisdiction of the court and allows for incarceration of the offender in either (1) a juvenile facility or (2) placement in the youthful offender program of the Department of Corrections.

### Concurrent Jurisdiction Sentencing

A Juvenile Court disposition where a juvenile offender could (1) receive a determinate Juvenile Court sentence which exceeds the traditional age jurisdiction of the Juvenile Court and allows for incarceration of the offender in a juvenile facility until age 21 years and then (2) mandatorily transfers the offender to an adult prison for the duration of the sentence.

Ninety-four percent (491 of 522) of the respondents recommended using at least one of the three alternative sentencing options in Virginia. The extended jurisdiction option was favored by the largest percentage (80%) of respondents. The number and percent of each respondent group favoring the three options can be seen in the following. The option that the largest proportion of each group favored is in boldface italics.

Respondent Group	Extended Jurisdiction	Youthful Offender	Concurrent Jurisdiction
J&DR Court Judges	48 (70%)	<b>57 (83%)</b>	40 (58%)
Circuit Court Judges	<b>76 (78%)</b>	67 (68%)	46 (47%)
Commonwealth's Attorneys	<b>70 (88%)</b>	57 (71%)	65 (81%)
Public Defenders	8 (42%)	<b>9 (47%)</b>	6 (32%)
Sheriffs <sup>53</sup>	<b>81 (87%)</b>	80 (86%)	80 (86%)
Chiefs of Police	97 (91%)	95 (89%)	<b>98 (92%)</b>
Court Service Unit Directors	9 (75%)	<b>10 (83%)</b>	9 (75%)
Court Appointed Counsel	27 (61%)	<b>34 (77%)</b>	19 (43%)
Statewide Totals	<b>416 of 522 (80%)</b>	409 of 522 (78%)	363 of 522 (70%)

Of those respondents indicating support for the use of the alternative sentencing options in Virginia, a plurality favored allowing such sentencing for all felony offenses. In addition, a majority of the respondents favoring the use of each option also favored open Juvenile Court proceedings for such cases.

<sup>53</sup> Percentages total 99% and N=93 due to one missing value where a Sheriff chose not to answer this question.

#### **4. Serious Juvenile Offender Statute**

Judicial and legal survey respondents were asked a series of questions concerning §16.1-285.1, the Serious Juvenile Offender Statute. First, the respondents were asked whether the statute should be amended to include additional offenses in the statutory scheme. Seventy-five percent (241 of 322) respondents indicated the statute should include additional offenses. Additionally, a majority of those in favor of including additional offenses also indicated it would be appropriate to allow such sentencing for all felony offenses. However, those not favoring the inclusion of additional offenses gave the following reasons most often as the basis for their decision:

- the current statute is adequate and covers the serious offenses;
- the more serious and repetitive offenses can be transferred to Circuit Court;
- and there is need for additional time to determine the effectiveness of the new statute as it is currently drafted.

Respondents were also asked a second question concerning the need for an amendment to the Serious Juvenile Offender Statute mandating a minimum period of aftercare/parole supervision be included in the Juvenile Court's disposition. Sixty-one percent (196 of 322) of those surveyed indicated their preference for the inclusion of mandatory aftercare/parole supervision as a part of §16.1-285.1. In addition, a plurality of those favoring the amendment supported a recommended minimum length of one year of supervision.

#### **5. Commitment and Release from State Care**

Survey respondents were asked a number of questions related to the commitment and release of juvenile offenders from state care. Judicial, legal, and law enforcement officials were asked if all juveniles found guilty of a felony offense in Juvenile Court should receive mandatory determinate sentences of confinement. Two-thirds of the respondents (355 of 522) did not favor such mandatory sentences. However, 79% of the judicial and legal respondents who regularly work in Juvenile Court indicated that they favored giving Juvenile Court Judges the option of imposing determinate sentences for all felony offenses; the majority (67%) did not favor the use of sentencing guidelines to determine the length of the determinate sentences.

The *Code of Virginia* vests the Director of the Department of Youth and Family Services (DYFS) with the authority to release juveniles committed to the Department for an indeterminate period of confinement. The DYFS began imposing administratively developed minimum lengths of stay guidelines for certain offenses in 1993. The judicial and legal survey respondents were asked questions concerning the use of the administrative guidelines. Sixty-two percent of the respondents (199 of 322) indicated there should not be minimum length of stay guidelines for indeterminate commitments.



The reasons given most often against the DYFS developing and administering such guidelines included:

- the decision should be a judicial or legislative one, rather than administrative;
- length of stay for indeterminate commitments should be based primarily on treatment and rehabilitative concerns; and
- there is the potential for conflict between overcrowding and the need for release.

If minimum length of stay guidelines are to be used for indeterminate commitments, survey respondents suggested one of the following entities develop the guidelines: a commission with across-the-board representation by all involved in the Juvenile Justice System; the legislature; or the Supreme Court of Virginia through a judicial committee or the Committee on District Courts.

While the majority of survey respondents did not favor the administrative minimum length of stay guidelines, a majority (55%) of the respondents still favored vesting the Director of DYFS with the statutory authority to release all juveniles who are committed to the Department. However, a similar majority (58%) indicated that the Juvenile and Domestic Relations District Court Judges should be vested with the authority to approve or disapprove the Director's recommendation for release of the indeterminate commitments.

Finally, survey respondents were asked two questions concerning juvenile facilities Virginia could develop to incarcerate juvenile offenders. Judicial, legal and law enforcement officials were asked if there was a need for a juvenile prison for violent offenders. Seventy-seven percent (401 of 522) of the respondents reported a need for such a facility. The majority of these respondents also were in favor of the Department of Corrections, rather than the DYFS, administering and staffing the juvenile prison. Additionally, a majority (63%) of survey respondents who regularly work in Juvenile Court also indicated there was a need for a specialized juvenile institution for offenders who are both mentally ill and a danger to the community.

## **6. School Truancy**

Truancy is the one characteristic most delinquent offenders have in common. According to the Joint Legislative and Audit Review Commission (JLARC), 53% of juveniles going to court are truants. In profiling juveniles who are transferred/convicted as adults in Virginia, almost all have a history of truant behavior. Therefore, Juvenile Court Judges and local school principals were surveyed on the issue of truancy.

A separate survey instrument was developed in which school principals could address the issues of defining truancy, identifying truants, services for truants, and programs and procedures that are effective in dealing with truants and their families.

The *Code of Virginia* does not provide a definition of truancy; however, the following requirements are set forth:

- §22.1-78 sets forth the responsibilities of local school boards for the "proper discipline of students, including their conduct going to and returning from school;"
- §22.1-254 outlines parental and student responsibility for compulsory school attendance for all days and hours in which schools are in session;
- §22.1-258 outlines the responsibilities of school attendance officers and requires action when a pupil "fails to report to school for five consecutive days" and there is no indication that the pupil's parent or guardian is aware of such absence.

Thus, with one exception, it is the responsibility of local school boards to define and implement their own definitions of truancy. The Department of Social Services (DSS) developed an administrative definition of truancy as part of the 1995 Welfare Reform legislation which will apply only to students receiving Aid to Families with Dependent Children (AFDC). Under DSS policy, a truant is defined as: (1) absent, unexcused, for ten or more days in the previous month, (2) absent, unexcused for at least eight but not more than nine days in two consecutive months, and (3) not enrolled at any time during the month. This new definition will apply to roughly 7% of the school children.<sup>54</sup>

School principals were asked to provide local definitions of truancy. The following represents a sample of the most often reported responses:

- students who are excessively absent or tardy with unexcused absences;
- students who miss a specific number of total unexcused days each semester (1-15 days);
- students who miss a specified number of total unexcused days during the school year (10-20 days); and
- students who have a specified number of consecutive unexcused days.

Seventy-seven percent (350 of 452) of the principals reported that their schools counted whole, as opposed to partial, days for the accumulation of the attendance officer's responsibility in §22.1-258.

Principals were asked what types of in-school procedures they use to identify truancy, as opposed to excused absences, in their schools. The following procedures were most often mentioned as the local procedures used to identify truancy:

- daily and weekly monitoring of absences by teachers and school personnel;
- letter/phone calls to parents after a specified number of unexcused absences;
- school committees which meet periodically to monitor "at-risk" students;
- parent/teacher/administrative conferences; and
- home visits from school visiting teachers/social workers/attendance officers.

In addition, most principals reported that, once truant behavior is identified, they use a variety of progressive interventions to stop the truant behavior. Examples of the

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<sup>54</sup> Virginia House Appropriations Committee Staff, 10/13/95.

progressive interventions included: school conferences, home visits, referrals to in-school and out-of-school service teams, suspension, denial of grades and court or probation officer referrals. A majority of the principals (53%) reported that one of the interventions used was referrals by their schools to the local Family Assessment and Planning Teams (FAPTs) of the Comprehensive Services Act for staffing and service delivery.

Two-thirds (67%) of the principals indicated that their schools would file truancy petitions with the Juvenile Court only after either school and/or community-based services had been delivered and the absences continued. A majority of the principals reported that visiting teacher or social worker filed the truancy petitions with the court. The perceived effectiveness of the Juvenile Court's involvement seemed to vary by district. In addition, as the following illustrates, a plurality of the principals indicated that the Juvenile Court was only "somewhat effective" in dealing with truants.

Juvenile Court's Effectiveness	Principals' Responses
Effective	21% (95)
Somewhat Effective	41% (185)
Not Effective	21% (93)
Don't know/Missing <sup>55</sup>	17% (79)

The effectiveness of the Juvenile Court does not, however, appear to be a problem with the sanctions available to the Court. Sixty-one percent (110 of 180) of the Juvenile Court and attorney respondents who reported regularly working with truants indicated the current sanctions available to level against the parents of truants were sufficient.<sup>56</sup>

School principals indicated the most important factor impacting student truancy was "lack of parental/custodial supervision." Seventy-eight percent (354 of 452) ranked this factor first in importance. Therefore, many suggested the services/procedures that had been most successful in intervening in truant behavior had been actions that involved the parents and families of the student. The following sample of services/procedures were reported as having been successful:

- school-initiated home visits/conferences;
- provision of wrap-around services to truants and their families;
- juvenile court involvement, e.g., parental fines, restriction of driver's licenses, behavioral contracts; and
- alternative education programs tailored to the child's educational needs and time schedules, e.g., "Packet Learning Program," "Families Learning Together," Saturday School, General Education Development (GED) certificate classes.

<sup>55</sup> The majority of the principals who answered "Don't know/Missing" reported that they had never had a truancy case in Juvenile Court or that someone in the Superintendent's Office followed cases to court and thus they were not in a position to judge the Court's effectiveness.

<sup>56</sup> This question only applied to Juvenile Court Judges, Commonwealth's Attorneys, Court Appointed Counsel and Public Defenders who said that they had contact with truants as part of their "regular" caseload.

Finally, school principals recommended a variety of improvements to improve the identification and provision of services for truants. The suggestions were:

- Stronger laws focusing on parental responsibility for their child's school attendance;
- More truant officers, social service workers and Court Service Unit staff to identify and direct services to the truant and their family;
- More alternative education programs that allow students to learn and attend school in more unconventional settings, e.g., Saturday Schools, Night Schools, Packet Learning Programs; and
- More after-school and work programs which are coordinated and tied to the school's education program.

## 7. Comprehensive Services Act

In 1992, the Comprehensive Services Act (CSA) restructured the state's funding system for youth at-risk of residential placement and their families. The CSA established local Family Assessment and Planning Teams (FAPTs) to develop and implement client service plans at the local level. Eight separate funding streams in five state agencies were consolidated into a single pool of locally-managed funds. The state General Fund appropriation for CSA in FY 95 was \$74.5 million.

Because of the relatively new enactment of the CSA and the magnitude of the State's financial contribution, the Task Force wanted to determine the degree to which the CSA is serving juvenile found guilty on delinquent petitions. Prior to CSA, the DYFS had a separate funding stream that was available to the Juvenile Courts to use to purchase treatment services for delinquent youth. The CSA was designed to provide services to delinquent; however, unlike foster care and special education cases, services to delinquent youth are included in sum sufficient requirements of federal law. Thus, the Juvenile Court Judges, court staff, and local FAPTs were asked a series of questions which were designed to determine whether the CSA is providing adequate services to the court-involved delinquent youth.

As the following illustrates, a plurality of Juvenile Court Judges and Court Service Unit directors reported that they "seldom" referred juveniles on delinquent petitions to the local FAPT for pre- or post-dispositional services.<sup>57</sup>

Frequency of Referrals	Pre-Disposition	Post-Disposition
Almost Always	6% ( 5)	5% ( 4)
Frequently	17% (21)	15% (12)
About Half of the Time	6% ( 5)	10% ( 8)
Seldom	46% (37)	46% (37)
Almost Never	20% (16)	23% (19)

<sup>57</sup> Percentages do not total 100% due to rounding and one missing judicial value.

In addition, the majority of Judges and Court Directors reported that juveniles who were found guilty on delinquent petitions were seldom provided services through the CSA state pool of funds and that they were not satisfied with the level of services being provided by the CSA for these youth. Eighty-two percent of those Judges and Directors who were not satisfied with the CSA services reported that their dissatisfaction was based on inadequate funding for "non-mandated" cases.

The local FAPT responses echoed those of the Judiciary and the Court Directors. While 83% of the FAPTs said that juveniles on delinquent petitions were referred to them for services, a majority of the teams said that both pre- and post-dispositional referrals for services in these cases were either seldom or almost never made and that the state pool of funds was seldom used to provide services for these youth.

The survey respondents were asked to provide suggested changes to the CSA to improve services for delinquent youth. The following represents a sample of changes suggested most often:

- increase funding for services for delinquent youth;
- mandate a percentage of local funds be set aside for services for delinquent youth;
- abolish the term "mandated" cases; and
- allow funding streams for delinquent youth to return to pre-CSA status.

## **B. VIRGINIA JUVENILE JUSTICE PUBLIC OPINION POLL**

An additional research activity was the statewide public opinion poll. The poll was conducted by the Virginia Commonwealth University (VCU) Survey Research Laboratory as part of the Fall 1995 Commonwealth Poll. The Commission on Youth contracted with VCU to obtain data on public opinion related to several key issues in the juvenile justice system. The survey interviewed 811 randomly selected adult residents of Virginia by telephone. The questionnaire was designed by the Survey Research Laboratory in collaboration with staff of the Commission on Youth.

A copy of the VCU poll report can be found in Appendix E. The following represent the major findings of the study.

1. Respondents were generally more supportive of approaches which stress rehabilitation than those stressing punishment. Sixty-three percent said that the main purpose of the juvenile court system should be to rehabilitate, while 23% said it should be to punish. Eleven percent said the purpose should be to both punish and rehabilitate.
2. When offered a choice among four possible areas of emphasis to reduce juvenile crime, 68% of the respondents said that the government should concentrate on either prevention or rehabilitation, rather than enforcement or punishment.
3. A large majority (80%) felt that judges, rather than prosecutors, should decide whether a juvenile is tried as an adult.

4. A majority of respondents (57%) believed that the state should spend more money than it now does on dealing with juvenile crime. Twenty-three percent felt that current spending was sufficient, and 5% felt that less should be spent.
5. Of those respondents favoring increased spending on juvenile crime, a plurality of 40% thought the money should be borrowed through bonds, 31% favored cutting other social programs to generate the money, and 20% felt that taxes should be raised.
6. Most respondents (74%) knew that juveniles under 18 could be tried as adults for serious crimes, although very few knew the minimum age at which this could occur. Most respondents said it should be possible to try juveniles under 18 as adults.

A large majority (84%) opposed placing juvenile offenders with adult inmates while they are awaiting trial; only 10% of the respondents favored mixing adult and juvenile offenders.

## VIII. Findings and Recommendations

### A. TRUANCY

#### Findings

*National studies have identified truancy as the greatest predictor of delinquency. When a child is not in school, that child cannot learn. School non-attendance creates barriers to academic achievement and poses a concern to community merchants, residents and local law enforcement. When a child is not in school, there are large blocks of unstructured time when the student is at risk of victimization, as well as for victimizing others.*

#### Recommendation 1

**Increase the accountability for school identification of and intervention with truants.**

#### Recommendation 2

**Increase the sanctions for school non-attendance.**

#### Recommendation 3

**Implement truancy intervention programs in high-need schools.**

#### Strategies

- Amend the Standards of Quality to establish goals for school division attendance.
- Request the Board of Education to emphasize the importance of school attendance by amending the Standards of Accreditation to require local school divisions to put in place a plan for absenteeism, truancy, and drop-outs, working collaboratively with public and private community agencies and organizations.

### Strategies (cont.)

- Amend § 22.1-258 definition of *unexcused absences* to read, "three consecutive days or ten days in a month."
- Amend § 22.1-199.1 to address school divisions' developing plans for absenteeism, truancy and drop-outs and working collaboratively with public and private community agencies and organizations.
- Increase the penalties for parental non-compliance with school compulsory attendance laws and inducement of a child to absence themselves from a Class 4 to a Class 1 misdemeanor.
- Fund pilot programs in the top quartile of schools having high absentee rates to develop truancy intervention programs in collaboration with local public and private human services agencies.

## **B. DELINQUENCY AND PREVENTION**

### Findings

*Research has indicated a strong correlation between child abuse and delinquency. School failure, community violence, availability of drugs, and the absence of parental supervision have been identified by the U.S. Department of Justice as risk factors which contribute to delinquency. While there are many evaluations of prevention programs which quantify their successes, prevention still confronts a skeptical public. However, there is no disagreement that the best crime-fighting strategies are those which seek to prevent the first occurrences of law-breaking behavior. Prevention programs, such as the Healthy Family Initiative, which focus on the family unit, improve parenting skills and provide young people with positive alternatives hold the greatest promise for preventing delinquency. When offered a choice among four possible areas of emphasis to reduce juvenile crime, 68% of the respondents of the Commonwealth public opinion poll said the government should focus on either prevention or rehabilitation.*

### Recommendation 4

**Continue to support these prevention programs with positive evaluations.**

### Recommendation 5

**Increase the collaboration and coordination between public and private sector prevention initiatives.**

### Recommendation 6

**In deference to limited fiscal resources, target prevention initiatives to populations identified as being at high risk for delinquency.**

### Strategies

- Continue funding support for prevention programs with positive evaluations offered by public and private sector.

### Strategies (cont.)

- Encourage the targeting of high-need jurisdictions for discretionary prevention funding.
- Encourage the funding of prevention programs which require interagency collaboration and provide flexibility in the designation of the lead agency at the local level.

## **C. PARENTAL RESPONSIBILITY**

### Findings

*The presence of a strong family support system can counterbalance many negative societal influences. Parental involvement has been found to improve a child's self-esteem, academic performance, and the development of a personal moral code. Unfortunately, many parents have abdicated their responsibilities to their children. The court system is often asked to step in and replace the parents as a guiding influence in young peoples' lives. Parents must be given the message that they have the ultimate responsibility for the care and control of their children. School principals identified stronger laws focusing on parental responsibility as a means of improving the identification of and provision of services to truants. Judges overwhelmingly identified parental involvement as a necessary component to court intervention. Sanctions against parents should be used as a last resort as a means of holding them accountable for their children.*

### Recommendation 7

**Parents should be required to accompany their children to all court hearings.**

### Recommendation 8

**Parents who refuse to comply with a court order should be held in contempt.**

### Recommendation 9

**Failure of parents to supervise a minor should carry specific court penalties if the parents are unable to show they took reasonable steps to control the conduct of their child.**

### Recommendation 10

**The court shall have the parent to pay for the programs and/or services which are included in a court order, based on its assessment of their ability to pay.**

### Strategy

- Revise the *Code of Virginia* to create a Parental Responsibility Act which would: a) require court attendance by parents; b) hold parents accountable for the behavior of their minor children; c) require participation in approved parenting programs and/or performance of community service by the parent; and d) provide for parents to pay for court-ordered programs.



## **D. PURPOSE AND INTENT OF JUVENILE LAW**

### Findings

*The current structure of Juvenile and Domestic Relations District Court, as established in 1973, has jurisdiction over all proceedings involving minors. This includes "criminal offenses" such as delinquency, adults' committing criminal offenses against other family members, and juvenile traffic violations, as well as civil cases involving abuse and neglect, foster care, custody, visitation, and support. The purpose and intent clause of the Code of Virginia in §16.1-227 expresses legislative intent of the purposes of the law and acknowledges the diverse nature of Juvenile Court jurisdiction. Public safety and the protection of the rights of all victims, be they victims of child abuse or of juvenile crime, currently are not mentioned in the purpose and intent clause. In order for the Code to adequately express the philosophy of the juvenile justice system, the clause should be expanded to reflect the interest of the state in both civil and criminal proceedings. Eighty-six percent (86%) of the survey respondents indicated that none of the current purposes of the Code should be deleted. Almost two-thirds of the respondents did not favor a reordering or prioritizing of the purposes.*

### Recommendation 11

**The purpose and intent clause of Juvenile and Domestic Relations District Court law should be revised to include as purposes "safety of the community" and "rights of the victim," along with the "best interest of the child and family."**

### Recommendation 12

**Court intervention for all offenders who have been found guilty for domestic abuse or delinquency should have as a goal holding offenders accountable for their behavior.**

### Recommendation 13

**Diversion from the juvenile justice system should be guided by public protection, as well as family preservation, goals.**

### Recommendation 14

**Both the parties and victims in all Juvenile and Domestic Relations District Court proceedings should be afforded fair hearings in which their constitutional and other rights are recognized.**

### Strategy

- Amend the *Code of Virginia* §16.1-227 to state three preeminent purposes of the law (welfare of the child and family, safety of the community, and the rights of the victims), uphold offender accountability, and protect victim's rights.

## E. JUVENILE COURT DIVERSION

### Findings

*The issue of recidivism plagues the Juvenile Court. Juvenile offenders eligible for transfer to Circuit Court routinely have histories of numerous court contacts. While some of the blame for this has been attributed to the absence of meaningful court sanctions, the practice of court diversion has come under increasing attack. CHINS and CHINSup cases cannot be appealed to a magistrate; however, other diversionary decisions can. JLARC found that less than 10% of all cases were diverted from formal court processing. According to JLARC, approximately 52% of juvenile delinquents who had their first contact with court in FY 92 had at least one subsequent contact within three years. Many cases are appropriately diverted to public and private human service or drug treatment programs. However, once diverted, there is often no formal record of the original charge, resulting in many juveniles being mislabeled first-time offenders. The lack of accountability and the predictable progression of consequences for offenders send the wrong message to the juvenile and the community. Diversion of a case often results in a lost opportunity for the juvenile to take responsibility for their actions and make good on their obligations to the community for unlawful behavior.*

### Recommendation 15

**Diversion from the filing of a formal court petition should occur only at the first contact with intake. All subsequent petitions complaints for CHINSup and delinquency should be filed with the court.**

### Recommendation 16

**A charge handled by Court Service Unit diversion should be formally noted on a juvenile's record and made available to other jurisdictions.**

### Recommendation 17

**Each CHINS, CHINSup, and delinquent case seen at intake should be given a community sanction of restitution or community service. This sanction should be developed after consideration of community resources and the nature of the event which brought the juvenile to court.**

### Recommendation 18

**Court intake should be adequately staffed to provide a meaningful and significant court contact in every instance.**

### Strategies

- Provide additional funding for probation caseload based on the nationally recognized standards of 1 to 30.

### Strategies (cont.)

- Amend §16.1-260 to require: a) a formal record noting the charge which was diverted; b) the filing of petitions for all subsequent charges; and c) the requirement in all cases handled informally that an intake officer shall develop a plan for the juvenile to make restitution and/or perform community service.
- Fund a first-time offender initiative through the Virginia Juvenile Community Crime Control Act (VJCCCA) which would allow the Juvenile Court Services Unit to develop, coordinate, and maintain community service projects for juveniles.

## **F. SERVICES TO NON-DELINQUENT YOUTH**

### Findings

*Non-delinquent youth who come before the court for services present unique challenges to the juvenile justice system. Both arrest and Juvenile Court caseload data substantiate growth in this population since 1980. As state and local resources have been shifted to respond to the more serious juvenile offender, there has been a decrease in services for the non-delinquent population. JLARC found that 53% of all first-time status offenders re-offended within a three-year period. The majority (85%) of these juveniles escalate in offenses for which they are charged in subsequent contacts. Because so many non-delinquent youth require counseling, availability of services in the community is integral to successful intervention. CHINS and CHINSup require a substantial commitment by the Court Service Unit staff to adequately supervise and provide case management services. Despite limited resources, the overwhelming majority of Juvenile Court Judges and direct service workers believe non-delinquent youth should remain under the jurisdiction of the court, which has the authority to leverage services and hold the juvenile and parents accountable.*

### Recommendation 19

**Status offenders, CHINS and CHINSup should remain within the jurisdiction of the Juvenile and Domestic Relations District Court, as well as human service and/or educational agencies.**

### Recommendation 20

**Probation officers' caseloads should be lowered to support diversion work provided to status offenders, CHINS and CHINSup.**

### Recommendation 21

**Community agencies to which non-delinquent youth are often referred should be funded adequately to provide necessary services to this population.**

### Strategies

- Provide additional funding for probation caseload based on the nationally recognized standards of 1 to 30.
- Support additional budget initiatives for community-based public and private counseling services for CHINS and CHINSup and their families.
- Oppose Code revisions which would remove CHINS, CHINSup and other status offenders from the court's jurisdiction or limit its ability to divert to community agencies.

## **G. OPENING JUVENILE COURT**

### Findings

*Under current law (§ 16.1-302), the Juvenile and Domestic Relations District Court Judge has the authority to "admit such persons as they deem proper" and the defendant has a right to a public hearing. Given the highly sensitive nature of many of the Juvenile Court proceedings, specifically in cases involving child abuse, incest, and domestic violence, no one's interest would be served by having the courts open to the public in all cases. However, in crimes of violence committed by a juvenile in which a transfer motion may be sought by the Commonwealth, there is just cause to open the court. The majority (over 83%) of the survey respondents favored opening court proceedings for juveniles for whom incarceration by the Department of Corrections under certain statutory schemas is provided. The Victim Bill of Rights passed by the 1995 General Assembly provides the victim or their representative the right to be present and informed in all phases of the proceeding, regardless of the court of jurisdiction; however, those rights are not explicitly stated in Title 16.*

### Recommendation 22

**Victims of crime in Juvenile Court proceedings or their chosen representative(s) should have the right to be present at all phases of the court proceedings.**

### Recommendation 23

**For cases in which a juvenile is charged with crimes of violence as cited in § 16.1-269.1(B), the court should be presumptively open. The court on its own motion, or on the motion of the Commonwealth or defense may, for good cause shown, close the proceedings.**

### Strategies

- Revise the Code of Virginia § 16.1-302 to: a) make explicit the right of the victim or their representative to be present; and b) presumptively open the court for cases of juveniles 14 or older charged with violent crimes.

## H. CONFIDENTIALITY

### Findings

*One of the most active areas of legislative reform in recent years has been in the area of confidentiality of juvenile records. Expanded access to Juvenile Court records by schools and Circuit Court and the sharing of records among local enforcement agencies have been the primary result of these Code revisions. Victims are now notified of court dispositions and release dates for some juvenile offenders, and public notice is provided for dispositions of violent crime and cases of juvenile escapes from secure facilities. Fingerprints can be taken of any juvenile fourteen or older charged with a felony. Prior Juvenile Court convictions can serve as a bar to the possession of firearms. However, there are many inconsistencies in the Code about who can receive what type of information. Confidentiality provisions are scattered throughout the Code, causing confusion among service providers. Many of the Code provisions for release of information create practical problems, given the limited automation capacity of the majority of Juvenile Courts. Finally, confidentiality of records is determined partially by federal law, which may run counter to state intent.*

### Recommendation 24

**A comprehensive study of current statutory provisions regarding confidentiality and release of information resulting in a coherent policy for the Commonwealth should be undertaken by the legislature, law enforcement, the judiciary, and relevant public agencies.**

### Recommendation 25

**Newly developed juvenile tracking systems should have the capacity for cross-jurisdictional transfer of information.**

### Strategies

- Introduce a study resolution in which the members of the General Assembly, in collaboration with law enforcement agencies, schools, the judiciary and other relevant public and private agencies undertake a comprehensive study of the current provisions in the Code regarding the release of information and develop recommendations which would set forth a comprehensive policy under a new chapter of Title 16.
- Request the Department of Youth and Family Services to address a cross-jurisdictional transfer of information in their juvenile tracking system design.

## I. COURT DOCKET MANAGEMENT

### Findings

*Court dockets have a great impact on the administration of justice. Juvenile Court presents unique docketing issues given the time-sensitive nature of the majority of the cases and the number of individuals who, by necessity, must be present at court proceedings. Delays, lack of predictability in case scheduling, and frustration over waiting have affected the reputation of Juvenile and*

Findings (cont.)

*Domestic Relations District Courts. Uniformity in procedures and elimination of unjustifiable delays can be addressed through court docketing. While there is no one cause for docketing delays, finding solutions which lead to predictable and efficient dockets requires the participation of all parties involved, with strong judicial leadership to analyze the court process.*

Recommendation 26

**Each Juvenile and Domestic Relations District Court should conduct an analysis of their court docketing system, with the goal of instituting a docket management plan to reduce delays and provide increased predictability of court hearings.**

Strategy

- The Office of the Executive Secretary of the Supreme Court should be provided additional resources to provide technical assistance to local courts as they institute docket management plans.

**J. CHILD ABUSE**

Findings

*The correlation between child abuse and delinquency is both speculative and convincing. While most abused children do not grow up to become abusive, research has proved that the majority of violent juvenile offenders have a history of child abuse. Concern has been expressed over the burdensome threshold which child protective service workers must reach to justify removal of a child from the home. While the problem may not be one of law, but one of practice, continued exposure to violence or victimization in the home is a public safety concern and should be addressed.*

Recommendation 27

**Procedures addressing child endangerment and removal from the home in cases of suspected child abuse and neglect should be reviewed to insure that children are adequately protected.**

Strategies

- Monitor the findings of HJR 502, a Joint Subcommittee Study of the Child Protective Service System in the Commonwealth.
- Communicate to the Board of the Department of Social Services the concern of the Task Force regarding adequacy of procedures and/or case practice guiding removal from the home in instances of suspected child abuse and neglect.

## K. STATEWIDE PLANNING AND SERVICE DELIVERY FOR COURT INVOLVED YOUTH

### Findings

*There is inadequate and inequitable access to services for status offenders, CHINS, CHINSup, and delinquent youth. Historically, the state share for community-based resources has decreased, while the volume and needs of the population have increased. As the nature of juvenile delinquency has changed, there has been limited guidance from the state regarding model service systems. Inadequate funding and the lack of strong state-level leadership have resulted in a patchwork of services available across the state. Most local Comprehensive Service Act (CSA) delivery systems do not routinely provide services to CHINS or CHINSup referred by the Court. The majority of Judges and Court Service Unit Directors were unsatisfied with the level of services provided by the CSA for juveniles or CHINS and CHINSup petitions.*

### Recommendation 28

**Support the expansion of community-based alternatives for youth who come before the criminal side of the Juvenile and Domestic Relations District Court.**

### Recommendation 29

**The Department of Youth and Family Services, with input from local providers, should exercise strong leadership in developing a continuum of services for juveniles ranging from least restrictive community-based services through institutional placement and supervised release.**

### Recommendation 30

**Encourage communities to leverage formula funds to more adequately address their juvenile justice populations.**

### Strategies

- Request additional funding for the Virginia Juvenile Community Crime Control Act (VJCCCA) to allow for the expansion of pre- and post-dispositional community programs.
- Request the Department of Youth and Family Services to establish protocols for the leveraging of Comprehensive Services Act (CSA) and VJCCCA funds and develop protections to insure juvenile justice populations are appropriately served through designated dollars.

## L. USE OF SECURE DETENTION

### Findings

*There are limited pre-dispositional and post-dispositional secure placement options at the community level. The majority of secure juvenile detention homes have been operating above capacity for the past three years. Overcrowding negatively impacts the conditions of confinement. The absence of public and private secure options results in severe overcrowding of secure*

Findings (cont.)

*detention and service gaps across the state. Current overcrowding of secure facilities has, for all practicable purposes, resulted in the loss of post-dispositional secure community sentencing options. The absence of service alternatives may impact the decision to place a juvenile in secure confinement. When asked to choose, 50% of the respondents felt community-based approaches to dealing with juvenile offenders should be expanded and improved. Judges responded to JLARC that they do not have adequate access to community treatment sanctions.*

Recommendation 31

**Statutory provisions which would increase the length of stay or eligibility criteria for secure detention placement should be enacted only if funding is made available for expansion of current secure bedspace.**

Recommendation 32

**Develop a standardized assessment instrument to provide guidance for secure detention placement.**

Strategies

- Monitor the implementation of §16.1-309.4 which requests the Department of Youth and Family Services to develop and disseminate a statewide plan for the establishment and maintenance of a range of institutional and community based pre-dispositional, and post-dispositional services to be reasonably accessible to each court.
- Request the Department of Youth and Family Services, Supreme Court, and the Sentencing Guidelines Commission to develop a risk assessment instrument for pre- and post-dispositional placement in secure detention.
- Amend § 30-19.1:4 to include local and state-run juvenile correctional facilities.

**M. MENTALLY ILL JUVENILE OFFENDERS**

Findings

*Many juveniles who come before the juvenile justice system have severe and chronic mental health needs. The increase of detention home commitments from public mental health facilities, as well as the diagnostic assessments of juveniles in secure confinement, substantiate the existence of juveniles who are both mentally ill and offenders. There are many juveniles with mental health needs placed in public and private residential care facilities for status or non-delinquent behaviors. The number of mental health and substance abuse treatment beds for adolescents is limited, and juveniles often bounce from one type of facility to another. Delinquent populations with mental health and/or substance abuse treatment needs represent a special challenge to service providers. 1994 research on detained youth in Virginia found that 8-10% of the juveniles were identified as in urgent or severe need of mental health services*



Findings (cont.)

*by assessment psychologists. Of the survey respondents, 63% indicated there was a need for specialized juvenile institutions for offenders who are both mentally ill and a danger to the community.*

Recommendation 33

**Increase the involvement of mental health services at a community level for court-involved youth.**

Recommendation 34

**Provide mental health screening and services, if indicated, for juveniles entering secure detention.**

Recommendation 35

**Implement a planning process for the piloting of a multi-use residential facility.**

Strategies

- Require the Departments of Mental Health, Mental Retardation and Substance Abuse Services and Youth and Family Services, with the involvement of the Association of Community Service Boards and the Court Service Unit directors Association, to develop collaborative agreements for mental health service provision at the community level.
- Provide funding for mental health screenings and support services, if indicated, for juveniles at secure detention intake.
- Initiate planning process for one multi-use facility in a pilot community.

**N. SHELTER CARE NEEDS OF NON-DELINQUENT YOUTH**

Findings

*Despite an 18% increase from 1975 to 1994 in arrest rates for runaways, services for non-delinquent youth have decreased as a result of services being re-directed to the more chronic and severe juvenile offender. Adequate bed space for CHINS and CHINSup is not available on a statewide basis. Public and private residential facilities serving non-delinquent youth are physically ill-equipped to keep them from running away. Placement of non-delinquent youth in secure detention is not cost-effective given the demand on these secure resources for public safety risk juveniles.*

Recommendation 36

**Adequately fund public and private residential programs to serve CHINS and CHINSup populations.**

Recommendation 37

**Outfit selected residential facilities to securely hold juveniles who are flight risks.**

### Recommendation 38

**Require the Department of Youth and Family Services to address service needs for non-delinquent population in their statewide plan as required under §16.309-4.**

#### Strategies

- Provide funds for public and private residential shelters to secure selected wings/pods of their facilities for juveniles who are flight risks.
- Amend standards for public or private residential facilities to allow for the secure holding of youth who are flight risks.
- Revise Department of Youth and Family Services standards to eliminate distinctions among populations served.
- Require the Department of Youth and Family Services to assess the statewide need for shelter care.

## **O. PROBATION SERVICES**

### Findings

*The availability of probationary services has not kept pace with needs of the juvenile justice system. The volume and complexity of cases brought before the court is steadily increasing. Despite this trend, funding for probationary staff, which is the linchpin of the juvenile justice system, has remained virtually stagnant. Currently probation officers' caseloads vary from 40 to 70 offenders. JLARC found that probation is the most widely used judicial sanction, regardless of the offender's criminal record, regional location of the court, or the juvenile's previous experience with the juvenile justice system. Prior to embarking on new treatment/program approaches, funding should be made available for basic court services.*

### Recommendation 39

**Probationary services should be adequately funded to allow for the provision of basic services to juveniles who come to the court.**

### Recommendation 40

**Probation staff should be provided on-going training and skill development to enhance their ability to work effectively with juveniles and their families.**

#### Strategies

- Provide additional funding for probation caseload based on the nationally recognized standards of 1 to 30.
- Provide increased training and skill development for Department of Youth and Family Services' probation officers and other direct service workers.

## **P. JUVENILE CORRECTIONAL CENTERS**

### Findings

*Juveniles who are committed to the state's correctional centers require strong treatment intervention to enable them to become accountable for their past actions and function successfully in society. National evaluations of juvenile institutions conclude that the ability of large-size institutions to provide effective treatment service is impaired. States that have moved towards smaller juvenile institutions report lower recidivism rates than those of larger facilities. JLARC's review of records of offenders committed to DYFS suggested 20 to 27% could be served in residential treatment programs without threatening public safety. American Correctional Association and the Department of Justice recommend specific staff/offender ratio and facility designs for serious offenders who can be handled only in correctional settings. The provision of parole or aftercare services to committed youth returning to their communities has proven to be of the utmost importance in insuring that the offender maintains the progress made during confinement.*

### Recommendation 41

**Future Juvenile Correctional Center expansion should meet American Correctional Association standards for facility size.**

### Recommendation 42

**The Department of Youth and Family Services, when building new facilities, should seek to "decentralize" institutional site placement and strive for the even distribution of facilities across the state.**

### Recommendation 43

**Juvenile Correctional Centers must be adequately staffed with treatment, educational, and security personnel, with clear delineation of tasks among these groups.**

### Recommendation 44

**The Department of Youth and Family Services should designate one facility for placement of juveniles under the Serious Offender Statute (§16.1-285.1) and develop specialized programming to meet the needs of this juvenile offender population.**

### Strategies

- Provide language in the Appropriations Act and through resolution requiring future bed expansion of correctional centers to meet American Correctional Association standards and be decentralized throughout the state.
- Provide adequate funding to meet the staffing needs of Juvenile Correctional Centers.
- Monitor the findings of the Joint Legislative Audit and Review Commission in its second year examining the operations of the correctional centers.

Recommendation 45

**The Department of Youth and Family Services should stress the importance of parole/aftercare services through appropriate staffing levels in local Court Service Units.**

**Q. INTERAGENCY PLANNING**

Findings

*Historically, responsibility for meeting the service needs of specific adolescent populations has been shifted from one public service agency to another. Decreased funding for adolescent mental health facilities results in more juveniles coming to the attention of the juvenile justice system. Limited foster care prevention services results in more runaways picked up on the streets. Given the interagency service needs of many of the youth who come to the attention of the court system, attempts to resolve the problem in one service area should not result in the shifting of service gaps to another.*

Recommendation 46

**Require state level interagency planning for at risk and troubled youth.**

Strategy

- Require a briefing on the implementation of § 2.1-746 of the Code which requires the State Executive Council of the Comprehensive Services Act to: a) provide administrative and fiscal support for the establishment and operation of local comprehensive service systems; b) publish and disseminate a state progress report on comprehensive services to children, youth and families and a plan for such services in the next succeeding fiscal year to the two money committees and relevant standing committees in the Senate and the House of Delegates.

**R. JUVENILE DATA SYSTEMS**

Findings

*There is no statewide data base which tracks the progression of juveniles through the juvenile justice system. There is no state level evaluation of dispositions or programs to enable decision makers to determine what works for certain types of offenders. Required reporting for juvenile justice service programs captures only utilization rates, not outcomes. Allocation of funds at the state level are not tied to program success. While many programs across the state provide a high quality of services, there is currently no way to capture this information or to systematically replicate programs which have been proven effective.*

Recommendation 47

**Establish an interagency data base to track juveniles' court contacts and service history.**

Recommendation 48

**Tie continued state funding for community services to evaluation of services by quantifiable objectives.**

Strategies

- Request the Department of Youth and Family Services to pilot an evaluation model in which outcome objectives are tied to continued funding.
- Support funding for the establishment of a juvenile tracking system per the Governor's Commission on Juvenile Justice Reform.

**S. INDETERMINATE COMMITMENTS**

Findings

*Historically, commitments to the Department of Youth and Family Services have been for an indeterminate period of time based on the treatment needs of the juvenile. However, since 1993 the Department has instituted their own length of stay guidelines which assess the juvenile's committing offense, delinquent history, and mitigating, as well as aggravating, factors. Implementation of these guidelines has resulted in periods of incarceration for lesser offenders committed for indeterminate periods, being potentially longer than those for more serious offenders who were committed for specified number of years. There is currently no statutory provision for the Department of Youth and Family Services to establish their own length of stay policies for committed youth. Sixty-eight percent (68%) of the survey respondents did not support mandatory sentences of confinement for any felony conviction. Sixty-seven percent (67%) did not favor sentencing guidelines and 62% indicated there should not be minimum length of stay guidelines for indeterminately committed youth. Administratively developed length of stay guidelines in the juvenile system should be available for public comment*

Recommendation 49

**Indeterminate commitments to the Department of Youth and Family Services should not exceed periods of confinement for juveniles committed under the Serious Juvenile Offender Statute.**

Recommendation 50

**The Board of the Department of Youth and Family Services should establish written length of stay guidelines and provide for public comment to these guidelines.**

Strategy

- Amend §16.1-285 to provide for indeterminate sentences of up to 36 months or to the juvenile's 21st birthday for all offenses except murder and manslaughter.
- Amend the statutorily-provided powers of the Board of the Department of Youth and Family Services to a) establish length of stay guidelines for juvenile indeterminately committed to the Department; and b) report annually on the guidelines to the Governor, Chief Justice, and the Sentencing Commission.

## T. SERIOUS JUVENILE OFFENDERS

### Findings

*Clearly, there are juveniles for whom the juvenile justice system is no longer appropriate. The standard response for the majority of states is to try larger groups of juvenile offenders in Circuit Court. Research, however, documents that juveniles transferred for property crimes do not receive longer periods of confinement than their counterparts sentenced in Juvenile Court. The goals of longer incarceration and more meaningful sanctions with the potential of rehabilitation have historically been realized by providing expanded options to the Juvenile Court. The initiation of determinate sentences to Virginia's Juvenile Correctional Centers for up to seven years has provided for longer-term incarceration for many juvenile offenders and has been enthusiastically received by the judiciary. However, the current jurisdictional boundary of age 21 does not adequately respond to the offender who is an older adolescent at the time of commitment. A model which has been successful in other states provides an opportunity for longer sentences in which rehabilitative efforts can take hold, with the threat of confinement in the adult correctional system if no progress is realized. These expanded options often include placement in specialized juvenile correctional facility for the more violent and chronic juvenile offender, with the provision of intensive rehabilitative and educational services. This approach, coupled with the option of transfer for trial in Circuit Court, will strengthen the public safety capacity of the Juvenile Court system. Seventy-five percent (75%) of survey respondents favored including additional offenses in the Serious Juvenile Offender Statute. Seventy-eight percent (78%) of the respondents favored an extension of the Serious Offender Statute to provide for incarceration in Department of Corrections' facilities under certain circumstances.*

### Recommendation 51

**Expand the eligibility criteria for the Serious Juvenile Offender Statute (§ 16.1-285.1) to include juveniles with a previous adjudication for a felony which carries a penalty of 20 or more years of confinement.**

### Recommendation 52

**Expand the seven-year term of commitment under the Serious Juvenile Offender Statute to the juvenile's 25th birthday.**

### Recommendation 53

**At the first annual review hearing after a juvenile committed under the Serious Juvenile Offender Statute reaches the age of 18, provide for the option of transfer to the Department of Corrections' Youthful Offender Program for completion of the term of confinement if the juvenile has not made progress during their period of confinement in the Juvenile Correctional Center.**

**Recommendation 54**

**Provide an extended jurisdictional option to Circuit, as well as Juvenile, Court Judges.**

**Strategy**

- Amend the Serious Juvenile Offender Statute to expand eligibility criteria and provide for potential transfer to the Department of Corrections after the juvenile has reached the age of 18.

**Findings**

*The victims of juvenile crime need to be made aware of the possibility of the offenders' release back into the community. As the Juvenile Court Judges hold annual review hearings for juveniles committed under the Serious Juvenile Offender Statute, victims should be notified of the proceedings.*

**Recommendation 55**

**Require the Commonwealth's Attorneys to provide notice of the annual review hearings of juveniles committed under the Serious Juvenile Offender Statute to any victim(s) of the offense for which the juvenile was committed.**

**Strategy**

- Revise §16.1-285.2 to provide for victim notification.





## **IX. Acknowledgments**

In addition to the individuals who served on the Juvenile Justice System Reform Task Force, the members of the Commission on Youth extend their appreciation to the following agencies and individuals for their cooperation and assistance on this study:

*Chesterfield County Office on Youth*  
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The Honorable Dale H. Harris, President

The Task Force would also like to acknowledge the contributions of Ms. Mary Geisen, Research Associate for the Division of Legislative Services, for her assistance in the course of the study and in drafting proposed legislation for the 1996 General Assembly Session.



**1995 SESSION  
ENGROSSED**

LD4937836

**HOUSE JOINT RESOLUTION NO. 604**

House Amendments in [ ] — February 4, 1995

*Directing the Youth Commission to study juvenile justice reform.*

Patrons—Jones, J.C., Abbitt, Almand, Armstrong, Ball, Barlow, Behm, Bennett, Christian, Clement, Cohen, Cooper, Copeland, Cox, Cranwell, Crittenden, Croshaw, Cunningham, Darner, Davies, Deeds, Diamonstein, Grayson, Hall, Heilig, Hull, Jackson, Johnson, Jones, D.C., Keating, Marshall, Mayer, McDonnell, Melvin, Mims, Moore, Moss, Puller, Reynolds, Robinson, Scott, Shuler, Spruill, Stump, Thomas, Van Yahres and Woodrum; Senators: Calhoun, Gartlan, Houck and Lucas

Referred to Committee on Rules

WHEREAS, the nature and severity of juvenile delinquency has changed drastically over the last decades; and

WHEREAS, the juvenile correctional agency, the Department of Youth and Family Services, has only been in existence for five years; and

WHEREAS, at the time of the inception of the new Department, the Commonwealth suffered a recession which adversely affect the agency's budget; and

WHEREAS, the General Assembly enacted the Comprehensive Services Act in 1992 which altered the ways communities plan for and provide services to a segment of adjudicated youth; and

WHEREAS, the General Assembly enacted the Serious Juvenile Offender legislation in 1994 which significantly altered the factors the court relies upon when transferring a juvenile to adult court as well as instituted longer terms for determinate sentencing for a segment of the juvenile offender population; and

WHEREAS, many of the principles underlying the juvenile justice system in Virginia and throughout the nation have recently been questioned in light of changing juvenile crime trends; and

[ WHEREAS, Senate Joint Resolution No. 263 (1994) directs the Joint Legislative Audit and Review Commission to conduct a detailed review and evaluation of the juvenile justice system; and ]

WHEREAS, the Commonwealth has not undertaken a comprehensive review of the juvenile justice system since 1977 in the recodification of § 16.1 of the Code of Virginia; and

WHEREAS, the lack of a comprehensive reassessment of the system has served to undermine the public confidence in the juvenile justice system; now, therefore, be it

RESOLVED that the Commission on Youth be directed to undertake a comprehensive study of the juvenile justice system in Virginia with the goal of suggesting reform to increase the system's efficiency and effectiveness in responding to juvenile delinquency. The Commission's study shall include but not be limited to: efficiency of maintaining status offenders within the juvenile court system, docketing issues affecting system management, range of community options available to the court, legal procedures applicable to current offender populations, training support provided to the court's service unit staff and judiciary and recommendations for system improvement through legislative and administrative reform. To aid in the study the Commission is authorized to establish a Task Force which shall be comprised of the Commission on Youth members, two attorneys for the Commonwealth, one to be appointed by the Speaker of the House of Delegates and one to be appointed by the Senate Committee on Privileges and Elections; two juvenile and domestic relations judges, one to be appointed by the Speaker of the House of Delegates and one to be appointed by the Senate Committee on Privileges and Elections; two representatives from local law enforcement, one to be appointed by the Speaker of the House of Delegates and one to be appointed by the Senate Committee on Privileges and Elections; one member of the defense bar to be appointed by the Speaker of the House of Delegates; and two representatives of the local treatment community, one to be appointed by the Speaker of the House of Delegates and one to be appointed by the Senate Committee on Privileges and Elections. The Director of the Department of Youth and Family Services and the Executive Secretary of the Supreme Court shall serve as ex-officio members; and, be it

[ RESOLVED FURTHER, That the Joint Legislative Audit and Review Commission shall report

LD4937836

LD4937836

1 its findings to the Commission on Youth to support the Commission's comprehensive study of the  
2 juvenile justice system. ]

3 The indirect costs of this study shall not exceed \$20,000.

4 The Commission on Youth shall complete its work in time to submit its findings and  
5 recommendations to the Governor and the 1996 Session of the General Assembly as provided in the  
6 procedures of the Division of Legislative Automated Systems for the processing of legislative  
7 documents.

Official Use By Clerks

Passed By

The House of Delegates

- without amendment
- with amendment
- substitute
- substitute w/amdt

Passed By The Senate

- without amendment
- with amendment
- substitute
- substitute w/amdt

Date: \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_  
Clerk of the House of Delegates

\_\_\_\_\_  
Clerk of the Senate

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### **Sample Surveys**

The following sample surveys incorporate the majority of questions asked of the survey respondent groups. However, variations do exist among the 10 versions of the survey to get at additional office specific issues.

If you would like copies of all survey instruments please contact the Commission on Youth.



# VIRGINIA COMMISSION ON YOUTH

## JUVENILE AND DOMESTIC RELATIONS DISTRICT COURT JUDGES' SURVEY ON JUVENILE JUSTICE ISSUES

The 1995 Session of the Virginia General Assembly enacted House Joint Resolution 604 requesting the Virginia Commission on Youth to conduct a comprehensive study of the Juvenile Justice System in Virginia. As part of this study, the Commission is surveying all Juvenile and Domestic Relations District Court Judges to collect opinions and information on issues related to Juvenile Court dispositional options, delinquent and serious offenders, status offenders and state/local juvenile justice services and programs. This survey is designed to elicit responses which incorporate your experiences with the delinquent portion of your judicial workload, not the domestic relations aspect of your work. A list of definitions is enclosed to assist in your responses.

Please return the survey by July 21, 1995. If you have any questions, contact Nancy Ross or Kim Echelberger at (804) 371-2481. The General Assembly of Virginia and the Virginia Commission on Youth thank you for your assistance in this important study effort.

### SECTION 1: JUVENILE COURT DISPOSITIONAL OPTIONS

1. The Code of Virginia in §16.1-227 expresses the intent of the Juvenile and Domestic Relations District Court law and states that this law shall be "interpreted and construed so as to effectuate" four purposes listed below. Please check any of the four purposes you feel should be deleted.

- (1) To divert from or within the Juvenile Justice System, to the extent possible, consistent with the protection of the public safety, those children who can be cared for or treated through alternative programs;
- (2) To provide judicial procedures through which provisions of this law are executed and enforced and in which the parties are assured a fair hearing and their constitutional and other rights are recognized and enforced;
- (3) To separate a child from such child's parents, guardian, legal custodian or other person standing in loco parentis only when the child's welfare is endangered or it is in the interest of public safety and then only after consideration of alternatives to out-of-home placement which afford effective protection to the child, his family and the community; and
- (4) To protect the community against those acts of its citizens which are harmful to others and to reduce the incidence of delinquent behavior.

1A. Why should the purpose(s) you checked above be deleted from the intent of the Juvenile and Domestic Relations District Court law? *(Please explain.)*

1B. Should the four purposes in §16.1-227 be reordered to prioritize one purpose over another?  
(Please check one.)

Yes (If YES, proceed to question 1C.)

No (If NO, proceed to question 2.)

1C. If YES, how should the purposes be reordered? (Please explain.)

2. Should the intent of §16.1-227 be amended to include additional purpose(s)? (Please check one.)

Yes (If YES, proceed to question 2A.)

No (If NO, proceed to question 3.)

2A. If YES, what additional purpose(s) would you include? (Please explain.)

3. Some states utilize professional "hearing officers"<sup>1</sup> to process certain types of cases in Juvenile/Family Court. Would you recommend the use of hearing officers to hear certain types of cases in Virginia Juvenile and Domestic Relations District Courts? (Please check one.)

Yes (If YES, proceed to questions 3A and 3B.)

No (If NO, proceed to question 4.)

3A. If YES, what types of cases do you feel would be appropriate for hearing officers to process? (Please check all that apply.)

Traffic Infractions

Traffic Violations

CHINS Cases

CHINSup Cases

1st Time Property Offenses

Other \_\_\_\_\_ (Explain.)

3B. What qualifications would you recommend for hearing officers? (Please explain.)

4. Some states utilize "community sentencing boards"<sup>2</sup> comprised of trained volunteers to impose community service sanctions for certain types of juvenile offenders found guilty within their Juvenile/Family Courts. Would you recommend using these types of boards in Virginia for certain juvenile offenders? (Please check one.)

Yes (If YES, proceed to question 4A.)

No (If NO, proceed to question 5.)

<sup>1</sup> For definition of term see Glossary.

<sup>2</sup> For definition of term see Glossary.

4A. Please check the types of cases that you feel would be appropriate for community sentencing boards to process. *(Please check all that apply.)*

- |   |  |
|---|--|
| <input type="checkbox"/> Traffic Infractions        | <input type="checkbox"/> Traffic Violations            |
| <input type="checkbox"/> CHINS Cases                | <input type="checkbox"/> CHINSup Cases                 |
| <input type="checkbox"/> 1st Time Property Offenses | <input type="checkbox"/> Other _____ <i>(Explain.)</i> |

5. Some states allow for "extended jurisdiction" sentencing of juvenile offenders where a juvenile offender could receive: (1) a determinate juvenile court sentence which is imposed for the duration of the Juvenile/Family Court's jurisdiction and (2) an adult court sentence which would be stayed. If the juvenile violates the terms of the Juvenile Court sentence or commits a subsequent offense, the conditions of the stayed adult sentence are then executed. Would you recommend using this form of extended jurisdiction sentencing for certain juvenile offenders in Virginia? *(Please check one.)*

- Yes *(If YES, proceed to questions 5A, 5B and 5C.)*  
 No *(If NO, proceed to question 6.)*

5A. What types of offenses would you consider appropriate for eligibility for extended jurisdiction sentencing? *(Please check one.)*

- All Felony Offenses  
 Violent Crimes Felony Offenses Only *(Murder, Nonnegligent Manslaughter, Forcible Rape and Robbery)*  
 All Misdemeanor and Felony Offenses  
 CHINS/CHINSup, Misdemeanor and Felony Offenses  
 Other \_\_\_\_\_ *(Explain.)*

5B. Would you be in favor of open court for cases involving offenses which would be eligible for extended jurisdiction sentencing? *(Please check one.)*

- Yes  
 No

5C. Would you be in favor of allowing jury trials in Juvenile and Domestic Relations District Court for cases involving offenses which would be eligible for extended jurisdiction sentencing? *(Please check one.)*

- Yes  
 No

6. Some states allow for "youthful offender" sentencing where a juvenile offender could receive a determinate sentence in Juvenile/Family Court which exceeds the traditional age jurisdiction of the court and allows for incarceration of the offender in either (1) a juvenile facility or (2) placement in the youthful offender program of the Department of Corrections. Would you recommend using this form of youthful offender sentencing for certain juvenile offenders in Virginia? *(Please check one.)*

- Yes *(If YES, proceed to questions 6A, 6B and 6C.)*  
 No *(If NO, proceed to question 7.)*

6A. What types of offenses would you consider appropriate for eligibility for youthful offender sentencing? *(Please check one.)*

- All Felony Offenses
- Violent Crimes Felony Offenses Only *(Murder, Nonnegligent Manslaughter, Forcible Rape and Robbery)*
- All Misdemeanor and Felony Offenses
- CHINS/CHINSup, Misdemeanor and Felony Offenses
- Other \_\_\_\_\_ *(Explain.)*

6B. Would you be in favor of open court for cases involving offenses which would be eligible for youthful offender sentencing? *(Please check one.)*

- Yes
- No

6C. Would you be in favor of allowing jury trials in Juvenile and Domestic Relations District Court for cases involving offenses which would be eligible for youthful offender sentencing? *(Please check one.)*

- Yes
- No

7. Some states allow for "concurrent jurisdiction" sentencing of juvenile offenders where a juvenile offender could: (1) receive a determinate Juvenile/Family Court sentence which exceeds the traditional age jurisdiction of the Court and allows for incarceration of the offender in a juvenile facility until age 21 years and then (2) mandatorily transfers the offender to an adult prison for the duration of the sentence. Would you recommend using this form of concurrent jurisdiction sentencing for certain juvenile offenders in Virginia? *(Please check one.)*

- Yes *(If YES, proceed to questions 7A, 7B and 7C.)*
- No *(If NO, proceed to question 8.)*

7A. What types of offenses would you consider appropriate for eligibility for concurrent jurisdiction sentencing? *(Please check one.)*

- All Felony Offenses
- Violent Crimes Felony Offenses Only *(Murder, Nonnegligent Manslaughter, Forcible Rape and Robbery)*
- All Misdemeanor and Felony Offenses
- CHINS/CHINSup, Misdemeanor and Felony Offenses
- Other \_\_\_\_\_ *(Explain.)*

7B. Would you be in favor of open court for cases involving offenses which would be eligible for concurrent jurisdiction sentencing? *(Please check one.)*

- Yes
- No

7C. Would you be in favor of allowing jury trials in Juvenile and Domestic Relations District Court for cases involving offenses which would be eligible for concurrent jurisdiction sentencing? *(Please check one.)*

- Yes
- No

8. Of the three Juvenile/Family Court jurisdictional options mentioned in questions 5-7, which approach would you prefer to enact in Virginia? *(Please check one.)*

- Question 5 - Extended Jurisdiction with Stayed Adult Sentence *(If selected, go to question 9.)*
- Question 6 - Youthful Offender Program Sentencing *(If selected, go to question 9.)*
- Question 7 - Concurrent Jurisdiction with Mandatory Transfer to Adult System *(If selected, go to question 9.)*
- All of the Above *(If selected, go to question 9.)*
- None of the Above *(If selected, go to question 8A.)*

8A. Why do you not prefer to enact any of the above options? *(Please explain.)*

9. Is there a need for codified, graduated sanctions in Juvenile and Domestic Relations District Court law? *(Please check one.)*

- Yes *(If YES, proceed to question 9A.)*
- No *(If NO, proceed to question 10.)*

9A. If YES, why is there a need for codification of the graduated sanctions? *(Please explain.)*

10. The Serious Offender Statute, §16.1-285.1 & 285.2, allows for the Juvenile and Domestic Relations District Court to impose a determinate commitment for certain serious offenses. Should this statute be amended to include additional offenses in the statutory scheme? *(Please check one.)*

- Yes *(If YES, proceed to question 10A.)*
- No *(If NO, proceed to question 10B.)*

10A. If YES, which of the following types of offenses should be added to the statute? *(Please check all that apply.)*

- Any Felony Offense
- Any Felony Offense Where a Firearm was Used
- Any Felony Offense Where any Weapon was Used (e.g., knife, fighting chains)
- Any Felony Where the Offense Carries a Sentence of 20 Years or More if Committed by an Adult
- Other \_\_\_\_\_ *(Explain.)*  
\_\_\_\_\_ *(Explain.)*

10B. If NO, why do you feel that additional offenses should not be added to the Serious Offender Statute? *(Please explain.)*

11. The Serious Offender Statute, §16.1-285.1 & 285.2, allows for the Juvenile and Domestic Relations District Court to impose a determinate commitment for certain serious offenders. Should this statute be amended to allow for a mandatory minimum period of aftercare/parole supervision as part of the determinate sentence? *(Please check one.)*

- Yes *(If YES, proceed to question 11A.)*
- No *(If NO, proceed to question 12.)*

11A. What minimum length of time would you recommend for the aftercare/parole period? *(Please check one.)*

- 3 Months
- 6 Months
- 1 Year
- Other \_\_\_\_\_ *(Explain.)*

12. Should the decision to transfer all juvenile felony cases be based solely on the decision of the Commonwealth's Attorney? *(Please check one.)*

- Yes *(If YES, proceed to question 12A.)*
- No *(If NO, proceed to question 12B.)*

12A. If YES, why should there be direct prosecutorial waiver in all felony cases? *(Please explain.)*

12B. If NO, why should there not be direct prosecutorial waiver in all felony cases? *(Please explain.)*

13. Should the minimum age for transfer of juveniles to Circuit Court be changed from the current standard of 14 years of age? *(Please check one.)*

- Yes *(If YES, proceed to questions 13A and 13B.)*
- No *(If NO, proceed to SECTION 2.)*

13A. If YES, what minimum age would you recommend for transfer? *(Please check one.)*

- 13 years
- 12 years
- No Age Limit
- Other \_\_\_\_\_ *(Explain.)*

13B. Why do you think the age should be changed? *(Please explain.)*

**SECTION 2: COMMITMENT AND RELEASE FROM STATE CARE**

1. Should all juveniles who are adjudicated delinquent for a felony offense in Juvenile and Domestic Relations District Court receive a mandatory determinate sentence of confinement? *(Please check one.)*

Yes *(If YES, proceed to question 1A.)*

No *(If NO, proceed to question 2.)*

1A. If YES, why should all delinquent juveniles receive a determinate sentence? *(Please explain.)*

2. Should Juvenile and Domestic Relations District Court Judges have the option of imposing a determinate sentence for all juveniles adjudicated delinquent for any felony offense? *(Please check one.)*

Yes *(If YES, proceed to question 2A.)*

No *(If NO, proceed to question 2B.)*

2A. If YES, why should Juvenile Court Judges be given this option? *(Please explain.)*

2B. If NO, why should Juvenile Court Judges not be given this option? *(Please explain.)*

3. Do you favor sentencing guidelines for determinate commitments to Juvenile Correctional Centers? *(Please check one.)*

Yes *(If YES, proceed to question 3A.)*

No *(If NO, proceed to question 3B.)*

3A. If YES, why do you favor sentencing guidelines? *(Please explain.)*

3B. If NO, why do you not favor sentencing guidelines? *(Please explain.)*



4. Should there be mandatory minimum length of stay guidelines for indeterminate commitments to Juvenile Correctional Centers? *(Please check one.)*

Yes *(If YES, proceed to question 4A.)*

No *(If NO, proceed to question 5.)*

4A. If YES, should the Department of Youth and Family Services develop and administer the minimum length of stay guidelines? *(Please check one.)*

Yes *(If YES, proceed to question 4B.)*

No *(If NO, proceed to questions 4C and 4D.)*

4B. Why should the Department of Youth and Family Services develop and administer the mandatory length of stay guidelines? *(Please explain.)*

4C. Why do you not favor the Department of Youth and Family Services' developing and administering length of stay guidelines? *(Please explain.)*

4D. Who else should develop length of stay guidelines? *(Please explain.)*

5. Do you think that Juvenile and Domestic Relations District Court Judges, as opposed to the Director of the Department of Youth and Family Services, should be vested with the statutory authority to release all juveniles committed to Juvenile Correctional Centers under indeterminate commitments? *(Please check one.)*

Yes *(If YES, proceed to question 5A.)*

No *(If NO, proceed to question 5B.)*

5A. If YES, why do you favor judicial release authority? *(Please explain.)*

5B. If NO, why do you not favor judicial release authority? *(Please explain.)*

6. Do you think that Juvenile and Domestic Relations District Court Judges should be vested with the statutory authority to approve or disapprove the Department of Youth and Family Services' recommendation to release juveniles committed to Juvenile Correctional Centers under indeterminate sentences? *(Please check one.)*

Yes *(If YES, proceed to question 6A.)*

No *(If NO, proceed to question 6B.)*

6A. If YES, why do you favor judicial release authority? *(Please explain.)*

6B. If NO, why do you not favor judicial release authority? *(Please explain.)*

7. Should juveniles who have been indeterminately committed to the Department of Youth and Family Services, have met the Department's mandatory 18 month length of stay for certain offenses, and are continuing to be confined be allowed to petition the Juvenile Court for release? *(Please check one.)*

Yes *(If YES, proceed to question 7A.)*

No *(If NO, proceed to question 7B.)*

7A. If YES, why would you favor allowing the indeterminately committed juveniles to petition the court for release? *(Please explain.)*

7B. If NO, why do you not favor allowing the indeterminately committed juveniles to petition the court for release? *(Please explain.)*

8. Is there a need for a juvenile prison for violent offenders? *(Please check one.)*

Yes *(If YES, proceed to question 8A.)*

No *(If NO, proceed to question 9.)*

8A. If YES, which of the following agencies should be responsible for the administration and staffing of such a prison? *(Please check one.)*

Department of Corrections *(If selected, go to question 8B.)*

Department of Youth and Family Services *(If selected, go to question 8C.)*

8B. Why should the Department of Corrections administer and staff such a prison? *(Please explain.)*

8C. Why should the Department of Youth and Family Services administer and staff such a prison? *(Please explain.)*

9. Is there a need for a specialized juvenile institution for offenders who are both mentally ill and a danger to the community? *(Please check one.)*

- Yes *(If YES, proceed to question 9A.)*
- No *(If NO, proceed to SECTION 3.)*

9A. Why is such a facility needed? *(Please explain.)*

### SECTION 3: COMPREHENSIVE SERVICES ACT

#### Questions 1-4 Relate to Services for Delinquent Youth.

1. How often do you or your court refer juveniles on delinquency petitions to the local Comprehensive Services Act (CSA) Family Assessment and Planning Team for pre-dispositional assessment? *(Please check one.)*

- Almost Always
- Frequently
- About Half of the Time
- Seldom
- Almost Never

2. How often do you refer juveniles on delinquency petitions to the local CSA Family Assessment and Planning Team for post-dispositional assessment? *(Please check one.)*

- Almost Always
- Frequently
- About Half of the Time
- Seldom
- Almost Never

3. How often are juveniles found guilty on delinquency petitions provided services through the CSA state pool of funds? *(Please check one.)*

- Almost Always
- Frequently
- About Half of the Time
- Seldom
- Almost Never

4. Are you satisfied with the level of services being provided by the CSA to the Juvenile Court for juveniles on delinquency petitions? *(Please check one.)*

- Yes *(If YES, proceed to question 5.)*
- No *(If NO, proceed to questiond 4A and 4B.)*

4A. If NO, why are you dissatisfied with the level of services for delinquent youth? *(Please explain.)*

4B. What changes would you make to improve the CSA services for delinquent youth (eligible population, funding, services, etc.)? *(Please explain.)*

**Questions 5-8 Relate to Services for CHINS.**

5. How often do you or your court refer juveniles on CHINS petitions to the local Comprehensive Services Act (CSA) Family Assessment and Planning Team for pre-dispositional assessment? *(Please check one.)*

- Almost Always
- Frequently
- About Half of the Time
- Seldom
- Almost Never

6. How often do you refer juveniles on CHINS petitions to the local CSA Family Assessment and Planning Team for post-dispositional assessment? *(Please check one.)*

- Almost Always
- Frequently
- About Half of the Time
- Seldom
- Almost Never

7. How often are juveniles found guilty on CHINS petitions provided services through the CSA state pool of funds? *(Please check one.)*

- Almost Always
- Frequently
- About Half of the Time
- Seldom
- Almost Never

8. Are you satisfied with the level of services being provided by the CSA to the Juvenile Court for juveniles on CHINS petitions? *(Please check one.)*

Yes *(If YES, proceed to question 9.)*

No *(If NO, proceed to questions 8A and 8B.)*

8A. If NO, why are you dissatisfied with the level of services for CHINS cases? *(Please explain.)*

8B. What changes would you make to improve the CSA services for CHINS (eligible population, funding, services, etc.)? *(Please explain.)*

**Questions 9-12 Relate to Services for CHINSup.**

9. How often do you or your court refer juveniles on CHINSup petitions to the local Comprehensive Services Act (CSA) Family Assessment and Planning Team for pre-dispositional assessment? *(Please check one.)*

Almost Always

Frequently

About Half of the Time

Seldom

Almost Never

10. How often do you refer juveniles on CHINSup petitions to the local CSA Family Assessment and Planning Team for post-dispositional assessment? *(Please check one.)*

Almost Always

Frequently

About Half of the Time

Seldom

Almost Never

11. How often are services for juveniles found guilty on CHINSup petitions provided through the CSA state pool of funds? *(Please check one.)*

Almost Always

Frequently

About Half of the Time

Seldom

Almost Never

12. Are you satisfied with the level of services being provided by the CSA to the Juvenile Court for juveniles on CHINSup petitions? *(Please check one.)*

- Yes *(If YES, proceed to SECTION 4.)*  
 No *(If NO, proceed to questions 12A and 12B.)*

12A. If NO, why are you dissatisfied with the level of services for CHINSup cases? *(Please explain.)*

12B. What changes would you make to improve the CSA services for CHINSup (population, funding, services, etc.)? *(Please explain.)*

#### SECTION 4: TRUANT AND RUNAWAY JUVENILES

1. During the course of your regular court docket, do you have contact with each of the following types of juvenile cases?

- Truants                       Yes       No *(If NO, proceed to question 1A.)*  
Runaways                     Yes       No *(If NO, proceed to question 1B.)*

1A. If you responded NO, please explain why you do not have regular contact with truant juveniles.

1B. If you responded NO, please explain why you do not have regular contact with runaway juveniles.

#### Questions 2-8 deal with Truant Juveniles.

2. Do you routinely order services for truants? *(Please check one.)*

- Yes *(If YES, proceed to question 2A.)*  
 No *(If NO, proceed to question 3.)*

2A. If YES, please check the services to which you routinely refer truants. (Please check all that apply.)

Individual Counseling:	Assessment	<input type="checkbox"/>
	Screening	<input type="checkbox"/>
Family Counseling:	Assessment	<input type="checkbox"/>
	Screening	<input type="checkbox"/>
Substance Abuse:	Assessment	<input type="checkbox"/>
	Screening	<input type="checkbox"/>
Educational:	Assessment	<input type="checkbox"/>
	Screening	<input type="checkbox"/>
Case Management/Advocacy		<input type="checkbox"/>
Diagnostic Assessment		<input type="checkbox"/>
Residential Services		<input type="checkbox"/>
Home Based/Family Preservation Services		<input type="checkbox"/>
Shelter Care Services		<input type="checkbox"/>
Other Service Referrals		<input type="checkbox"/>
_____ (Explain.)		
_____ (Explain.)		

3. Are there adequate community services available to your court to respond to truants? (Please check one.)

- Yes (If YES, proceed to question 4.)
- No (If NO, proceed to question 3A.)

3A. If NO, what type(s) of community services are necessary for truants? (Please check all that apply.)

Individual Counseling:	Assessment	<input type="checkbox"/>
	Screening	<input type="checkbox"/>
Family Counseling:	Assessment	<input type="checkbox"/>
	Screening	<input type="checkbox"/>
Substance Abuse:	Assessment	<input type="checkbox"/>
	Screening	<input type="checkbox"/>
Educational:	Assessment	<input type="checkbox"/>
	Screening	<input type="checkbox"/>
Case Management/Advocacy		<input type="checkbox"/>
Diagnostic Assessment		<input type="checkbox"/>
Residential Services		<input type="checkbox"/>
Home Based/Family Preservation Services		<input type="checkbox"/>
Shelter Care Services		<input type="checkbox"/>
Other Service Referrals		<input type="checkbox"/>
_____ (Explain.)		
_____ (Explain.)		

4. Please prioritize your objectives in intervening with truants. (Rank the goals from 1 to 8, with the most important goal = 1 and the least important goal = 8.)

OBJECTIVES	RANK
Maintain the Juvenile's Safety	_____
Protect the Public	_____
Return to School	_____
Placement in an Appropriate Living Situation	_____
Minimize Immediate Crisis	_____
Stabilize and Support the Family	_____
Facilitate Previously Developed Service Plans	_____
Other _____ (Explain.)	_____
_____ (Explain.)	_____

5. Do you think the current sanctions available to the Juvenile Court to level against truants for their behaviors are sufficient? (Please check one.)

- Yes (If YES, proceed to question 6.)
- No (If NO, proceed to question 5A.)

5A. If NO, what statutory sanctions would you recommend for juveniles found guilty of truancy? (Please explain.)

6. Do you think the current sanctions available to the Juvenile Court to level against the parents of truants are sufficient? (Please check one.)

- Yes (If YES, proceed to question 7.)
- No (If NO, proceed to question 6A.)

6A. If NO, what statutory sanctions would you recommend for parents whose children are found guilty of truancy? (Please explain.)

7. Are there specific court procedures you use to deal with truancy? (Please check one.)

- Yes (If YES, proceed to question 7A.)
- No (If NO, proceed to question 8.)

7A. If YES, what are these procedures? (Please explain.)



8. What interactions yield the best results in dealing truants (e.g., court procedures/sanctions, community services)? *(Please explain.)*

**Questions 9-15 deal with Runaway Juveniles.**

9. Do you routinely order services for runaways? *(Please check one.)*

- Yes *(If YES, proceed to question 9A.)*
- No *(If NO, proceed to question 10.)*

9A. If YES, please check the services to which you routinely refer runaways. *(Please check all that apply.)*

Individual Counseling:	Assessment	<input type="checkbox"/>
	Screening	<input type="checkbox"/>
Family Counseling:	Assessment	<input type="checkbox"/>
	Screening	<input type="checkbox"/>
Substance Abuse:	Assessment	<input type="checkbox"/>
	Screening	<input type="checkbox"/>
Educational:	Assessment	<input type="checkbox"/>
	Screening	<input type="checkbox"/>
Case Management/Advocacy		<input type="checkbox"/>
Diagnostic Assessment		<input type="checkbox"/>
Residential Services		<input type="checkbox"/>
Home Based/Family Preservation Services		<input type="checkbox"/>
Shelter Care Services		<input type="checkbox"/>
Other Service Referrals		<input type="checkbox"/>
_____ <i>(Explain.)</i>		
_____ <i>(Explain.)</i>		

10. Are there adequate community services available to your court to respond to runaways? *(Please check one.)*

- Yes *(If YES, proceed to question 11.)*
- No *(If NO, proceed to question 10A.)*

10A. If NO, what type(s) of community services do you feel are necessary for runaways? (Please check all that apply.)

Individual Counseling:	Assessment	<input type="checkbox"/>
	Screening	<input type="checkbox"/>
Family Counseling:	Assessment	<input type="checkbox"/>
	Screening	<input type="checkbox"/>
Substance Abuse:	Assessment	<input type="checkbox"/>
	Screening	<input type="checkbox"/>
Educational:	Assessment	<input type="checkbox"/>
	Screening	<input type="checkbox"/>
Case Management/Advocacy		<input type="checkbox"/>
Diagnostic Assessment		<input type="checkbox"/>
Residential Services		<input type="checkbox"/>
Home Based/Family Preservation Services		<input type="checkbox"/>
Shelter Care Services		<input type="checkbox"/>
Other Service Referrals		<input type="checkbox"/>
_____ (Explain.)		
_____ (Explain.)		

11. Please prioritize your objectives in intervening with runaways. (Rank the goals from 1 to 7, with the most important goal = 1 and the least important goal = 7.)

OBJECTIVES	RANK
Maintain the Juvenile's Safety	_____
Protect the Public	_____
Return to School	_____
Placement in an Appropriate Living Situation	_____
Minimize Immediate Crisis	_____
Stabilize and Support the Family	_____
Facilitate Previously Developed Service Plans	_____
Other _____ (Explain.)	_____
_____ (Explain.)	_____

12. Do you think the current sanctions available to the Juvenile Court to level against runaways for their behaviors are sufficient? (Please check one.)

Yes (If YES, proceed to question 13.)

No (If NO, proceed to question 12A.)

12A. If No, what statutory sanctions would you recommend for juveniles who are found guilty of being runaways? (Please explain.)

13. Do you think the current sanctions available to the Juvenile Court to level against the parents of runaways are sufficient? *(Please check one.)*

- Yes *(If YES, proceed to question 14.)*
- No *(If NO, proceed to question 13A.)*

13A. If NO, what statutory sanctions would you recommend for parents whose children are found guilty of being runaways? *(Please explain.)*

14. Are there specific court procedures you use to deal with runaways? *(Please check one.)*

- Yes *(If YES, proceed to question 15.)*
- No *(If NO, proceed to question 14A.)*

14A. If YES, what are these procedures? *(Please explain.)*

15. What types of interactions yield the best results in dealing runaways (e.g., court procedures/sanctions, community services)? *(Please explain.)*

16. Please *prioritize* the needed services for each group of juveniles listed below. *(Rank the needs from 1 to 10, with the most urgent need = 1 and the least urgent need = 10.)*

Needed Services	Truants	Runaways
Basic Shelter	_____ Rank	_____ Rank
Physical Health Screenings	_____ Rank	_____ Rank
Mental Health Screenings	_____ Rank	_____ Rank
Substance Abuse Screenings	_____ Rank	_____ Rank
Case Advocacy	_____ Rank	_____ Rank
Financial Assistance	_____ Rank	_____ Rank
Alternative Education Arrangement	_____ Rank	_____ Rank
Alternative Living Arrangement	_____ Rank	_____ Rank
Employment	_____ Rank	_____ Rank
Family Counseling	_____ Rank	_____ Rank
Other _____ <i>(Explain.)</i>	_____ Rank	_____ Rank
_____ <i>(Explain.)</i>		

13. Some states respond to juveniles who display CHINS/CHINSup behaviors through child welfare or education systems rather than the Juvenile Court. Should juveniles displaying CHINS/CHINSup behaviors continue to be served in Virginia by the Juvenile Court System? *(Please check one.)*

- Yes *(If YES, proceed to SECTION 5.)*
- No *(If NO, proceed to question 13A.)*

13A. If NO, please check the appropriate service provider(s) for each group of non-delinquent status offenders. *(Please check all that apply.)*

SERVICE SYSTEM	Truants	Runaways
Social Services	<input type="checkbox"/>	<input type="checkbox"/>
Education	<input type="checkbox"/>	<input type="checkbox"/>
Mental Health	<input type="checkbox"/>	<input type="checkbox"/>
Other _____ <i>(Explain.)</i>	<input type="checkbox"/>	<input type="checkbox"/>
_____ <i>(Explain.)</i>	<input type="checkbox"/>	<input type="checkbox"/>

**SECTION 5: ADDITIONAL ISSUES**

1. Is your weekly court docket arranged to hear all similar types of cases on the same day? *(Please check one.)*

- Yes
- No

2. Do you feel that your pre-bench training was adequate? *(Please check one.)*

- Yes *(If YES, proceed to question 3.)*
- No *(If NO, proceed to question 2A.)*

2A. If NO, what would you have added or deleted from the curriculum? *(Please explain.)*

3. Do you feel that your annual on-going training is adequate? *(Please check one.)*

- Yes *(If YES, proceed to question 4.)*
- No *(If NO, proceed to question 3A.)*

3A. If NO, what would you add or delete from the curriculum? *(Please explain.)*

4. Have you been to the National Council of Juvenile and Family Court Judges' Courses in Reno, Nevada?  
(Please check one.)

- Yes (If YES, proceed to questions 4A, 4B and 4C.)  
 No

4A. Do you feel that this training was helpful? (Please check one.)

- Yes  
 No

4B. Would you recommend that attendance at this training be mandatory during the first six year term of new Juvenile and Domestic Relations Court Judges? (Please check one.)

- Yes (If YES, proceed to question 5.)  
 No (If NO, proceed to question 4C.)

4C. Why would you not recommend making this training mandatory? (Please explain.)

The following space is available for you to address any concerns you have regarding community alternatives for juvenile offenders, dispositional options for the Juvenile Courts, or other Juvenile Justice issues. (Additional pages can be found following the Glossary.)

**PLEASE RETURN THE COMPLETED SURVEY BY JULY 21, 1995 TO:**

Kim Echelberger, Legislative Research Analyst  
Virginia Commission on Youth  
Suite 517B, General Assembly Building  
910 Capitol Street  
Richmond, Virginia 23219-0406

## GLOSSARY

**CHINS** - A Child in Need of Services is defined in §16.1-228 *Code of Virginia* to mean:

“... a child whose behavior, conduct, or condition presents or results in a serious threat to the well-being and physical safety of the child; however, no child who in good faith is under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination shall for that reason alone be considered to be a child in need of services, nor shall any child who habitually remains away from or habitually deserts or abandons his family as a result of what the court or the local child protective services unit determines to be incidents of physical, emotional or sexual abuse in the home be considered a child in need of services for that reason alone.

However, to find that a child falls within these provisions, (i) the conduct complained of must present a clear and substantial danger to the child's life or health or (ii) the child or his family is in need of treatment, rehabilitation or services not presently being received, and (iii) the intervention of the court is essential to provide the treatment, rehabilitation or services needed by the child or his family.”

**CHINSup** - A Child in Need of Supervision is defined in §16.1-228 *Code of Virginia* to mean:

1. A child who, while subject to compulsory school attendance, is habitually and without justification absent from school, and (i) the child has been offered an adequate opportunity to receive the benefit of any and all educational services and programs that are required by law and which meet the child's particular educational needs, and (ii) the school system from which the child is absent or other appropriate agency has made a reasonable effort to effect the child's regular attendance without success; or

2. A child who, without reasonable cause and without the consent of his parent, lawful custodian or placement authority, remains away from or habitually deserts or abandons his family or lawful custodian or escapes or remains away without proper authority from a residential care facility in which he has been placed by the court, and (i) such conduct presents a clear and substantial danger to the child's life or health, (ii) the child or his family is in need of treatment, rehabilitation or services not presently being received, and (iii) the intervention of the court is essential to provide the treatment, rehabilitation or services needed by the child or his family.

**Community Sentencing Boards** - Boards consisting of trained, community adult volunteers which are used as a diversionary alternative for juveniles accused of minor offenses. The board meets with the juvenile and the juvenile's family to jointly fashion a disposition for the case. Dispositions are selected from an agreed upon list of options developed with the advisement of the Juvenile/Family Court Judge(s). Community Sentencing Boards rely heavily on the use of restitution and community service work dispositions.

**Delinquent Act** - (i) an act designated a crime under the law of this Commonwealth, or an ordinance of any city, county, town or service district, or under federal law, (ii) a violation of §18.2-308.7 or (iii) a violation of a court order as provided for in §16.1-292, but shall not include an act other than a violation of §18.2-308.7, which is otherwise lawful, but is designated a crime only if committed by a child. For purposes of §§16.1-241 and 16.1-278.9, the term shall include a refusal to take a blood or breath test in violation of §18.2-268.2 or a similar ordinance of any county, city or town.

**Delinquent Child** - A Delinquent Child is defined in §16.1-228 *Code of Virginia* to mean:

“... a child who has committed a delinquent act or an adult who has committed a delinquent act prior to his eighteenth birthday, except where the jurisdiction of the juvenile court has been terminated under the provisions of §16.1-269.6.”

**Hearing Officer** - An individual designated by the Juvenile/Family Court to function as a diversion alternative and to “preside” over cases and fashion dispositions in specified types of cases. Dispositions are selected from an agreed upon list of options developed with the advisement of the Juvenile/Family Court Judge(s).

**Runaway Juvenile** - An individual under the age of eighteen years who absents himself or herself from their home/legal place of residence without the permission of his or her parents or legal guardian.



# VIRGINIA COMMISSION ON YOUTH

## SHERIFFS' AND CHIEFS OF POLICE SURVEY ON JUVENILE JUSTICE ISSUES

The 1995 Session of the Virginia General Assembly enacted House Joint Resolution 604 requesting the Virginia Commission on Youth to conduct a comprehensive study of the Juvenile Justice System in Virginia. As part of this study, the Commission is surveying all Sheriffs and Chiefs of Police to collect opinions and information on issues related to transportation of juvenile offenders, and access to local and state services/programs for juvenile offenders. A list of definitions is enclosed to assist in your responses.

Please return the survey by July 28, 1995. If you have any questions, contact Nancy Ross or Kim Echelberger (804) 371-2481. The General Assembly of Virginia and the Virginia Commission on Youth thank you for your assistance in this important study effort.

### SECTION 1: SERVICES FOR JUVENILE OFFENDERS

1. Does your Department have regular contact with the following types of juvenile cases?

- |                               |                              |  |
|-------------------------------|------------------------------|--|
| Delinquent Juvenile Offenders | <input type="checkbox"/> Yes | <input type="checkbox"/> No (If no, proceed to question 1A.) |
| Truants                       | <input type="checkbox"/> Yes | <input type="checkbox"/> No (If no, proceed to question 1B.) |
| Runaways                      | <input type="checkbox"/> Yes | <input type="checkbox"/> No (If no, proceed to question 1C.) |

1A. If you responded NO, please explain why you do not have regular contact with delinquent juvenile offenders.

1B. If you responded NO, please explain why you do not have regular contact with truant juveniles.

1C. If you responded NO, please explain why you do not have regular contact with runaway juveniles.

2. Is your local jail certified to hold juvenile offenders? *(Please check one.)*

Yes *(If YES, please go to question 2A.)*

No *(If NO, please go to questions 2B.)*

2A. If YES, what do you do with juvenile offenders when a secure place of confinement specifically for juveniles cannot be located within the 6 hour time constraint specified in the Code of Virginia? *(Please explain.)*

2B. If NO, where do you take juvenile offenders for a temporary secure place of confinement while Court Service Unit staff are acquiring placement for the offenders in a secure detention home? Please note if you use a different facility or routine on weekends or holidays. *(Please explain.)*

3. Do you ever experience problems obtaining orders for secure detention placements for delinquent juvenile offenders? *(Please check one.)*

Yes *(If YES, please go to question 3A and 3B.)*

No *(If NO, please go to question 4.)*

3A. If YES, how often does this occur? *(Please check one.)*

Almost Always

Frequently

About Half of the Time

Seldom

Almost Never

3B. What steps do you then take when the order is refused by Court Service Unit staff and/or the magistrate? *(Please explain.)*

4. Are there unique problems associated with the arrest, custody, detention or transportation of very young juveniles (ages 0-10 years)? *(Please check one.)*

Yes *(If YES, please go to question 4A.)*

No *(If NO, please go to question 5.)*

4A. If YES, what is the nature of these problems? *(Please explain.)*



5. Are there unique problems associated with the arrest, custody, detention or transportation of juveniles whose parents are incarcerated? (Please check one.)

Yes (If YES, please go to question 5A.)

No (If NO, please go to question 6.)

5A. If YES, what is the nature of these problems? (Please explain.)

6. Are there unique problems associated with the arrest, custody, detention or transportation of female juveniles? (Please check one.)

Yes (If YES, please go to question 6A.)

No (If NO, please go to question 7.)

6A. If YES, what is the nature of these problems? (Please explain.)

7. Are there unique problems associated with the arrest, custody, detention or transportation of out-of-state inaway juveniles? (Please check one.)

Yes (If YES, please go to question 7A.)

No (If NO, please go to question 8.)

7A. If YES, what is the nature of these problems? (Please explain.)

**Questions 8 and 9 deal with Minor Delinquent Offenders.**

8. Which of the following best represents the place where you take the majority of minor delinquent offenders? (Please check one.)

Court Services Unit

Secure Detention Home

Other Residential Facility (e.g., shelters, group homes)

Home/To a Relative's House

Jail/Lock-up

Other: \_\_\_\_\_ (Explain.)

9. Please prioritize your objectives in intervening with minor delinquent offenders. (Please rank the goals from 1 to 6, with the most important goal = 1 and the least important goal = 6.)

OBJECTIVES	RANK
Maintain the Juvenile's Safety	_____
Protect the Public	_____
Placement in an Appropriate Living Situation	_____
Minimize Immediate Crisis	_____
Facilitate Previously Developed Service Plans	_____
Other: _____ (Explain.)	_____
_____ (Explain.)	_____

**Questions 10 and 11 deal with Non-Delinquent Offenders.**

10. Which of the following best represents the place where you take the majority of non-delinquent offenders (e.g., truants, runaways)? (Please check one.)

- Court Services Unit
- Secure Detention Home
- Other Residential Facility (e.g., shelters, group homes)
- Home/To a Relative's House
- Jail/Lock-up
- Other: \_\_\_\_\_ (Explain.)

11. Please prioritize your objectives in intervening with non-delinquent offenders (e.g., truants, runaways). (Please rank the goals from 1 to 6, with the most important goal = 1 and the least important goal = 6.)

OBJECTIVES	RANK
Maintain the Juvenile's Safety	_____
Protect the Public	_____
Placement in an Appropriate Living Situation	_____
Minimize Immediate Crisis	_____
Facilitate Previously Developed Service Plans	_____
Other: _____ (Explain.)	_____
_____ (Explain.)	_____

**SECTION 2: COURT DISPOSITIONS FOR JUVENILE OFFENDERS**

1. Some states allow for "extended jurisdiction"<sup>1</sup> sentencing of juvenile offenders where a juvenile offender receives: (1) a determinate juvenile court sentence which is imposed for the duration of the Juvenile/Family Court's jurisdiction and (2) an adult court sentence which would be stayed. If the juvenile violates the terms of the Juvenile Court sentence or commits a subsequent offense, the conditions of the stayed adult sentence are then executed. Would you recommend using this form of extended jurisdiction sentencing for certain juvenile offenders in Virginia? (Please check one.)

- Yes (If YES, proceed to questions 1A, 1B and 1C.)
- No (If NO, proceed to question 2.)

<sup>1</sup> For definition of term see Glossary.

1A. What types of offenses would you consider appropriate for eligibility for extended jurisdiction sentencing? *(Please check one.)*

- All Felony Offenses
- Violent Crimes Felony Offenses Only *(Murder, Nonnegligent Manslaughter, Forcible Rape and Robbery)*
- All Misdemeanor and Felony Offenses
- CHINS/CHINSup, Misdemeanor and Felony Offenses
- Other: \_\_\_\_\_ *(Explain.)*

1B. Would you be in favor of open court for cases involving offenses which would be eligible for extended jurisdiction sentencing? *(Please check one.)*

- Yes
- No

1C. Would you be in favor of allowing jury trials in Juvenile and Domestic Relations District Court for cases involving offenses which would be eligible for extended jurisdiction sentencing? *(Please check one.)*

- Yes
- No

2. Some states allow for "youthful offender sentencing" where a juvenile offender could receive a determinate sentence in Juvenile/Family Court which exceeds the traditional age jurisdiction of the court and allows for incarceration of the offender in either (1) a juvenile facility or (2) placement in the Youthful Offender Program at the Department of Corrections. Would you recommend using this form of youthful offender sentencing for certain juvenile offenders in Virginia? *(Please check one.)*

- Yes *(If YES, proceed to questions 2A, 2B and 2C.)*
- No *(If NO, proceed to question 3.)*

2A. What types of offenses would you consider appropriate for eligibility for youthful offender sentencing? *(Please check one.)*

- All Felony Offenses
- Violent Crimes Felony Offenses Only *(Murder, Nonnegligent Manslaughter, Forcible Rape and Robbery)*
- All Misdemeanor and Felony Offenses
- CHINS/CHINSup, Misdemeanor and Felony Offenses
- Other: \_\_\_\_\_ *(Explain.)*

2B. Would you be in favor of open court for cases involving offenses which would be eligible for youthful offender sentencing? *(Please check one.)*

- Yes
- No

2C. Would you be in favor of allowing jury trials in Juvenile and Domestic Relations District Court for cases involving offenses which would be eligible for youthful offender sentencing?  
*(Please check one.)*

- Yes
- No

3. Some states allow for "concurrent jurisdiction"<sup>2</sup> sentencing of juvenile offenders where a juvenile offender receives a determinate Juvenile/Family Court sentence which exceeds the traditional age jurisdiction of the Juvenile Court and allows for incarceration of the offender in a juvenile facility until age 21 years and then transfers the offender to an adult prison for the duration of the sentence. Would you recommend using this form of concurrent jurisdiction sentencing for certain juvenile offenders in Virginia? *(Please check one.)*

- Yes *(If YES, proceed to questions 3A, 3B and 3C.)*  
 No *(If NO, proceed to question 4.)*

3A. What types of offenses would you consider appropriate for eligibility for concurrent jurisdiction sentencing? *(Please check one.)*

- All Felony Offenses  
 Violent Crimes Felony Offenses Only *(Murder, Nonnegligent Manslaughter, Forcible Rape and Robbery)*  
 All Misdemeanor and Felony Offenses  
 CHINS/CHINSup, Misdemeanor and Felony Offenses  
 Other: \_\_\_\_\_ *(Explain.)*

3B. Would you be in favor of open court for cases involving offenses which would be eligible for concurrent jurisdiction sentencing? *(Please check one.)*

- Yes       No

3C. Would you be in favor of allowing jury trials in Juvenile and Domestic Relations District Court for cases involving offenses which would be eligible for concurrent jurisdiction sentencing? *(Please check one.)*

- Yes  
 No

4. Of the three Juvenile/Family Court jurisdictional options mentioned in questions 1-3, which approach would you prefer to enact in Virginia? *(Please check one.)*

- Question 1 - Extended Jurisdiction with mandatory transfer to adult system *(If selected, go to question 4A.)*  
 Question 2 - Youthful Offender Sentencing *(If selected, go to question 4A.)*  
 Question 3 - Concurrent Jurisdiction *(If selected, go to question 4A.)*  
 None of the Above *(If selected, go to question 4B.)*

4A. Why would you prefer this approach? *(Please explain.)*

4B. Why do you prefer not to enact any of the above options? *(Please explain.)*

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<sup>2</sup> For definition of term see Glossary.

5 Should all juveniles who are adjudicated delinquent for a felony offense in Juvenile and Domestic Relations District Court receive a determinate sentence of confinement? *(Please check one.)*

Yes *(If YES, proceed to question 5A.)*

No *(If NO, proceed to question 5B.)*

5A. If YES, why should all delinquent juveniles receive a determinate sentence? *(Please explain.)*

5B. If NO, why should all delinquent juveniles not receive a determinate sentence? *(Please explain.)*

6. Is there a need for a juvenile prison for violent offenders? *(Please check one.)*

Yes *(If YES, proceed to question 6A.)*

No *(If NO, proceed to question 6B.)*

6A. If YES, which of the following agencies should be responsible for the administration and staffing of such a prison? *(Please check one.)*

Department of Corrections *(If selected go to question 6B.)*

Department of Youth and Family Services *(If selected go to question 6C.)*

6B. Why should the Department of Corrections administer and staff such a prison? *(Please explain.)*

6C. Why should the Department of Youth and Family Services administer and staff such a prison? *(Please explain.)*

7. Is there a need for a specialized juvenile institution for offenders who are both mentally ill and a danger to the community? *(Please check one.)*

Yes *(If YES, proceed to questions 7A.)*

No *(If NO, proceed to question 8.)*

7A. Why is such a facility needed? *(Please explain.)*

8. Should the age for transfer of juveniles to Circuit Court be changed from the current standard of 14 years of age? *(Please check one.)*

Yes *(If YES, proceed to questions 8A and 8B.)*

No *(If NO, proceed to SECTION 3.)*

8A. If YES, what age would you recommend for transfer? *(Please check one.)*

13 Years

12 Years

No age limit

Other \_\_\_\_\_ *(Explain)*

8B. Why do you think the age should be changed? *(Please explain.)*

### SECTION 3: ADDITIONAL ISSUES

1. Do you feel that your Academy's entry-level officer training adequately prepares them to deal with juvenile offenders, as opposed to adult offenders? *(Please check one.)*

Yes *(If YES, proceed to question 2.)*

No *(If NO, proceed to question 1A.)*

1A. If NO, what would you add or delete from the initial curriculum to better prepare your officers?  
*(Please explain.)*

2. Do you feel that the in-service training your officers receive concerning juvenile offenders is adequate?  
*(Please check one.)*

Yes

No *(If NO, proceed to question 2A.)*

2A. If NO, what would you add or delete from the curriculum? *(Please explain.)*

The following space is available for you to address any concerns you have regarding community alternatives for juvenile offenders, dispositional options for the Juvenile Courts or other Juvenile Justice issues. *(Please attach additional sheets if necessary.)*

**PLEASE RETURN THE COMPLETED SURVEY BY JULY 28, 1995 TO:**

Kim Echelberger, Legislative Research Analyst  
Virginia Commission on Youth  
Suite 517B, General Assembly Building  
910 Capitol Street  
Richmond, Virginia 23219

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## GLOSSARY

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"... a child whose behavior, conduct, or condition presents or results in a serious threat to the well-being and physical safety of the child; however, no child who in good faith is under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination shall for that reason alone be considered to be a child in need of services, nor shall any child who habitually remains away from or habitually deserts or abandons his family as a result of what the court or the local child protective services unit determines to be incidents of physical, emotional or sexual abuse in the home be considered a child in need of services for that reason alone.

However, to find that a child falls within these provisions, (i) the conduct complained of must present a clear and substantial danger to the child's life or health or (ii) the child or his family is in need of treatment, rehabilitation or services not presently being received, and (iii) the intervention of the court is essential to provide the treatment, rehabilitation or services needed by the child or his family."

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1. A child who, while subject to compulsory school attendance, is habitually and without justification absent from school, and (i) the child has been offered an adequate opportunity to receive the benefit of any and all educational services and programs that are required to be provided by law and which meet the child's particular educational needs, and (ii) the school system from which the child is absent or other appropriate agency has made a reasonable effort to effect the child's regular attendance without success; or

2. A child who, without reasonable cause and without the consent of his parent, lawful custodian or placement authority, remains away from or habitually deserts or abandons his family or lawful custodian or escapes or remains away without proper authority from a residential care facility in which he has been placed by the court, and (i) such conduct presents a clear and substantial danger to the child's life or health, (ii) the child or his family is in need of treatment, rehabilitation or services not presently being received, and (iii) the intervention of the court is essential to provide the treatment, rehabilitation or services needed by the child or his family.

**Community Sentencing Boards** - Boards consisting of trained, community adult volunteers which are used as a diversionary alternative for juveniles accused of minor offenses. The board meets with the juvenile and the juvenile's family to jointly fashion a disposition for the case. Dispositions are selected from an agreed upon list of options developed with the advisement of the Juvenile/Family Court Judge(s). Community Sentencing Boards rely heavily on the use of restitution and community service work dispositions.

**Delinquent Act** - means (i) an act designated a crime under the law of this Commonwealth, or an ordinance of any city, county, town or service district, or under federal law, (ii) a violation of §18.2-308.7 or (iii) a violation of a court order as provided for in §16.1-292, but shall not include an act other than a violation of §18.2-308.7, which is otherwise lawful, but is designated a crime only if committed by a child. For purposes of §§16.1-241 and 16.1-278.9, the term shall include a refusal to take a blood or breath test in violation of §18.2-268.2 or a similar ordinance of any county, city or town.

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"... a child who has committed a delinquent act or an adult who has committed a delinquent act prior to his eighteenth birthday, except where the jurisdiction of the juvenile court has been terminated under the provisions of §16.1-269.6."

**Hearing Officer** - An individual designated by the Juvenile/Family Court to function as a diversion alternative and to "preside" over cases and fashion dispositions in specified types of cases. Dispositions are selected from an agreed upon list of options developed with the advisement of the Juvenile/Family Court Judge(s).

**Runaway Juvenile** - An individual under the age of eighteen years who absents himself or herself from their home/legal place of residence without the permission of his or her parents or legal guardian.





# VIRGINIA COMMISSION ON YOUTH

## FAMILY ASSESSMENT AND PLANNING TEAM SURVEY ON JUVENILE JUSTICE ISSUES

The 1995 Session of the Virginia General Assembly enacted House Joint Resolution 604 requesting the Virginia Commission on Youth to conduct a comprehensive study of the Juvenile Justice System in Virginia. As part of this study, the Commission is surveying the Family Assessment and Planning Teams (FAPTs) in 12 sample Juvenile and Domestic Relations Court Districts to collect opinions and information on issues related to FAPT team referrals, Juvenile Court dispositional options, delinquent and status offenders and state/local juvenile justice services and programs. Please *consult* with the members of your Family Assessment and Planning Team so that the responses reflect the consensus opinions of the Team. Several sections of the Virginia Juvenile Code and a list of definitions are enclosed to assist you in your responses.

Please return the survey by August 4, 1995. If you have any questions, contact Nancy Ross or Kim Echelberger (804) 371-2481. The General Assembly of Virginia and the Virginia Commission on Youth thank you for your assistance in this important study effort.

### SECTION 1: CASE STAFFING FOR DELINQUENT YOUTH

1. Are juveniles on delinquent petitions referred to your Family Assessment and Planning Team for services? (Please check one.)

- Yes (If YES, proceed to questions 2-4.)
- No (If NO, proceed to questions 1A and 1B and SECTION 2.)

1A. Why does your Family Assessment and Planning Team not receive referrals for juveniles on delinquent petitions? (Please explain.)

1B. If your Family Assessment and Planning Team does not regularly serve juveniles referred on delinquent petitions, what other agencies/entities are serving these juveniles? (Please explain.)

Go to SECTION 2 if you responded NO to receiving delinquent referrals and you have answered questions 1A and 1B.

2. How often are juveniles on a delinquent petition referred to the Family Assessment and Planning Team for services pre-dispositionally? (Please check one.)

- Almost Always
- Frequently
- About Half of the Time
- Seldom
- Almost Never

➤ Proceed to Next Page

3. How often are juveniles on a delinquent petition referred to the local Family Assessment and Planning Team for services post-dispositionally? (Please check one.)

- Almost Always
- Frequently
- About Half of the Time
- Seldom
- Almost Never

4. How often are juveniles found guilty on a delinquent petition provided services through the Comprehensive Services ACT state pool of funds? (Please check one.)

- Almost Always
- Frequently
- About Half of the Time
- Seldom
- Almost Never

## SECTION 2: CASE STAFFING FOR CHINS

1. Are juveniles on CHINS<sup>1</sup> petitions referred to your Family Assessment and Planning Team for services? (Please check one.)

- Yes (If YES, proceed to questions 2-4.)
- No (If NO, proceed to questions 1A and 1B and SECTION 3.)

1A. Why does your Family Assessment and Planning Team not receive referrals for juveniles on CHINS petitions? (Please explain.)

1B. If your Family Assessment and Planning Team does not regularly serve juveniles referred on CHINS petitions, what other agencies/entities are serving these juveniles? (Please explain.)

Go to SECTION 3 if you responded NO to receiving CHINS referrals and you have answered questions 1A and 1B.

2. How often are juveniles on CHINS petitions referred to the Family Assessment and Planning Team for services pre-dispositionally? (Please check one.)

- Almost Always
- Frequently
- About Half of the Time
- Seldom
- Almost Never

<sup>1</sup> For definition of term see Glossary.

3. How often are juveniles on a CHINS petition referred to the Family Assessment and Planning Team for services post-dispositionally? (Please check one.)

- Almost Always
- Frequently
- About Half of the Time
- Seldom
- Almost Never

4. How often are juveniles found guilty on CHINS petitions provided services through the Comprehensive Services Act state pool of funds? (Please check one.)

- Almost Always
- Frequently
- About Half of the Time
- Seldom
- Almost Never

### SECTION 3: CASE STAFFING FOR CHINSUP

1. Are juveniles on CHINSup<sup>2</sup> petitions referred to your Family Assessment and Planning Team for services? (Please check one.)

- Yes (If YES, proceed to questions 2-4.)
- No (If NO, proceed to questions 1A and 1B and SECTION 4.)

1A. Why does your Family Assessment and Planning Team not receive referrals for juveniles on CHINSup petitions? (Please explain.)

1B. If your Family Assessment and Planning Team does not regularly serve juveniles referred on CHINSup petitions, what other agencies/entities are serving these juveniles? (Please explain.)

Go to SECTION 4 if you responded NO to receiving CHINSup referrals and you have answered questions 1A and 1B.

<sup>2</sup> For definition of term see Glossary.

2. How often are juveniles on CHINSup petitions referred to the Family Assessment and Planning Team for services pre-dispositionally? (Please check one.)

- Almost Always
- Frequently
- About Half of the Time
- Seldom
- Almost Never

3. How often are juveniles on CHINSup petitions referred to the Family Assessment and Planning Team for services post-dispositionally? (Please check one.)

- Almost Always
- Frequently
- About Half of the Time
- Seldom
- Almost Never

4. How often are juveniles found guilty on CHINSup petitions provided services through the Comprehensive Services Act state pool of funds? (Please check one.)

- Almost Always
- Frequently
- About Half of the Time
- Seldom
- Almost Never

#### SECTION 4: CASE STAFFING FOR TRUANTS

1. Are juveniles on truancy petitions referred to your Family Assessment and Planning Team for services? (Please check one.)

- Yes (If YES, proceed to questions 2-4.)
- No (If NO, proceed to questions 1A and 1B and SECTION 5.)

1A. Why does your Family Assessment and Planning Team not receive referrals for juveniles on truancy petitions? (Please explain.)

1B. If your Family Assessment and Planning Team does not regularly serve juveniles referred on truancy petitions, what other agencies/entities are serving these juveniles? *(Please explain.)*

Go to SECTION 5 if you responded NO to receiving referrals for Truants and you have answered questions 1A and 1B.

2. How often are juveniles on truancy petitions referred to the Family Assessment and Planning Team for services pre-dispositionally? *(Please check one.)*

- Almost Always
- Frequently
- About Half of the Time
- Seldom
- Almost Never

3. How often are juveniles on truancy petitions referred to the Family Assessment and Planning Team for services post-dispositionally? *(Please check one.)*

- Almost Always
- Frequently
- About Half of the Time
- Seldom
- Almost Never

4. How often are juveniles found guilty on truancy petitions provided services through the Comprehensive Services Act state pool of funds? *(Please check one.)*

- Almost Always
- Frequently
- About Half of the Time
- Seldom
- Almost Never

## SECTION 5: CASE STAFFING FOR RUNAWAYS

1. Are juveniles on runaway<sup>3</sup> petitions referred to your Family Assessment and Planning Team for services? *(Please check one.)*

- Yes *(If YES, proceed to questions 2-4.)*
- No *(If NO, proceed to questions 1A and 1B and SECTION 6.)*

<sup>3</sup> For definition of term see Glossary.

1A. Why does your Family Assessment and Planning Team not receive referrals for juveniles on runaway petitions? *(Please explain.)*

1B. If your Family Assessment and Planning Team does not regularly serve juveniles referred on runaway petitions, what other agencies/entities are serving these juveniles? *(Please explain.)*

Go to SECTION 6 if you responded NO to receiving referrals for Runaways and you have answered questions 1A and 1B.

2. How often are juveniles on runaway petitions referred to the Family Assessment and Planning Team for services pre-dispositionally? *(Please check one.)*

- Almost Always
- Frequently
- About Half of the Time
- Seldom
- Almost Never

3. How often are juveniles on Runaway petitions referred to the Family Assessment and Planning Team for services post-dispositionally? *(Please check one.)*

- Almost Always
- Frequently
- About Half of the Time
- Seldom
- Almost Never

4. How often are juveniles found guilty on Runaway petitions provided services through the Comprehensive Services Act state pool of funds? *(Please check one.)*

- Almost Always
- Frequently
- About Half of the Time
- Seldom
- Almost Never

## SECTION 6: COMMUNITY SERVICES

The following series of questions deal with the behavior of the following five groups of juveniles: delinquents, CHINS, CHINSup, truants, and runaways. (Please check the appropriate box to each question as it pertains to each group of juveniles.)

Question	Delinquents	CHINS	CHINSup	Truants	Runaways
A) - Does the FAPT routinely recommend services for:	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
B) If you answered YES, please check each of the services the FAPT team routinely refers each group of juveniles to:					
1. Individual Counseling:					
Assessment	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Screening	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. Family Counseling:					
Assessment	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Screening	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. Substance Abuse:					
Assessment	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Screening	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. Educational:					
Assessment	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Screening	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5. Case Management/Advocacy	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. Diagnostic Assessment	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7. Residential Services	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8. Home Based/Family Preservation Services	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
9. Shelter Care Services	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
10. Other Service Referrals					
_____ Explain	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____ Explain	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

2. If you responded NO to recommending services for any of the five groups of juveniles in Question A above, was your Family Assessment and Planning Team limited in developing a case plan for these juveniles due to the services that are available in the community? (Please check one.)

- Yes  
 No

3. Please check the services that are available in your community for each of the following groups of juveniles.  
 (Please check all that apply.)

Services		Delinquents	CHINS	CHINSup	Truants	Runaways
1. Individual Counseling:	Assessment	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Screening	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. Family Counseling:	Assessment	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Screening	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. Substance Abuse:	Assessment	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Screening	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. Educational:	Assessment	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Screening	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5. Case Management/Advocacy		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. Diagnostic Assessment		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7. Residential Services		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8. Home Based Services		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
9. Shelter Care Services		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
10. Other Service Referrals		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____ Explain		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____ Explain		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

4. Please prioritize the needs of juveniles in the groups listed below from the typically most urgent need to the least urgent need. (Rank the needs from 1 to 10 with the most urgent need = 1 and the least urgent need = 11.)

Needs	Delinquents	CHINS	CHINSup	Truants	Runaways
Basic Shelter	_____ Rank	_____ Rank	_____ Rank	_____ Rank	_____ Rank
Physical Health Screenings	_____ Rank	_____ Rank	_____ Rank	_____ Rank	_____ Rank
Mental Health Screenings	_____ Rank	_____ Rank	_____ Rank	_____ Rank	_____ Rank
Substance Abuse Screenings	_____ Rank	_____ Rank	_____ Rank	_____ Rank	_____ Rank
Case Advocacy	_____ Rank	_____ Rank	_____ Rank	_____ Rank	_____ Rank
Financial Assistance	_____ Rank	_____ Rank	_____ Rank	_____ Rank	_____ Rank
Alternative Education Arrangement	_____ Rank	_____ Rank	_____ Rank	_____ Rank	_____ Rank
Alternative Living Arrangement	_____ Rank	_____ Rank	_____ Rank	_____ Rank	_____ Rank
Employment	_____ Rank	_____ Rank	_____ Rank	_____ Rank	_____ Rank
Family Counseling	_____ Rank	_____ Rank	_____ Rank	_____ Rank	_____ Rank
Other _____ Explain	_____ Rank	_____ Rank	_____ Rank	_____ Rank	_____ Rank



**Questions 5 and 6 deal with Delinquent Offenders.**

5. Please prioritize the Family Assessment and Planning Team's goals in intervening with delinquent offenders. (Rank the goals from 1 to 7, with the most important goal = 1 and the least important goal = 7.)

GOALS	RANK
Maintain the Juvenile's Safety	_____
Protection of the Public	_____
Placement in an Appropriate Living Situation	_____
Stabilize and Support the Family	_____
Minimize Immediate Crisis	_____
Facilitate Delivery of Services	_____
Other: _____ Explain	_____

6. Are adequate services available to your Family Assessment and Planning Team to respond to delinquent offenders effectively? (Please check one.)

- Yes (If YES, proceed to question 7.)
- No (If NO, proceed to question 6A.)
- Not Applicable/Do not Serve Delinquent Offenders (If NO, proceed to question 7.)

6A. If NO, what type(s) of services do you feel are necessary for your Team to effectively respond to delinquent offenders? (Please explain.)

**Questions 7 and 8 deal with Status Offenders.**

7. Please prioritize the Family Assessment and Planning Team's goals in intervening with status offenders (i.e. CHINS, CHINSup, truants, runaways). (Rank the goals from 1 to 7, with the most important goal = 1 and the least important goal = 7.)

GOALS	RANK
Maintain the Juvenile's Safety	_____
Protection of the Public	_____
Placement in an Appropriate Living Situation	_____
Stabilize and Support the Family	_____
Minimize Immediate Crisis	_____
Facilitate Delivery of Services	_____
Other: _____ Explain	_____

8. Are adequate services available to your Family Assessment and Planning Team to respond to status offenders effectively? (Please check one.)

- Yes (If YES, proceed to question 9.)
- No (If NO, proceed to question 8A.)
- Not Applicable/Do not Serve Status Offenders (If NO, proceed to question 9.)

8A. If NO, what type(s) of services do you feel are necessary for your Team to effectively respond to status offenders? *(Please explain.)*

9. Some states respond to juveniles who display CHINS/CHINSup behaviors through child welfare or education systems rather than the Juvenile Court. Should juveniles displaying CHINS/CHINSup behaviors continue to be served by the Juvenile Court System in Virginia? *(Please check one.)*

- Yes *(If YES, proceed to Section 7.)*
- No *(If NO, proceed to question 9A.)*

9A. If NO, please check the appropriate service provider(s) based on the needs of the following four types of status offenders: CHINS, CHINSup, truants and runaways. *(Please check all that apply.)*

SERVICE SYSTEM	CHINS	CHINSup	Truants	Runaways
Social Services	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Education	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mental Health	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other				
_____ Explain	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____ Explain	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

10. Is there a need for a specialized juvenile institution for offenders who are both mentally ill and a danger to the community? *(Please check one.)*

- Yes *(If YES, proceed to question 10A.)*
- No *(If NO, proceed to SECTION 7.)*

10A. Why is such a facility needed? *(Please explain.)*

**SECTION 7: ADDITIONAL ISSUES**

1. Does your Community Planning and Management Team have a policy regarding prioritization of funding? (If your CPMT does have a written policy concerning prioritization of funding, please attach a copy.) *(Please check one.)*

- Yes *(If Yes, proceed to question 1A.)*
- No *(If NO, proceed to question 2.)*

1A. Given the federally mandated requirements for special education and foster care children, do you prioritize funding for the remaining cases by category? *(Please check one.)*

Yes *(If Yes, proceed to question 1B.)*

No *(If NO, proceed to question 1C.)*

1B. Rank the following case categories by funding priority. *(Rank the types of cases from 1 to 4, with the first priority = 1 and the lowest priority = 4.)*

CASES	RANK
Delinquent	_____
Status Offenders	_____
Mental Health	_____
Other: _____ <i>Explain</i>	_____

1C. If your CPMT does not prioritize funding by the type of case, what method of prioritization do they apply? *(Please explain.)*

2. What changes would your Family Assessment and Planning Team recommend to improve the Comprehensive Services Act services for delinquent youth (eligible population, funding, services, etc.)? *(Please explain.)*

3. Was this survey filled out in consultation with members of your Family Assessment and Planning Team? *(Please check one.)*

Yes

No

The following space is available for you to address any concerns you have regarding community alternatives for juvenile offenders, dispositional options for the Juvenile Courts, or other Juvenile Justice issues. *(Please attach additional sheets if necessary.)*

**PLEASE RETURN THE COMPLETED SURVEY BY AUGUST 4, 1995 TO:**

Kim Echelberger, Legislative Research Analyst  
Virginia Commission on Youth  
Suite 517B, General Assembly Building  
910 Capitol Street  
Richmond, Virginia 23219

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## GLOSSARY

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**CHINS** - A Child in Need of Services is defined in §16.1-228 *Code of Virginia* to mean:

“... a child whose behavior, conduct, or condition presents or results in a serious threat to the well-being and physical safety of the child; however, no child who in good faith is under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination shall for that reason alone be considered to be a child in need of services, nor shall any child who habitually remains away from or habitually deserts or abandons his family as a result of what the court or the local child protective services unit determines to be incidents of physical, emotional or sexual abuse in the home be considered a child in need of services for that reason alone.

However, to find that a child falls within these provisions, (i) the conduct complained of must present a clear and substantial danger to the child’s life or health or (ii) the child or his family is in need of treatment, rehabilitation or services not presently being received, and (iii) the intervention of the court is essential to provide the treatment, rehabilitation or services needed by the child or his family.”

**CHINSup** - A Child in Need of Supervision is defined in §16.1-228 *Code of Virginia* to mean:

1. A child who, while subject to compulsory school attendance, is habitually and without justification absent from school, and (i) the child has been offered an adequate opportunity to receive the benefit of any and all educational services and programs that are required to be provided by law and which meet the child’s particular educational needs, and (ii) the school system from which the child is absent or other appropriate agency has made a reasonable effort to effect the child’s regular attendance without success; or

2. A child who, without reasonable cause and without the consent of his parent, lawful custodian or placement authority, remains away from or habitually deserts or abandons his family or lawful custodian or escapes or remains away without proper authority from a residential care facility in which he has been placed by the court, and (i) such conduct presents a clear and substantial danger to the child’s life or health, (ii) the child or his family is in need of treatment, rehabilitation or services not presently being received, and (iii) the intervention of the court is essential to provide the treatment, rehabilitation or services needed by the child or his family.

**Community Sentencing Boards** - Boards consisting of trained, community adult volunteers which are used as a diversionary alternative for juveniles accused of minor offenses. The board meets with the juvenile and the juvenile’s family to jointly fashion a disposition for the case. Dispositions are selected from an agreed upon list of options developed with the advisement of the Juvenile/Family Court Judge(s). Community Sentencing Boards rely heavily on the use of restitution and community service work dispositions.

**Delinquent Act** - means (i) an act designated a crime under the law of this Commonwealth, or an ordinance of any city, county, town or service district, or under federal law, (ii) a violation of §18.2-308.7 or (iii) a violation of a court order as provided for in §16.1-292, but shall not include an act other than a violation of §18.2-308.7, which is otherwise lawful, but is designated a crime only if committed by a child. For purposes of §§16.1-241 and 16.1-278.9, the term shall include a refusal to take a blood or breath test in violation of §18.2-268.2 or a similar ordinance of any county, city or town.

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**Hearing Officer** - An individual designated by the Juvenile/Family Court to function as a diversion alternative and to “preside” over cases and fashion dispositions in specified types of cases. Dispositions are selected from an agreed upon list of options developed with the advisement of the Juvenile/Family Court Judge(s).

**Runaway Juvenile** - An individual under the age of eighteen years who absents himself or herself from their home/legal place of residence without the permission of his or her parents or legal guardian.



# VIRGINIA COMMISSION ON YOUTH

## SCHOOL PRINCIPALS SURVEY ON JUVENILE JUSTICE ISSUES

The 1995 Session of the Virginia General Assembly enacted House Joint Resolution 604 requesting the Virginia Commission on Youth to conduct a comprehensive study of the Juvenile Justice System in Virginia. A copy of the study resolution is enclosed for your reference. As part of this study, the Commission is surveying local high school principals to collect opinions and information on the issues of school truancy, juvenile runaways, and juvenile delinquent offenders.

Please return the survey by August 4, 1995. If you have any questions, contact Nancy Ross or Kim Echelberger (804) 371-2481. The General Assembly of Virginia and the Virginia Commission on Youth thank you for your assistance in this important study effort.

### SECTION 1: SCHOOL TRUANCY POLICY AND SERVICES

What type of school do you administer? *(Please check one.)*

- Elementary School    Middle School    High School    Other \_\_\_\_\_  
*(Please explain.)*

1. How does your school define a "truant"? *(If your school has a written policy concerning truancy and mandatory attendance, please attach a copy.)*

1B. What procedures are in place within your school to identify a truant? *(Please explain.)*

2. What are the range of responses/interventions in your school system to assist principals in dealing with truant behavior (e.g., suspensions, expulsions)? *(Please explain.)*

2A. Are the procedures for the sanction of truants the same in each school within the district? *(Please explain.)*

3. Are truants assigned to an alternative school or program(s)? *(Please check one.)*

Yes *(If YES, proceed to question 3A.)*

No *(If NO, proceed to question 4.)*

3A. Please explain the assignment process and the length of time the student is placed in the alternative school or programs for truant behavior.

4. What services does your school system provide to encourage truants/their families to engage in and attend school? *(Please explain.)*

5. What community services does your school use to encourage truants and their families to attend and engage in school? *(Please explain.)*

6. Does your school refer truants to the local Family Assessment and Planning Team (FAPT) of the Comprehensive Services Act for services? *(Please check one.)*

Yes *(If YES, proceed to question 6A.)*

No *(If NO, proceed to question 6B and 6C.)*

6A. If YES, how often are referrals made to the FAPT? *(Please check one.)*

Almost Always

Frequently

About Half of the Time

Seldom

Almost Never

6B. If NO, are there other community interagency teams you refer truants to for services? *(Please check one.)*

Yes *(If YES, proceed to question 6C and 6D.)*

No *(If NO, proceed to question 7.)*

6C. What other interagency team(s) do you refer truants to for services. *(Please explain.)*

6D. What is the membership of this team(s)? *(Please explain.)*

7. Are you satisfied with the level of services being provided by the Comprehensive Services Act (CSA) to truant juveniles referred from the school? *(Please check one.)*

- Yes *(If YES, proceed to question 8.)*  
 No *(If NO, proceed to question 7A and 7B.)*

7A. If NO, why are you dissatisfied with the level of services for truants? *(Please explain.)*

7B. What changes would you recommend to improve the CSA services for truants (eligible population, funding, services, etc.)? *(Please explain.)*

## SECTION 2: COURT PROCEDURES FOR TRUANTS

1. The *Code of Virginia* in §22.1-258 outlines the responsibilities of attendance officers and requires action when a pupil "fails to report to school for five consecutive school days." Does your school count partial days or whole days for the accumulation of the five consecutive days? *(Please check one.)*

- Whole Days  
 Partial Days  
 Other: \_\_\_\_\_ *(Explain.)*

2. At what point does your school file a truancy petition with the court? *(Please check one.)*

- After a certain number of days of unexcused absences  
 After school based services have been delivered and absences continue  
 After referral and delivery of community services have been delivered and absences continue  
 Other: \_\_\_\_\_ *(Explain.)*

3. Who files the truancy petitions with the court on behalf of your school? *(Please check all choices that apply.)*

- |                     |                          |                                |                          |
|---------------------|--------------------------|--------------------------------|--------------------------|
| Principal           | <input type="checkbox"/> | Attendance Officer             | <input type="checkbox"/> |
| Assistant Principal | <input type="checkbox"/> | Guidance Counselor             | <input type="checkbox"/> |
| Teacher             | <input type="checkbox"/> | Visiting Teacher/Social Worker | <input type="checkbox"/> |
| Other:              | <input type="checkbox"/> |                                |                          |

\_\_\_\_\_  
\_\_\_\_\_  
*(Explain.)*  
*(Explain.)*



4. Which of the following entities follows your school's truancy cases through the Juvenile Court? *(Please check all choices that apply.)*

- |                     |                          |                                |                          |
|---------------------|--------------------------|--------------------------------|--------------------------|
| Principal           | <input type="checkbox"/> | Attendance Officer             | <input type="checkbox"/> |
| Assistant Principal | <input type="checkbox"/> | Guidance Counselor             | <input type="checkbox"/> |
| Teacher             | <input type="checkbox"/> | Visiting Teacher/Social Worker | <input type="checkbox"/> |
| Other:              | <input type="checkbox"/> |                                |                          |

\_\_\_\_\_ *(Explain.)*

\_\_\_\_\_ *(Explain.)*

5. How often does the Juvenile and Domestic Relations District Court in your locality file the truancy petitions presented from your school? *(Please check one.)*

- Almost Always
- Frequently
- About Half of the Time
- Seldom
- Almost Never

5A. What is your perception concerning the main reason why the truancy petitions are not accepted by the court? *(Please check one.)*

- Case is not perceived to be "serious enough"
- Court is overwhelmed by current caseload
- Court routinely diverts non-delinquent offenders
- Court feels its involvement in such cases is inappropriate
- Court feels there is a lack of resources to deal effectively with such cases
- Court feels school/community have not exhausted all resources available to them
- Other: \_\_\_\_\_ *(Explain.)*

6. How effective do you feel the Juvenile Court is in dealing with truants? *(Please check one.)*

- Effective
- Somewhat Effective
- Not Effective

6A. How effective do you feel the Court Service Units are in dealing with truants? *(Please check one.)*

- Effective
- Somewhat Effective
- Not Effective

7. Do representatives from your school assist in the development of court sanctions for truants? *(Please check one.)*

- Yes *(If YES, proceed to question 7A.)*
- No *(If NO, proceed to SECTION 3.)*

7A. What role do school personnel play in the development of the court sanctions? *(Please explain.)*

**SECTION 3: ADDITIONAL ISSUES**

1. Based on your experience, please rank the following factors in terms of their impact as causes of increased student truancy. *(Rank the factors from 1 to 9, with the most important factor = 1 and the least important factor = 9.)*

<b>Factors</b>	<b>Rank</b>
Lack of Parental/Custodial Supervision	_____
Lack of Alternate Educational Services <i>(e.g., night classes, Saturday School)</i>	_____
Drug/Alcohol Problems	_____
School/Academic Performance	_____
Transportation Needs	_____
Physical Health Problems	_____
Mental Health Problems	_____
Peer Pressure	_____
Other: _____ <i>(Please explain.)</i>	_____
_____ <i>(Please explain.)</i>	

2. In your opinion, what services and/or procedures have been successful in intervening with truants and their families? *(Please explain.)*

3. What improvements would you recommend to the schools or court system regarding the identification and provision of services for truants? *(Please explain.)*

The following space is available for you to address any concerns you have regarding truants offenders, community alternatives and service needs for truants, or other Juvenile Justice issues. *(Please use the back page and/or attach additional sheets if necessary.)*

**PLEASE RETURN THE COMPLETED SURVEY BY AUGUST 4, 1995 TO:**

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Virginia Commission on Youth  
Suite 517B, General Assembly Building  
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However, to find that a child falls within these provisions, (i) the conduct complained of must present a clear and substantial danger to the child's life or health or (ii) the child or his family is in need of treatment, rehabilitation or services not presently being received, and (iii) the intervention of the court is essential to provide the treatment, rehabilitation or services needed by the child or his family.”

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**House Joint Resolution 604**

**Study of**

**Juvenile Justice System Reform**



**VIRGINIA SURVEY RESULTS**

**Virginia Commission on Youth**

**October 13, 1995**

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## METHODOLOGY

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- **Surveys were administered to 1,856 persons who work with juveniles:**

90	Juvenile and Domestic Relations District Court Judges
140	Circuit Court Judges
121	Commonwealth's Attorneys
124	Sheriffs
180	Chiefs of Police
19	Public Defenders
13	Court Service Unit Directors
884	Elementary, Middle and High School Principals
75	Family Assessment and Planning Teams
<u>210</u>	Court Appointed Counsel
1,856	

- **Response Rate for Total Populations<sup>1</sup>: 70%**

Juvenile and Domestic Relations District Court Judges	70 (78%)
Circuit Court Judges	99 (71%)
Commonwealth's Attorneys	80 (66%)
Sheriffs	96 (77%)
Chiefs of Police	107 (59%)
Public Defenders	<u>19</u> (100%)
	471 (70%)

- **Response Rate for Sample Populations from 12 Districts: 47%**

Family Assessment and Planning Teams	35 (47%)
Elementary, Middle and High School Principals <sup>2</sup>	466 (53%)
Court Service Unit Directors	12 (92%)
Court Appointed Counsel	<u>44</u> (21%)
	557 (47%)

- **Follow-up Attempts:**

- Commonwealth's Attorneys, Sheriff's, Chiefs of Police, and judicial representatives on the HJR 604 Study Task Force;
- President and Executive Director of the Virginia Sheriff's Association;
- Executive Director Virginia Association of Chiefs of Police;
- State Superintendent of Education and Department of Education staff;
- Virginia Public Defender Commission; and
- Commission on Youth staff phone calls, fax reminders and letters to offices of non-respondents.

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<sup>1</sup> One J&DR Judge responded to the survey effort but wrote that she could not answer the questions because they did not reflect her views; one Circuit Court Judge sent a letter addressing juvenile justice issues in lieu of the survey and three Sheriffs responded to the survey saying that they do not have law enforcement duties and do not interact with juvenile offenders. Therefore, the number of J&DR Court surveys which were analyzed was 69; the number of Circuit Court surveys analyzed was 98; and the number of Sheriffs' surveys, 93.

<sup>2</sup> Fourteen principals responded to the survey request but did not complete the survey form because (a) their schools were vocational or gifted schools where students came from other schools, (b) they were elementary principals and had never had problems with truancy or (c) they were principals new to the schools and were not aware of the previous truancy problems. Therefore, the number of school surveys analyzed was 452.

- **Survey Design:**
  - **Judicial representatives of the HJR 604 Study Task Force and President of the Virginia Council of Juvenile and Domestic Relations District Court Judges; and**
  - **Workgroup of state and local juvenile service providers representing the areas of education, the courts, social services, law enforcement, and treatment.**
  
- **The number of responses to the survey questions will vary for the following reasons:**
  - **Not all respondent groups were asked all questions;**
  - **Respondents chose not to answer particular questions;**
  - **Respondents rated factors rather than ranking them; and**
  - **Some Judges sit in more than one court and the responses to question vary by court.**
  
- **Twelve sample Juvenile and Domestic Relations Court Districts were chosen to coincide with the districts chosen by the Joint Legislative Audit and Review Commission (JLARC) for structured interviews. This mix of urban, suburban and rural districts was based on population density in seven statewide regions.**
  
- **Sample court districts included:**

<b>Virginia Beach City (2nd District)</b>	<b>Albemarle County (16th District)</b>
<b>Norfolk City (4th District)</b>	<b>Fairfax County (19th District)</b>
<b>Sussex County (6th District)</b>	<b>Roanoke City (23rd District)</b>
<b>Gloucester County (9th District)</b>	<b>Bedford County (24th District)</b>
<b>Richmond City (13th District)</b>	<b>Shenandoah County (26th District)</b>
<b>Henrico County (14th District)</b>	<b>Scott County (30th District)</b>

## PURPOSE AND INTENT OF THE JUVENILE CODE

- The Code of Virginia in §16.1-227 expresses the intent of the Juvenile and Domestic Relations District Court law and states that this law shall be “interpreted and construed so as to effectuate” the following purposes:

*(1) To divert from or within the Juvenile Justice System, to the extent possible, consistent with the protection of the public safety, those children who can be cared for or treated through alternative programs;*

*(2) To provide judicial procedures through which provisions of this law are executed and enforced and in which the parties are assured a fair hearing and their constitutional and other rights are recognized and enforced;*

*(3) To separate a child from such child's parents, guardian, legal custodian or other person standing in loco parentis only when the child's welfare is endangered or it is in the interest of public safety and then only after consideration of alternatives to out-of-home placement which afford effective protection to the child, his family and the community; and*

*(4) To protect the community against those acts of its citizens which are harmful to others and to reduce the incidence of delinquent behavior.*

- 86% (276 of 322) of the judicial and attorney survey respondents indicated that at none of the four purposes expressing the intent of Juvenile and Domestic Relations District Court law in §16.1-227 should be deleted.
- 25% (20 of 79) of the Commonwealth's Attorney respondents reported that one or more purposes should be deleted.
- The percentage of respondents that indicated each of the four purposes should be deleted from the intent of the Juvenile Code were:

Don't Delete	Delete	Purpose
300 (93%)	22 (7%)	(1) Diversion
314 (98%)	8 (2%)	(2) Judicial Procedures
304 (94%)	18 (6%)	(3) Basis for Removal
313 (97%)	9 (3%)	(4) Community Protection

- 82% (263 of 322) of the respondents indicated that the intent of the Juvenile Code should not be amended to include additional purpose(s).



- **Of those respondents indicating that additional purposes should be included in the intent of the Juvenile Code, the purposes most often suggested for inclusion in the statute were:**
  - **To provide punitive sanctions for juvenile offenders where appropriate;**
  - **To hold children and their parents accountable for their conduct;**
  - **To provide prevention, treatment and rehabilitation to juveniles *and* their families;**
  - **To express the civil jurisdiction of the court in cases of child custody, visitation and support, and protection of children who suffer from abuse/neglect.**
  
- **71% (230 of 322) of the respondents indicated that the four purposes should not be prioritized to rate one purpose over another.**
  
- **The majority of respondents in favor of reordering of the purposes indicated that public safety (Purpose 4) should be stated first.**

## TRANSFER TO CIRCUIT COURT

- 68% (219 of 322) of the respondents indicated that the decision to transfer all juvenile felony cases should not be based solely on the decision of the Commonwealth's Attorney:

Group	Do Not Favor Prosecutor's Decision	Favor Prosecutor's Decision
J&DR Court Judges	56 (81%)	10 (14%)
Circuit Court Judges	65 (66%)	29 (30%)
Commonwealth's Attorneys	35 (44%)	44 (55%)
Public Defenders	17 (89%)	2 (11%)
Court Service Unit Directors	10 (83%)	2 (17%)
Court Appointed Counsel	36 (82%)	3 ( 7%)
<b>STATEWIDE TOTALS<sup>3</sup></b>	<b>219</b>	<b>90</b>

- The reasons mentioned most often for and against the Commonwealth's Attorney exercising sole discretion to transfer felony cases included:

**Do Not Favor**  
**Commonwealth's Attorney Decision**

*Prosecutors can be affected by public opinion, politics and media pressures;*

*Could result in inconsistent prosecution of similar types of cases across jurisdictions; and*

*Prosecutors are not trained in the rehabilitative, treatment or psychological needs of juveniles (as opposed to Juvenile Judges and Court Service workers).*

**Favor**  
**Commonwealth's Attorney Decision**

*Commonwealth's Attorneys are the elected constitutional officer and reflects the views of the people;*

*Prosecutors have the greatest knowledge of the facts of the case and the seriousness of the offense; and*

*Commonwealth's Attorneys are charged with protecting the community and public safety is their foremost concern.*

- 56% (290 of 522) of the respondents did not feel that the minimum age for transfer to Circuit Court should be changed from 14 years of age<sup>4</sup>:

Group	Do Not Favor Lowering Age	Favor Lowering Age
J&DR Court Judges	52 (75%)	17 (25%)
Circuit Court Judges	53 (54%)	44 (45%)
Commonwealth's Attorneys	31 (39%)	49 (61%)
Public Defenders	13 (68%)	6 (32%)
Sheriffs <sup>5</sup>	43 (46%)	48 (52%)
Chiefs of Police	54 (51%)	53 (49%)
Court Service Unit Directors	9 (75%)	3 (25%)
Court Appointed Counsel	35 (80%)	9 (20%)
<b>STATEWIDE TOTALS</b>	<b>290</b>	<b>229</b>

<sup>3</sup> Percentages may not total 100% due to 13 missing values where respondents chose not to answer: J&DR Judges (N=66), Circuit Court Judges (N=94), Commonwealth's Attorney (N=79), and Court Appointed Counsel (N=39).

<sup>4</sup> Percentages may not total 100% due to three missing values: Circuit Court Judges (N=97) and Sheriffs (N=91).

<sup>5</sup> Percentages total 99% and N=93 due to one missing value where a Sheriff chose not to answer this question.

- **The majority of those respondents indicating that the age of transfer should be lowered felt that there should be no age restriction:**

<b>13 Years</b>	<b>25 (11%)</b>
<b>12 Years</b>	<b>51 (22%)</b>
<b>No Age Limit</b>	<b>129 (56%)</b>
<b>Other</b>	<b>24 (11%)</b>

- **The reasons given most often for lowering the age of transfer included:**
  - **Many violent crimes are being committed by younger, more sophisticated offenders;**
  - **Age should be a factor for transfer not a barrier; and**
  - **Punishment should reflect the crime, not the age of the offender.**

## JUVENILE COURT DISPOSITIONAL OPTIONS

- Proposed Juvenile Court dispositional options were defined in the survey to include:

### Extended Jurisdiction Sentencing

*A Juvenile Court disposition where an offender could receive (1) a determinate Juvenile Court sentence which is imposed for the duration of the Juvenile Court's jurisdiction and (2) an adult sentence which is stayed. If the juvenile violates the terms of the Juvenile Court sentence or commits a subsequent offense, the conditions of the stayed adult sentence are then executed.*

### Youthful Offender Sentencing

*A Juvenile Court disposition where a juvenile offender could receive a determinate sentence in Juvenile Court which exceeds the traditional age jurisdiction of the court and allows for incarceration of the offender in either (1) a juvenile facility or (2) placement in the youthful offender program of the Department of Corrections.*

### Concurrent Jurisdiction Sentencing

*A Juvenile Court disposition where a juvenile offender could (1) receive a determinate Juvenile Court sentence which exceeds the traditional age jurisdiction of the Juvenile Court and allows for incarceration of the offender in a juvenile facility until age 21 years and then (2) mandatorily transfers the offender to an adult prison for the duration of the sentence.*

- 94% (491 of 522) of the respondents recommended using at least one of the three alternative Juvenile Court dispositional options in Virginia.
- The extended jurisdiction option was favored by the largest percentage of the respondents. The number and percent of each respondent group favoring the three options were:

Group	Extended Jurisdiction	Youthful Offender	Concurrent Jurisdiction
J&DR Court Judges	48 (70%)	57 (83%)	40 (58%)
Circuit Court Judges	76 (78%)	67 (68%)	46 (47%)
Commonwealth's Attorneys	70 (88%)	57 (71%)	65 (81%)
Public Defenders	8 (42%)	9 (47%)	6 (32%)
Sheriffs <sup>b</sup>	81 (87%)	80 (86%)	80 (86%)
Chiefs of Police	97 (91%)	95 (89%)	98 (92%)
Court Service Unit Directors	9 (75%)	10 (83%)	9 (75%)
Court Appointed Counsel	27 (61%)	34 (77%)	19 (43%)
<b>STATEWIDE TOTALS</b>	<b>416 of 522 (80%)</b>	<b>409 of 522 (78%)</b>	<b>363 of 522 (70%)</b>

<sup>b</sup> Percentages total 99% and N=93 due to one missing value where a Sheriff chose not to answer this question.

- The largest percentage of respondents favoring each alternative options were in favor of allowing such sentencing for all felony offenses:

Recommended Offenses for each Option	Extended Jurisdiction	Youthful Offender	Concurrent Jurisdiction
Any Felony Offense	193 (46%)	192 (47%)	161 (44%)
Violent Crime Felony Offenses Only ( <i>Murder, Non-negligent Manslaughter, Forcible Rape and Robbery</i> )	86 (21%)	77 (19%)	126 (35%)
All misdemeanor and Felony Offenses	86 (21%)	88 (22%)	48 (13%)
Other (a) <i>Felonies/repeat misdemeanors, (b) Felonies/ 1st Class misdemeanors, and (c) CHINS/CHINSup/ misdemeanors and felonies</i>	51 (12%)	52 (13%)	28 ( 8%)
<b>TOTALS FOR EACH OPTION</b>	<b>N = 416 (100%)</b>	<b>N = 409 (100%)</b>	<b>N = 363 (100%)</b>

- A majority of the respondents favoring each alternative dispositional option were in favor of open Juvenile Court proceedings for such cases:

Extended Jurisdiction	83% (345 of 416)
Youthful Offender	77% (313 of 409)
Concurrent Jurisdiction	86% (313 of 363)

- 75% (241 of 322) of the respondents did not indicate that there was a need for codified, graduated sanctions in Juvenile and Domestic Relations District Court law.

## SERIOUS OFFENDER STATUTE

- 75% (241 of 322) of the respondents favored amending §16.1-285.1, the Serious Offender Statute, to include additional offenses in the statutory scheme.
- The majority (141 of 241) of the respondents who favored including additional offenses under the statute indicated that it would be appropriate to allow sentencing all felony offenses.
- Those not favoring the inclusion of additional offenses to the statute gave the following reasons most often:
  - the current statute is adequate and covers the serious offenses;
  - more serious or repetitive offenses can be transferred to Circuit Court; and
  - need additional time to see if the new statute is effective.
- 61% (196 of 322) of the respondents favored amending §16.1-285.1 the Serious Offender Statute to include a mandatory minimum period of aftercare/parole supervision:

Group	Favor Aftercare	Do Not Favor Aftercare
J&DR Court Judges	44 (64%)	25 (36%)
Circuit Court Judges	53 (54%)	43 (44%)
Commonwealth's Attorneys	55 (69%)	25 (31%)
Public Defenders	9 (47%)	10 (53%)
Court Service Unit Directors	6 (50%)	5 (42%)
Court Appointed Counsel	29 (66%)	14 (32%)
<b>STATEWIDE TOTALS<sup>7</sup></b>	<b>196</b>	<b>122</b>

- The recommended lengths of aftercare/parole supervision were:
 

Three Months	14 ( 7%)
Six Months	51 (26%)
One Year	95 (49%)
Period of Time specified by the Sentencing Judge	36 (18%)

<sup>7</sup> Percentages may not total 100% due to missing values where respondents chose not to answer: Circuit Court Judges (N=96), Court Service Unit Directors (N=11) and Court Appointed Counsel (N=43).

## COMMITMENT AND RELEASE FROM STATE CARE

- 68% (355 of 522) of the respondents did not feel that juveniles found guilty of a felony offense in Juvenile and Domestic Relations District Court should receive mandatory determinate sentences of confinement:<sup>8</sup>

Group	Favor Determinate Sentence	Do Not Favor Determinate Sentence
Judiciary and Court Staff	8 ( 4%)	164 (92%)
Commonwealth's Attorneys	19 (24%)	61 (76%)
Defense Attorneys	3 ( 5%)	60 (95%)
Law Enforcement	121 (61%)	70 (35%)
TOTALS	151	355

- 79% (255 of 322) of the respondents thought that Juvenile and Domestic Relations District Court Judges should have the option of imposing a determinate sentence for all juveniles adjudicated delinquent for a felony offense.
- 67% (217 of 322) of the respondents did not favor sentencing guidelines for determinate commitments to Juvenile Correctional Centers.
- The reasons mentioned most often for and against the use of sentencing guidelines included:

**Do Not Favor**  
**Sentencing Guidelines**

*Each case is unique and set dispositions may not result in the proper treatment and rehabilitative option for a juvenile; and  
Removes judicial discretion and flexibility.*

**Favor**  
**Sentencing Guidelines**

*Provides guidance and statewide consistency; and  
Remove subjective factors from having an impact on sentencing decisions.*

- 62% (199 of 322) of the respondents indicated that there should not be minimum length of stay guidelines for indeterminate commitments to Juvenile Correctional Centers.<sup>9</sup>

<sup>8</sup> Some group percentages may not total 100% due to 16 missing values where respondents chose not to answer: J&DR Judges (N=66), Circuit Court Judges (N=94) and Law Enforcement (N=191).

- 50% (160 of 322) of the respondents indicated that juveniles who have been indeterminately committed to the Department of Youth and Family Services (DYFS) and have met the mandatory 18 month minimum length of stay for certain offenses, but are continuing to be held, should be allowed to petition the Juvenile Court for release.

- The reasons mentioned most often for and against DYFS developing and administering minimum length of stay guidelines included:

**Do Not Favor DYFS Minimum Guidelines**

*The decision should be a judicial or legislative one, rather than administrative;  
Length of stay for indeterminate commitments should be based primarily on treatment and rehabilitative concerns; and  
There is the potential for conflict between overcrowding and the need for release.*

**Favor DYFS Minimum Guidelines**

*Prevent premature releases due to overcrowding and other systemic pressures.  
The DYFS has the best feel for resource allocation, needs and services; and  
The DYFS can best judge from experience the normal time required for a child's response to commitment services;*

- Respondents gave the following suggestions for other entities to develop minimum length of stay guidelines for indeterminate commitments:

- *A commission with across-the-board representation by all involved in the Juvenile Justice System;*
- *The legislature, or*
- *The Supreme Court of Virginia through a judicial committee or the Committee on District Courts.*

- 55% (176 of 322) of the respondents indicated that the Director of the DYFS, as opposed to Juvenile and Domestic Relations District Court Judges, should be vested with the statutory authority to release all juveniles committed for indeterminate commitments.<sup>10</sup>

- 58% (187 of 322) of the respondents indicated that the Juvenile and Domestic Relations District Court Judges should be vested with statutory authority to approve or disapprove recommended release of all indeterminate commitments from Juvenile Correctional Centers.

<sup>9</sup> This question had 11 missing values where respondents chose not to answer.

<sup>10</sup> This question had 16 missing values where respondents chose not to answer.



- **77% (401 of 522) of the respondents reported that there was a need for a juvenile prison for violent offenders. The majority of these respondents were in favor the Department of Corrections administering and staffing such a facility.**
- **63% (140 of 224) of the respondents who work in the Juvenile Court indicated that there was a need for a specialized juvenile institution for offenders who are both mentally ill and a danger to the community.**

## ALTERNATIVE SENTENCING APPROACHES

- 41% (94 of 224) of the respondents who work in the Juvenile Court favored utilizing professional “hearing officers” to process certain types of cases in Juvenile Court.

Group	Favor Hearing Officers	Do Not Favor Hearing Officers
J&DR Court Judges	28 (41%)	41 (59%)
Commonwealth's Attorneys	23 (29%)	57 (71%)
Court Service Unit Directors	5 (42%)	7 (58%)
Public Defenders	7 (37%)	12 (63%)
Court Appointed Counsel	31 (70%)	13 (30%)
<b>STATEWIDE TOTALS</b>	<b>94</b>	<b>130</b>

- Two-thirds of those respondents favoring the utilization of hearing officers indicated that it would be appropriate for them to process traffic infractions and CHINS (Children in Need of Services) cases.
- Suggested qualifications for hearing officers included:
  - law degree with training in provision of services to juveniles and their families;
  - experience and training as a probation officer; and/or
  - college degree with training/experience in provision of services for youth and their families.
- 24% (54 of 223) respondents favored utilizing community sentencing boards to process certain types of cases in Juvenile Court.

Group	Favor Sentencing Boards	Do Not Favor Sentencing Boards
J&DR Court Judges <sup>11</sup>	16 (23%)	52 (75%)
Commonwealth's Attorneys	11 (14%)	69 (86%)
Court Service Unit Directors	5 (42%)	7 (58%)
Public Defenders	5 (26%)	14 (74%)
Court Appointed Counsel	17 (39%)	27 (61%)
<b>STATEWIDE TOTALS</b>	<b>54</b>	<b>169</b>

- A majority of the 54 respondents favoring the utilization of community sentencing boards indicated that it would be appropriate for them to process traffic infractions, CHINS cases and first time property offenses.

<sup>11</sup> Percentages total 98% due to a missing value where a respondent chose not to answer question.

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## SCHOOL TRUANCY

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The *Code of Virginia* does not provide a definition of truancy.

- §22.1-78 sets forth the responsibilities of local school boards for the “proper discipline of students, including their conduct going to and returning from school”;
  - §22.1-254 outlines parental and student responsibility for compulsory school attendance for all days and hours in which schools are in session; and
  - §22.1-258 outlines the responsibilities of school attendance officers and requires action when a pupil “fails to report to school for five consecutive days” and there is no indication that the pupil’s parent or guardian is aware of such absence.
- 
- School principals were asked to provide their local definition of truancy. The following represent a sample of the most often reported responses:
    - *Students who are excessively absent or tardy with unexcused absences;*
    - *Students who miss a specified number of total unexcused days each semester (1-15 days);*
    - *Students who miss a specified number of total unexcused days during the school year (10-20 days); and*
    - *Students who have a specified number of consecutive unexcused days.*
- 
- 77% (350 of 452) of the principals reported that their schools counted *whole*, as opposed to partial, days for the accumulation of standard in §22.1-258.
- 
- Principals reported using the following types of procedures to identify truant behavior in their schools:
    - *Daily and weekly monitoring of absences by teachers and school personnel;*
    - *Letters/phone calls to parents after a specified number of an unexcused absences;*
    - *School committees which meet periodically to monitor “at risk” students;*
    - *Parent/teacher/administrative conferences; and*
    - *Home visits from school visiting teachers/social workers/attendance officers.*

- Most principals reported using a variety of progressive interventions to stop truant behavior. The following responses are a sample of the steps most often mentioned:

- *Parent/school conferences;*
- *Home visits;*
- *Referral to truancy review or other multi-disciplinary teams;*
- *Referral to Saturday Schools or other school programs;*
- *Referral to attendance officers, visiting teachers or home school coordinators;*
- *In school, after school, and out of school suspensions;*
- *Denial of passing grades; and*
- *Court or probation officer referrals.*

- 53% (238 of 452) of the school principals reported that truants were referred from their schools to the local Family Assessment and Planning Teams (FAPTs) of the Comprehensive Services Act for services.

- 67% (301 of 452) of the school principals said that their schools filed truancy petitions with the court after either school or community-based services had been delivered and absences continued.

- Principals reported that the following person(s) could file truancy petitions with the courts on behalf of their schools:

- |                                  |                  |
|----------------------------------|------------------|
| - Visiting teacher/social worker | 50% (225 of 452) |
| - Attendance officer             | 25% (111 of 452) |
| - Principal                      | 25% (112 of 452) |
| - Guidance counselor             | 8% (35 of 452)   |

- 41% (185 of 452) of the principals reported that the Juvenile Court was “somewhat effective” in dealing with truants:

- |                      |                        |
|----------------------|------------------------|
| - Effective          | 95 (21%)               |
| - Somewhat Effective | 185 (41%)              |
| - Not Effective      | 93 (21%)               |
| - Don't know/Missing | 79 (17%) <sup>12</sup> |

<sup>12</sup> Percentage does not total 100% due to rounding; the majority of principals who answered “don't know/missing” reported that they had never had a truancy case in Juvenile Court or someone in the Superintendent's Office followed such cases and thus they were not in a position to judge the court's effectiveness.

- **78% (354 of 452) of the principals indicated that “lack of parental/custodial supervision” was the most important factor impacting student truancy.**
  
- **61% (110 of 180) of the court and attorney respondents who reported regularly working with truants indicated that the current sanctions available to the Juvenile Court to level against the parents of truants were sufficient.** <sup>13</sup>
  
- **Principals reported the following sample of services/procedures as having been successful in intervening with truants and their families:**
  - **School initiated conferences/home visits;**
  - **Provision of wrap-around services to the truant and their family;**
  - **Juvenile Court involvement, e.g., *parental fines, restriction of driver’s license, behaviorial contracts;* and**
  - **Alternative education programs, e.g., *“Packet Learning Program,” “Families Learning Together,” Saturday Schools, GED.***
  
- **The following improvements were recommended most often by principals to improve the identification and provision of services for truants:**
  - **Stronger laws focusing on parental responsibility;**
  - **More truant officers, social service and Court Service Unit workers;**
  - **Alternative schooling options;**
  - **Counseling and services for dysfunctional families;**
  - **After school and work programs tied to the education program.**

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<sup>13</sup> Question applied only to those Juvenile Court Judges, Commonwealth’s Attorneys, Court Appointed Counsel and Public Defenders who said that they had contact with truants as a part of their “regular” caseload.

## COMPREHENSIVE SERVICES ACT

- 46% (37 of 81) of the Juvenile Court Judges and Court Service Unit Directors reported that they “seldom” referred juveniles on delinquent petitions to local Comprehensive Services Act (CSA) Family Assessment and Planning Teams (FAPTs) for pre- and post-dispositional services.<sup>14</sup>

Frequency of Referrals	Pre-disposition	Post-disposition
Almost Always	5 ( 6%)	4 ( 5%)
Frequently	17 (21%)	12 (15%)
About Half of the Time	5 ( 6%)	8 (10%)
Seldom	37 (46%)	37 (46%)
Almost Never	16 (20%)	19 (23%)

- 50% (40 of 81) of the Judges and Court Service Unit Directors reported that juveniles found guilty on delinquent petitions were “seldom” provided services through the CSA state pool of funds.
- 56% (45 of 81) of the Judges and Court Service Unit Directors were not satisfied with the level of services being provided by the CSA to the Juvenile Court for juveniles on delinquency petitions.
- 83% (29 of 35) of the FAPT teams reported that juveniles on delinquent petitions were referred to them for services. However, a majority of the teams said that both pre- and post-dispositional referrals for services in these cases were either “seldom” or “almost never” made and that the state pool of funds “seldom” provided the services.
- 82% of the Judges and Court Service Unit Directors who were not being satisfied with the CSA services reported that their dissatisfaction was based on inadequate funding for “non-mandated” cases. Other reasons for dissatisfaction included:
  - Local prioritization of cases;*
  - Lack of local flexibility;*
  - Lack of an adequate range of services and programs; and*
  - Services are not received immediately when needed.*

<sup>14</sup> Percentages do not total 100% due to rounding and one missing judicial value.

- The following represent a sample of the changes suggested to improve CSA services for delinquent youth:
  - *Increase funding for service to delinquent youth;*
  - *Mandate that a percentage of local funds be set aside for services to delinquent youth;*
  - *Abolish the term "mandated" cases; and*
  - *Allow funding streams for delinquent youth to return to pre-CSA status.*
- Juvenile Court Judges and Court Service Unit Directors also reported making pre-dispositional referrals more often for juveniles on CHINS and CHINSup petitions than for those on delinquent petitions.<sup>15</sup>

Frequency of Referrals	Pre-dispositional Services for CHINS	Pre-dispositional Services for CHINSup
Almost Always	20 (25%)	28 (35%)
Frequently	18 (22%)	13 (16%)
About Half of the Time	7 ( 9%)	5 ( 6%)
Seldom	20 (25%)	18 (22%)
Almost Never	12 (15%)	12 (15%)

- A majority of the Judges and Court Service Unit Directors also reported:
  - *Juveniles on CHINS or CHINSup petitions were "seldom" or "almost never" provided services through the CSA state pool of dollars; and*
  - *They were also not satisfied with the level of services provided by the CSA to the Juvenile Court for juveniles on CHINS and CHINSup petitions.*

<sup>15</sup> Percentages do not total 100% due to four missing values on the CHINS question and five missing values on the CHINSup question.

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## **SUMMARY OF FINDINGS**

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- **86% of the court and attorney survey respondents indicated that none of the four purposes expressing the intent of Juvenile and Domestic Relations District Court law in §16.1-227 should be deleted.**
- **94% of the respondents recommended using at least one of the three alternative Juvenile Court dispositional options for felony offenses.**
- **68% of the respondents indicated that the decision to transfer juvenile felony cases should not be made at the discretion of the Commonwealth's Attorney.**
- **79% thought that Juvenile and Domestic Relations District Court Judges should have the option of imposing a determinate sentence for any felony offense.**
- **75% did not feel there was a need for codified, graduated sanctions in Juvenile Court law.**
- **77% responded that there was a need for a juvenile prison for violent offenders; the majority indicated that the prison should be administered and staffed by the Department of Corrections.**
- **78% of the principals cited "lack of parental/custodial supervision" as the most important factor impacting student truancy.**
- **56% of the Juvenile Court Judges and Court Service Unit Directors were not satisfied with the level of services being provided by the Comprehensive Service Act for delinquent juveniles.**



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**PUBLIC OPINION REGARDING  
THE JUVENILE JUSTICE SYSTEM  
IN VIRGINIA**

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**PREPARED BY**

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**OCTOBER 10, 1995**

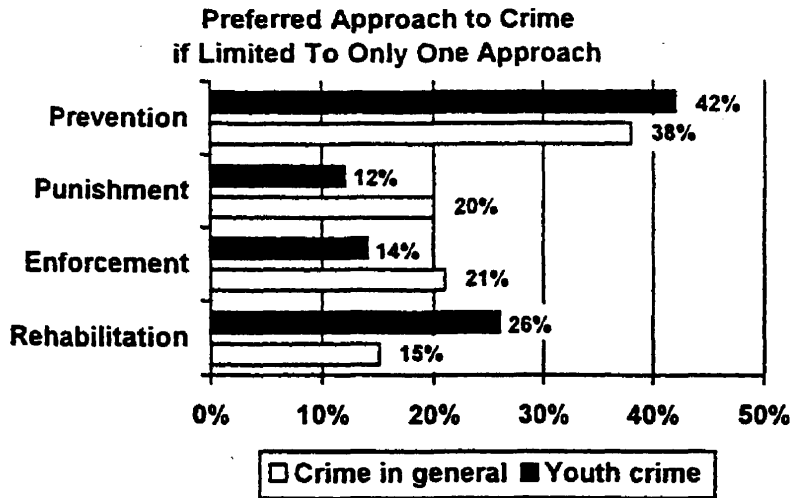
## Overview

As a part of a comprehensive study of juvenile justice system in Virginia, the Commission on Youth commissioned a survey of public opinion on issues pertaining to juvenile justice. This report describes the findings of the survey, which was conducted September 15 - October 1, 1995 by the Survey Research Laboratory (SRL) of Virginia Commonwealth University. The survey interviewed 811 randomly selected adult residents of Virginia by telephone as part of the SRL's periodic "Commonwealth Poll." Questions answered by the entire sample of 811 are subject to a sampling error of plus or minus 4 percentage points at the 95 percent level of confidence. Surveys are subject to many other sources of error as well; readers should be mindful of the limitations of survey research.

Among the findings of the study are the following:

- Respondents were generally more supportive of approaches that stress rehabilitation than of those that stress punishment:
  - 63% that the main purpose of the juvenile court system should be to rehabilitate.
  - 23% said it should be to punish.
  - 11% said both.
- When offered a choice among four possible areas of emphasis to reduce juvenile crime, 68% of respondents said that the government should concentrate on either prevention or rehabilitation, rather than enforcement or punishment.
- A large majority (80%) felt that judges, rather than prosecutors, should decide whether a juvenile is tried as an adult.
- A majority of respondents (57%) believed that the state should spend more money than it now does on dealing with juvenile crime. Twenty-three percent felt that current spending was sufficient, and 5% felt that less should be spent.
- Of those who favored increased spending on juvenile crime, a plurality of 40% thought the money should be borrowed through bonds; 31% favored cutting other social programs to generate the money, and 20% felt that taxes should be raised.
- Most respondents (74%) knew that juveniles under 18 could be tried as adults for serious crimes, although very few knew the minimum age at which this could occur. Most respondents said that it *should* be possible to try juveniles under 18 as adults.
- A large majority (84%) opposed placing juvenile offenders with adult inmates while they are awaiting trial. Only 10% favored mixing adult and juvenile offenders.

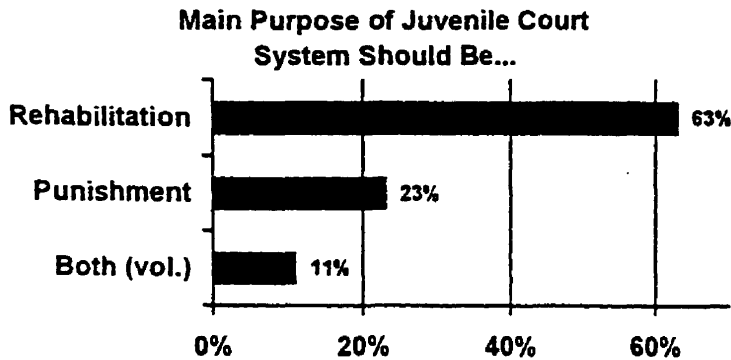
*Preferred Emphasis in Fighting Juvenile Crime*



Three different questions in the survey addressed the general issue of the most appropriate way for the government to deal with juvenile crime. One question posed a hypothetical choice among four alternative approaches: prevention, punishment, enforcement, or rehabilitation. A second

asked whether the main purpose of the juvenile court system should be to treat and rehabilitate or to punish. A third question asked whether juvenile correctional centers or community-based programs should be stressed. In all three questions, majorities of the public favored treatment and rehabilitation over strictly punitive approaches.

In the first question, 42% favored prevention if forced to choose one alternative, while 26% chose rehabilitation. Only 14% picked enforcement, and 12% chose punishment.



A slightly different version of this question was asked of half of the sample; it referred simply to "crime" rather than to "juvenile crime."<sup>1</sup> As the graph above indicates, a majority of respondents to the general crime version also gave a response of either prevention or rehabilitation,

but the total (53%) was considerably smaller than when the reference was to "juvenile crime" (68% prevention or rehabilitation). Despite the complexity of the question, only 6% had no opinion in the "juvenile crime" version, and 5% had no opinion in the general version.

<sup>1</sup> This version was similar to a question asked of a national sample in September 1994 by the Wirthlin Group. In that poll, 41% of Americans favored prevention, 25% chose punishment, 19% picked enforcement, and 12% chose rehabilitation.

In the question regarding the juvenile court system, 63% felt that the main purpose should be treatment and rehabilitation, while 23% said it should to punish offenders. Eleven percent volunteered that both purposes should be emphasized equally. Four percent had no opinion.

When asked to choose, half of the respondents (50%) felt that community-based approaches to dealing with juvenile offenders should be expanded and improved, while 32% would favor sending more offenders to juvenile correctional centers. Five percent suggested alternatives to this choice, and 4% resisted the choice and insisted that the state should do both. Eight percent had no opinion.

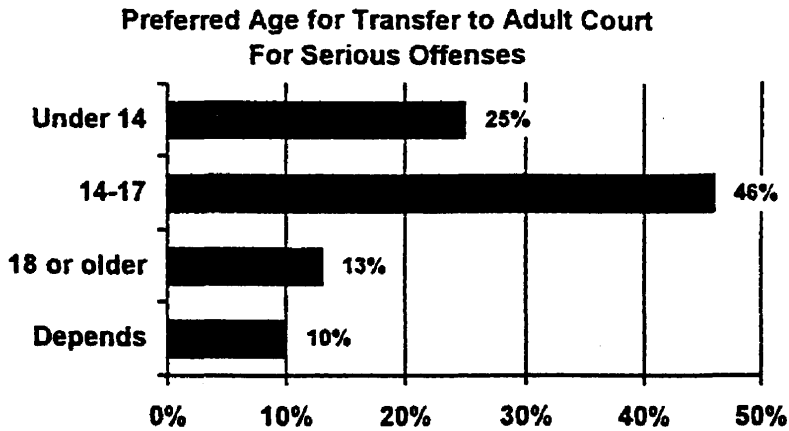
Overall, there was surprisingly little systematic variation in opinion on these questions across major social and demographic groups in the sample. Although there were a few exceptions, opinions tended to be similar across different age groups, regions of the state, income levels, and racial groups. One exception was that women were more likely than men to stress prevention and rehabilitation, rather than enforcement and punishment, in the initial four-choice item. In the juvenile crime version of the question, 79% of women chose either prevention or rehabilitation, compared with 57% of men who did so. In the general crime version, women were more likely than men to choose prevention but there was no significant difference in the percentage choosing rehabilitation. There were few notable gender differences on the other two questions dealing with the state's approach.

Better educated respondents were more supportive of community-based programs than were the less educated, and were more likely to believe that prevention should be stressed in dealing with juvenile crime. Respondents with children living in the household were also more supportive of treatment and prevention than were those without children.

### *Transfer to Adult Court*

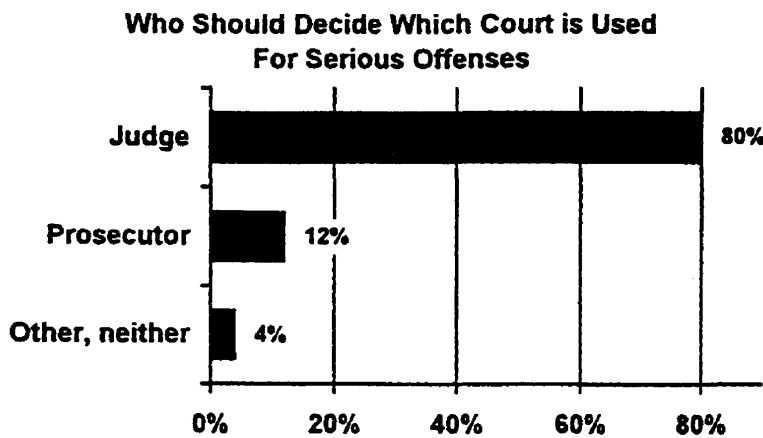
Nearly three-fourths of respondents (74%) believed that a youth under the age of 18 accused of a serious crime (defined in the questionnaire as crimes "such as rape, robbery, or murder") could be tried in Virginia as an adult in adult criminal court. Eight percent said this was not possible, and 18% did not know. There were few notable demographic differences in who knew this fact and who did not.

Individuals who said that a youth could be tried in adult court were asked if they knew the youngest age at which this is possible. Nearly half (47%) did not know the age. Eleven percent thought it was possible for someone under 14 to be transferred, 9% said the age was 14, and 34% cited ages 15, 16, or 17.



All respondents were then asked for their opinion regarding the minimum age at which a transfer should be possible in the case of a serious offense. One-fourth (25%) said “any age” or gave an age under 14. Forty-six percent named an age between 14 and 17, 13% named an age between 18 and 21, and 10% said it should

depend on the offense or other factors.



Following the questions about awareness and opinion regarding the age of transfer to adult court, all respondents were told that juveniles 14 and older could be transferred when serious offenses were involved. They were then asked who should make the decision regarding which court—juvenile or

adult—should be used, and were given a choice between a judge or the prosecutor in the case. Respondents overwhelmingly favored giving this power to a judge (80%) rather than a prosecutor (12%). In no demographic or social group in the survey did more than 18% of respondents favor giving prosecutors this authority.

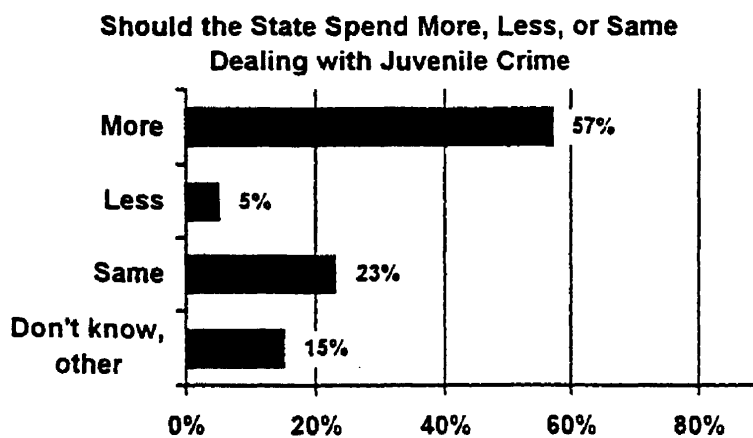
***Placement of Youth Awaiting Trial***

The vast majority of respondents (84%) opposed the idea of placing juveniles in jail with adult inmates while they are awaiting trials. Only 10% supported placing juveniles and adults together. Four percent volunteered that it should depend on circumstances. Only 1% had no opinion on this question. Only among African-American respondents

(19%) and individuals age 18-29 (18%) did more than 14% favor placing youth with adults.

**Spending on Juvenile Justice System**

Most respondents favored increased spending by the state in dealing with juvenile crime. Fifty-seven percent said the state should spend more, 23% said spending should remain the same as it is now, and 5% felt we should spend less. Thirteen percent were not sure, with many respondents saying that they were unaware of what was currently being spent. There were relatively few differences in opinion among demographic and social groups in the survey, though respondents with incomes between \$35,000 and \$50,000 were somewhat more likely than those with higher or lower incomes to favor increased spending.



Those who favored increased spending were asked which among three possible methods they preferred for finding the money. A plurality of 40% chose borrowing it through bonds, 31% favored cutting other social programs, and 20% supported raising taxes. The most affluent respondents in the survey (annual incomes

over \$50,000), along with the best educated (college graduates) were the most supportive of raising taxes (27% and 31%, respectively, chose this option).

**Methodology**

The questionnaire was designed by the Survey Research Laboratory at Virginia Commonwealth University in collaboration with the staff of the Commission on Youth. An extensive review of surveys dealing with juvenile justice was conducted in order to locate valid and reliable questions that had been employed elsewhere. A number of items were taken or modified from a national survey conducted in 1991 by the University of Michigan. The questionnaire for the Virginia survey was given a preliminary test with a random sample of 27 respondents prior to the beginning of the actual interviewing. Minor modifications were made as a result of this pretest.

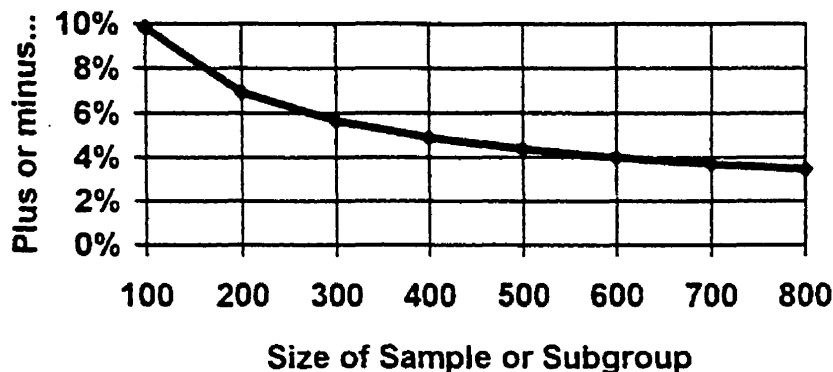
Interviewing was conducted from the facilities of the SRL in Richmond September 15 - October 1, 1995 with a randomly-selected sample of 811 residents of Virginia aged 18 and over. The sample was prepared by Genesys Sampling Systems of Fort Washington, Pennsylvania and was designed so that all residential telephones, including new and unlisted numbers, had a known chance of inclusion. Of all known or assumed residential households in the sample, 64% yielded a completed interview.

The data were weighted on sex, race, education, and region of residence so as to reflect the demographic composition of the adult Virginia population. Percentages reported in the text and tables are weighted, while the number of cases shown in the tables is the actual number of respondents.

Questions answered by the entire sample of 811 are subject to a sampling error of plus or minus approximately 4 percentage points at the 95 percent level of confidence. This means that in 95 out of 100 samples like the one used here, the results obtained should be no more than approximately 4 percentage points above or below the figure that would be obtained by interviewing all Virginians with telephones. Where the answers of subgroups are reported, the sampling error would be higher. Because of nonresponse (refusals to participate, etc.), standard calculations of sampling error are apt to understate the actual extent to which survey results are different from the true population values. Surveys are also subject to errors from sources other than sampling. While every effort is made to identify such errors, they are often difficult or impossible to measure. Readers making use of the results are urged to be mindful of the limitations inherent in survey research.

The graph below shows the relationship between sample size and sampling error. It may be used as a rough guide to the statistical precision of estimates in the survey based on subgroups in the sample, for example, females or African-Americans. This graph represents the theoretical minimum extent of sampling variability; because of specific features of the sample design used in surveys such as the Commonwealth Poll, sampling error is somewhat greater than the theoretical minimum.

### Sample Size and Sampling Error



PUBLIC OPINION REGARDING THE JUVENILE JUSTICE SYSTEM

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DATA TABLES

(Note that wording in tables is approximate;  
verbatim question wording can be found in the questionnaire at the back)

	Total	Number of cases
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If government could spend money in only one area to reduce crime, what area should it be? (asked of half sample)		
Prevention.....	38%	174
Punishment.....	20%	80
Enforcement.....	21%	87
Rehabilitation.....	15%	58
Don't know.....	5%	21
If government could spend money in only one area to reduce JUVENILE crime what area should it be? (asked of half sample)		
Prevention.....	42%	184
Punishment.....	12%	43
Enforcement.....	14%	51
Rehabilitation.....	26%	96
Don't know.....	6%	17
Do you think the main purpose of the juvenile court system should be to treat and rehabilitate or punish?		
Treat and rehabilitate.....	63%	514
Punish.....	23%	179
Both equally (volunteered).....	11%	88
Get them off the streets.....	0%	1
Don't know.....	4%	29
In VA, if a juvenile under the age of 18 commits a serious crime, can they be tried in adult criminal court?		
Yes.....	74%	596
No.....	8%	73
Don't know.....	18%	142
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PUBLIC OPINION REGARDING THE JUVENILE JUSTICE SYSTEM

	Total	Number of cases
<b>What is the youngest age at which a juvenile can be tried for a serious crime in adult criminal court? (among respondents who that this is possible)</b>		
No age limit.....	2%	11
1.....	0%	1
8.....	3%	13
10.....	0%	3
11.....	0%	2
12.....	2%	13
13.....	4%	21
14.....	9%	60
15.....	10%	57
16.....	16%	85
17.....	8%	43
Don't know.....	47%	287
 <b>At what age do you think a person accused of a serious crime should be brought before an adult criminal court? (all respondents)</b>		
Enter age.....	0%	2
6.....	0%	1
7.....	0%	1
8.....	0%	2
9.....	0%	1
10.....	0%	5
11.....	0%	2
12.....	3%	28
13.....	5%	44
14.....	9%	78
15.....	13%	99
16.....	20%	163
17.....	4%	39
18.....	11%	85
19.....	0%	1
20.....	0%	2
21.....	1%	8
Depends (volunteered).....	10%	83
Any age; no age limit (volunteered).....	15%	119
Don't know.....	7%	48

PUBLIC OPINION REGARDING THE JUVENILE JUSTICE SYSTEM

	Total	Number of cases
Who should decide which court (adult or juvenile) is used... the prosecutor or a judge?		
Prosecutor.....	12%	85
Judge.....	80%	664
Neither -- fixed by law (vol).....	1%	9
Other (specify).....	3%	24
Don't know.....	4%	29
Should the state send more juveniles to correctional centers or expand and improve community based programs?		
Juvenile correctional centers.....	32%	250
Community-based programs.....	50%	418
Both (specify).....	4%	36
Other (specify).....	5%	45
Don't know.....	8%	62
Should juveniles awaiting trial be put in jail with adult inmates or should they be kept separate?		
Place with adults.....	10%	81
Keep separate.....	84%	685
Depends (vol.).....	4%	33
Don't know.....	1%	12
Should the state spend more money, less money, or the same amount as now on dealing with juvenile crime?		
More.....	57%	460
Less.....	5%	36
Same.....	23%	191
Other.....	2%	18
Don't know.....	13%	106
Which of the 3 ways to find money to deal with juvenile crime do you prefer?		
Borrowing; bonds.....	40%	187
Raising taxes.....	20%	100
Cutting other social programs.....	31%	139
Other (specify).....	3%	14
Don't know.....	6%	20

**PUBLIC OPINION REGARDING THE JUVENILE JUSTICE SYSTEM**

	If government could spend money in only one area to reduce crime, what area should it be? (asked of half sample)					Number of cases
	Prevention	Punishment	Enforcement	Rehabilitation	Don't know	
Total.....	38%	20%	21%	15%	5%	420
<b>Sex</b>						
Male.....	34%	23%	22%	16%	4%	159
Female.....	42%	17%	20%	15%	6%	261
<b>Age</b>						
18-29.....	41%	15%	20%	22%	2%	84
30-44.....	39%	17%	27%	12%	5%	138
45-64.....	40%	26%	18%	10%	6%	138
65 and older.....	26%	22%	15%	28%	9%	52
<b>Education</b>						
No high school diploma.....	26%	22%	15%	29%	9%	45
High school diploma.....	37%	22%	21%	17%	4%	117
Some college.....	37%	20%	25%	14%	5%	121
College graduate.....	53%	16%	23%	6%	2%	131
<b>Race</b>						
White, other.....	38%	21%	24%	11%	5%	358
Black.....	39%	13%	6%	36%	6%	62
<b>Marital status</b>						
Married.....	41%	24%	21%	9%	5%	243
Divorced, widowed, or separated.....	33%	15%	20%	24%	9%	83
Single.....	36%	15%	22%	24%	3%	86
<b>Region</b>						
Northwest.....	31%	28%	27%	11%	4%	54
D.C. suburbs.....	41%	18%	26%	8%	7%	98
West.....	41%	20%	14%	21%	4%	104
South Central.....	47%	24%	14%	8%	6%	74
Tidewater.....	31%	17%	26%	22%	4%	90
<b>Family income</b>						
Under \$20,000.....	27%	25%	18%	24%	5%	75
\$20,000-\$34,999.....	39%	23%	16%	20%	2%	76
\$35,000-49,999.....	37%	23%	29%	7%	4%	76
\$50,000 and above.....	50%	16%	23%	8%	3%	117
<b>Life-long resident of Virginia</b>						
Yes.....	33%	24%	20%	19%	4%	206
No.....	43%	17%	23%	11%	6%	214
<b>Children under 18 in household</b>						
Yes.....	43%	17%	23%	13%	4%	169
No.....	35%	22%	20%	17%	6%	249

PUBLIC OPINION REGARDING THE JUVENILE JUSTICE SYSTEM

	If government could spend money in only one area to reduce JUVENILE crime what area should it be? (asked of half sample)					Number of cases
	Prevention	Punishment	Enforcement	Rehabilitation	Don't know	
Total.....	42%	12%	14%	26%	6%	391
Sex						
Male.....	37%	14%	20%	20%	8%	163
Female.....	48%	9%	8%	31%	4%	228
Age						
18-29.....	42%	10%	16%	31%	0%	79
30-44.....	50%	11%	13%	26%	0%	133
45-64.....	45%	12%	15%	22%	6%	114
65 and older.....	27%	14%	12%	28%	20%	56
Education						
No high school diploma.....	14%	11%	18%	44%	12%	43
High school diploma.....	44%	19%	8%	25%	4%	100
Some college.....	45%	7%	18%	25%	4%	103
College graduate.....	59%	7%	16%	15%	4%	142
Race						
White, other.....	44%	13%	15%	23%	5%	322
Black.....	35%	7%	10%	39%	9%	69
Marital status						
Married.....	44%	14%	14%	21%	6%	232
Divorced, widowed, or separated.....	34%	9%	13%	34%	10%	66
Single.....	43%	8%	15%	34%	0%	88
Region						
Northwest.....	40%	9%	12%	37%	2%	62
D.C. suburbs.....	47%	10%	20%	14%	9%	91
West.....	42%	16%	3%	30%	9%	77
South Central.....	40%	12%	17%	24%	6%	80
Tidewater.....	41%	12%	14%	30%	2%	81
Family income						
Under \$20,000.....	28%	4%	9%	47%	12%	57
\$20,000-\$34,999.....	37%	20%	7%	31%	4%	80
\$35,000-49,999.....	56%	10%	13%	20%	1%	75
\$50,000 and above.....	49%	9%	25%	12%	4%	119
Life-long resident of Virginia						
Yes.....	35%	15%	11%	34%	6%	184
No.....	50%	9%	17%	18%	6%	207
Children under 18 in household						
Yes.....	48%	9%	14%	26%	3%	148
No.....	39%	13%	14%	26%	7%	243

PUBLIC OPINION REGARDING THE JUVENILE JUSTICE SYSTEM

	Do you think the main purpose of the juvenile court system should be to treat and rehabilitate or punish?					Number of cases
	Treat and rehabilitate	Punish	Both equally (volunteered)	Get them off the streets	Don't know	
Total.....	63%	23%	11%	0%	4%	811
Sex						
Male.....	63%	24%	9%	0%	3%	322
Female.....	62%	22%	12%	0%	4%	489
Age						
18-29.....	67%	23%	10%	0%	0%	163
30-44.....	66%	22%	11%	0%	2%	271
45-64.....	64%	21%	10%	0%	4%	252
65 and older.....	51%	31%	11%	0%	8%	108
Education						
No high school diploma.....	61%	25%	9%	0%	5%	88
High school diploma.....	58%	27%	12%	0%	3%	217
Some college.....	68%	18%	12%	0%	2%	224
College graduate.....	66%	21%	9%	1%	4%	273
Race						
White, other.....	62%	24%	10%	0%	4%	680
Black.....	67%	19%	12%	0%	3%	131
Marital status						
Married.....	61%	25%	12%	0%	2%	475
Divorced, widowed, or separated.....	55%	22%	13%	0%	9%	149
Single.....	74%	19%	5%	0%	2%	174
Region						
Northwest.....	66%	22%	8%	0%	3%	116
D.C. suburbs.....	60%	24%	11%	1%	4%	189
West.....	60%	24%	11%	0%	5%	181
South Central.....	67%	21%	8%	0%	3%	154
Tidewater.....	62%	22%	13%	0%	3%	171
Family income						
Under \$20,000.....	63%	21%	10%	0%	6%	132
\$20,000-\$34,999.....	69%	21%	9%	0%	2%	156
\$35,000-49,999.....	63%	25%	9%	0%	3%	151
\$50,000 and above.....	64%	23%	11%	0%	1%	236
Life-long resident of Virginia						
Yes.....	63%	22%	11%	0%	4%	390
No.....	62%	24%	10%	0%	3%	421
Children under 18 in household						
Yes.....	65%	19%	13%	0%	2%	317
No.....	61%	25%	9%	0%	4%	492

**PUBLIC OPINION REGARDING THE JUVENILE JUSTICE SYSTEM**

	Should the state send more juveniles to correctional centers or expand and improve community based programs?					Number of cases
	Juvenile correctional centers	Community-based programs	Both (specify)	Other (specify)	Don't know	
Total.....	32%	50%	4%	5%	8%	811
Sex						
Male.....	34%	48%	4%	6%	8%	322
Female.....	31%	52%	4%	5%	8%	489
Age						
18-29.....	37%	57%	2%	1%	3%	163
30-44.....	29%	54%	7%	5%	5%	271
45-64.....	30%	51%	3%	6%	10%	252
65 and older.....	39%	30%	4%	8%	18%	108
Education						
No high school diploma.....	39%	45%	1%	3%	11%	88
High school diploma.....	35%	45%	5%	5%	10%	217
Some college.....	31%	50%	7%	7%	5%	224
College graduate.....	27%	60%	3%	5%	6%	273
Race						
White, other.....	32%	49%	5%	6%	8%	680
Black.....	34%	54%	3%	1%	7%	131
Marital status						
Married.....	31%	51%	4%	5%	8%	475
Divorced, widowed, or separated.....	32%	40%	7%	7%	14%	149
Single.....	36%	55%	3%	3%	4%	174
Region						
Northwest.....	36%	47%	7%	4%	6%	116
D.C. suburbs.....	32%	53%	4%	3%	9%	189
West.....	31%	47%	2%	7%	12%	181
South Central.....	32%	49%	3%	9%	7%	154
Tidewater.....	33%	52%	6%	3%	6%	171
Family income						
Under \$20,000.....	38%	45%	6%	6%	6%	132
\$20,000-\$34,999.....	34%	51%	3%	4%	8%	156
\$35,000-49,999.....	33%	49%	4%	5%	8%	151
\$50,000 and above.....	27%	59%	4%	5%	5%	236
Life-long resident of Virginia						
Yes.....	31%	50%	4%	4%	11%	390
No.....	33%	50%	4%	6%	6%	421
Children under 18 in household						
Yes.....	29%	54%	6%	5%	6%	317
No.....	35%	48%	3%	5%	10%	492

PUBLIC OPINION REGARDING THE JUVENILE JUSTICE SYSTEM

	In VA, if a juvenile under the age of 18 commits a serious crime, can they be tried in adult criminal court?			Number of cases
	Yes	No	Don't know	
Total.....	74%	8%	18%	811
<b>Sex</b>				
Male.....	79%	6%	16%	322
Female.....	70%	10%	20%	489
<b>Age</b>				
18-29.....	71%	8%	21%	163
30-44.....	75%	9%	15%	271
45-64.....	78%	6%	16%	252
65 and older.....	69%	10%	21%	108
<b>Education</b>				
No high school diploma.....	70%	6%	24%	88
High school diploma.....	75%	7%	18%	217
Some college.....	75%	8%	17%	224
College graduate.....	76%	9%	14%	273
<b>Race</b>				
White, other.....	75%	7%	18%	680
Black.....	71%	11%	18%	131
<b>Marital status</b>				
Married.....	76%	8%	16%	475
Divorced, widowed, or separated.....	69%	6%	24%	149
Single.....	74%	10%	16%	174
<b>Region</b>				
Northwest.....	77%	7%	17%	116
D.C. suburbs.....	76%	8%	15%	189
West.....	71%	9%	20%	181
South Central.....	69%	9%	22%	154
Tidewater.....	77%	7%	16%	171
<b>Family income</b>				
Under \$20,000.....	71%	10%	19%	132
\$20,000-\$34,999.....	75%	7%	18%	156
\$35,000-49,999.....	73%	8%	19%	151
\$50,000 and above.....	78%	8%	13%	236
<b>Life-long resident of Virginia</b>				
Yes.....	75%	8%	17%	390
No.....	73%	8%	19%	421
<b>Children under 18 in household</b>				
Yes.....	73%	9%	18%	317
No.....	75%	8%	17%	492

PUBLIC OPINION REGARDING THE JUVENILE JUSTICE SYSTEM

	Who should decide which court (adult or juvenile) is used... the prosecutor or a judge?					Number of cases
	Prosecutor	Judge	Neither -- fixed by law (vol)	Other (specify)	Don't know	
Total.....	12%	80%	1%	3%	4%	811
Sex						
Male.....	13%	79%	2%	3%	3%	322
Female.....	10%	82%	1%	3%	4%	489
Age						
18-29.....	10%	87%	0%	1%	2%	163
30-44.....	11%	86%	1%	2%	0%	271
45-64.....	11%	81%	1%	3%	4%	252
65 and older.....	15%	63%	2%	8%	12%	108
Education						
No high school diploma.....	16%	74%	0%	5%	5%	88
High school diploma.....	12%	81%	1%	2%	4%	217
Some college.....	10%	82%	1%	4%	3%	224
College graduate.....	10%	84%	1%	3%	3%	273
Race						
White, other.....	12%	80%	1%	3%	4%	680
Black.....	13%	82%	0%	3%	2%	131
Marital status						
Married.....	11%	82%	1%	2%	4%	475
Divorced, widowed, or separated.....	15%	70%	2%	6%	7%	149
Single.....	12%	84%	0%	2%	1%	174
Region						
Northwest.....	9%	83%	0%	5%	3%	116
D.C. suburbs.....	14%	78%	2%	3%	3%	189
West.....	11%	81%	0%	3%	5%	181
South Central.....	7%	84%	1%	4%	5%	154
Tidewater.....	15%	77%	2%	1%	4%	171
Family income						
Under \$20,000.....	12%	78%	0%	6%	4%	132
\$20,000-\$34,999.....	14%	82%	0%	3%	1%	156
\$35,000-49,999.....	9%	82%	3%	2%	4%	151
\$50,000 and above.....	11%	83%	1%	3%	1%	236
Life-long resident of Virginia						
Yes.....	11%	81%	1%	2%	5%	390
No.....	13%	79%	2%	4%	2%	421
Children under 18 in household						
Yes.....	11%	83%	2%	2%	3%	317
No.....	13%	79%	1%	4%	4%	492



PUBLIC OPINION REGARDING THE JUVENILE JUSTICE SYSTEM

	Should juveniles awaiting trial be put in jail with adult inmates or should they be kept separate?				Number of cases
	Place with adults	Keep separate	Depends (vol.)	Don't know	
Total.....	10%	84%	4%	1%	811
<b>Sex</b>					
Male.....	11%	83%	5%	1%	322
Female.....	10%	86%	3%	2%	489
<b>Age</b>					
18-29.....	18%	75%	7%	0%	163
30-44.....	12%	84%	3%	0%	271
45-64.....	8%	87%	3%	2%	252
65 and older.....	2%	91%	4%	3%	108
<b>Education</b>					
No high school diploma.....	9%	85%	4%	2%	88
High school diploma.....	11%	83%	4%	1%	217
Some college.....	12%	81%	6%	1%	224
College graduate.....	8%	88%	2%	1%	273
<b>Race</b>					
White, other.....	8%	85%	5%	2%	680
Black.....	19%	78%	2%	1%	131
<b>Marital status</b>					
Married.....	10%	84%	4%	1%	475
Divorced, widowed, or separated.....	8%	82%	6%	4%	149
Single.....	13%	85%	2%	0%	174
<b>Region</b>					
Northwest.....	9%	82%	7%	3%	116
D.C. suburbs.....	10%	86%	3%	2%	189
West.....	8%	84%	5%	2%	181
South Central.....	9%	87%	4%	0%	154
Tidewater.....	14%	82%	3%	1%	171
<b>Family income</b>					
Under \$20,000.....	13%	84%	3%	0%	132
\$20,000-\$34,999.....	12%	82%	5%	1%	156
\$35,000-49,999.....	6%	87%	6%	1%	151
\$50,000 and above.....	11%	85%	4%	1%	236
<b>Life-long resident of Virginia</b>					
Yes.....	11%	83%	4%	2%	390
No.....	9%	85%	5%	1%	421
<b>Children under 18 in household</b>					
Yes.....	13%	82%	5%	1%	317
No.....	9%	86%	4%	2%	492

PUBLIC OPINION REGARDING THE JUVENILE JUSTICE SYSTEM

	Should the state spend more money, less money, or the same amount as now on dealing with juvenile crime?					Number of cases
	More	Less	Same	Other	Don't know	
Total.....	57%	5%	23%	2%	13%	811
Sex						
Male.....	57%	7%	22%	3%	11%	322
Female.....	57%	4%	24%	2%	14%	489
Age						
18-29.....	56%	6%	28%	2%	8%	163
30-44.....	65%	4%	18%	2%	11%	271
45-64.....	53%	7%	26%	2%	13%	252
65 and older.....	48%	6%	22%	3%	22%	108
Education						
No high school diploma.....	54%	10%	19%	3%	14%	88
High school diploma.....	56%	6%	26%	2%	10%	217
Some college.....	63%	3%	20%	1%	13%	224
College graduate.....	54%	3%	25%	3%	15%	273
Race						
White, other.....	56%	4%	24%	2%	14%	680
Black.....	62%	11%	18%	3%	5%	131
Marital status						
Married.....	56%	6%	22%	3%	13%	475
Divorced, widowed, or separated.....	51%	5%	24%	2%	17%	149
Single.....	61%	5%	26%	0%	8%	174
Region						
Northwest.....	56%	7%	30%	2%	5%	116
D.C. suburbs.....	53%	4%	25%	3%	14%	189
West.....	58%	3%	21%	2%	16%	181
South Central.....	55%	10%	18%	4%	13%	154
Tidewater.....	61%	3%	22%	2%	12%	171
Family income						
Under \$20,000.....	56%	8%	24%	1%	12%	132
\$20,000-\$34,999.....	57%	8%	27%	2%	6%	156
\$35,000-49,999.....	70%	3%	16%	3%	9%	151
\$50,000 and above.....	57%	6%	22%	3%	12%	236
Life-long resident of Virginia						
Yes.....	59%	6%	22%	1%	11%	390
No.....	55%	4%	24%	3%	14%	421
Children under 18 in household						
Yes.....	59%	4%	22%	3%	12%	317
No.....	55%	6%	25%	2%	13%	492

PUBLIC OPINION REGARDING THE JUVENILE JUSTICE SYSTEM

	Which of the 3 ways to find money to deal with juvenile crime do you prefer? (among those favoring increased spending)					Number of cases
	Borrowing; bonds	Raising taxes	Cutting other social programs	Other (specify)	Don't know	
Total.....	40%	20%	31%	3%	6%	460
Sex						
Male.....	40%	23%	26%	4%	7%	182
Female.....	40%	18%	36%	2%	4%	278
Age						
18-29.....	42%	15%	39%	2%	2%	92
30-44.....	40%	24%	31%	3%	2%	177
45-64.....	37%	23%	30%	3%	8%	134
65 and older.....	43%	15%	25%	2%	15%	49
Education						
No high school diploma.....	34%	10%	46%	0%	11%	44
High school diploma.....	40%	16%	32%	5%	7%	122
Some college.....	44%	21%	29%	3%	3%	141
College graduate.....	39%	31%	25%	3%	2%	149
Race						
White, other.....	39%	20%	34%	4%	4%	378
Black.....	46%	20%	21%	0%	13%	82
Marital status						
Married.....	35%	23%	30%	4%	7%	272
Divorced, widowed, or separated.....	41%	18%	33%	2%	6%	75
Single.....	52%	16%	30%	0%	2%	105
Region						
Northwest.....	41%	19%	34%	3%	3%	65
D.C. suburbs.....	42%	21%	30%	5%	2%	101
West.....	27%	23%	40%	3%	7%	103
South Central.....	49%	13%	24%	2%	12%	86
Tidewater.....	41%	22%	29%	2%	5%	105
Family income						
Under \$20,000.....	38%	15%	34%	3%	10%	73
\$20,000-\$34,999.....	37%	21%	39%	1%	3%	89
\$35,000-49,999.....	41%	20%	30%	3%	6%	104
\$50,000 and above.....	35%	27%	30%	5%	3%	137
Life-long resident of Virginia						
Yes.....	37%	17%	38%	2%	6%	227
No.....	43%	23%	25%	4%	5%	233
Children under 18 in household						
Yes.....	36%	21%	35%	4%	3%	192
No.....	42%	19%	29%	3%	7%	268

QUESTIONNAIRE

(One half of respondents receive yc1, the other half receive yc1j. The first version refers to crime in general, while the second refers to youth crime.)

>yc1< In order to fight crime, the government can spend money in four different areas. The first is prevention, such as community education and programs for young people. The second is enforcement, such as more police officers and tougher laws. The third is punishment, such as better courts and bigger jails, and the fourth is rehabilitation, such as treatment, education and work programs for former criminals.

If the government could spend money in only one of these four areas to try to reduce crime in this country, do you feel the money should be spent on prevention, punishment, enforcement, or rehabilitation?

IF R SAYS ALL 4: PROBE ONCE FOR MOST IMPORTANT

- <1> PREVENTION
- <2> PUNISHMENT
- <3> ENFORCEMENT
- <4> REHABILITATION
- <8> DON'T KNOW
- <9> NO ANSWER

==> [goto yc2]

>yc1j< In order to fight juvenile crime, the government can spend money in four different areas. The first is prevention, such as community education and programs for young people. The second is enforcement, such as more police officers and tougher laws. The third is punishment, such as better courts and bigger jails, and the fourth is rehabilitation, such as treatment, education and work programs for former juvenile criminals.

If the government could spend money in only one of these four areas to try to reduce juvenile crime in this country, do you feel the money should be spent on prevention, punishment, enforcement, or rehabilitation?

IF R SAYS ALL 4: PROBE ONCE FOR MOST IMPORTANT

- <1> PREVENTION
- <2> PUNISHMENT
- <3> ENFORCEMENT
- <4> REHABILITATION
- <8> DON'T KNOW
- <9> NO ANSWER

==>

>yc2< In Virginia, a special court called the juvenile court deals with offenders aged 17 and younger, while adult criminal courts deal with older offenders. There are different opinions about what should be the purpose of

the juvenile court system.

Do you think the MAIN purpose of the juvenile court system should be to treat and rehabilitate young offenders or to punish them?

- <1> TREAT AND REHABILITATE
- <2> PUNISH
- <3> BOTH EQUALLY (VOLUNTEERED)
- <4> GET THEM OFF THE STREETS (ACCEPT ONLY AFTER PROBING)
- <8> DON'T KNOW
- <9> NO ANSWER

==>

>yc3< As far as you know in Virginia, if a juvenile under the age of 18 commits a serious crime such as murder, rape, or robbery, can they be tried in adult criminal court as an adult?

- <1> YES [goto yc3a]
- <2> NO
- <8> DON'T KNOW
- <9> NO ANSWER

==>[goto yc4]

>yc3a< Do you happen to know the youngest age at which a juvenile CAN be tried for a serious crime in adult criminal court?

- <0> NO AGE LIMIT
- <1-17> ENTER AGE FROM 1 - 17 YEARS
- <88> DON'T KNOW
- <99> NO ANSWER

==>

>yc4< At what age do you think a person accused of a serious crime such as rape, robbery, or murder, SHOULD be brought before an adult criminal court rather than a juvenile court?

- <1-21> ENTER AGE
- <95> DEPENDS (VOLUNTEERED)
- <96> ANY AGE; NO AGE LIMIT (VOLUNTEERED)
- <97> THERE SHOULD BE NO SEPARATE JUVENILE COURT (VOLUNTEERED)
- <98> DON'T KNOW
- <99> NO ANSWER

==>

>yc5< In Virginia a juvenile aged 14 or older who is charged with a serious crime can be tried either in adult court or in juvenile court. Who should decide which court is used... the prosecutor in the case or a judge?

- <1> PROSECUTOR

- <2> JUDGE
- <3> NEITHER -- SHOULD BE FIXED BY LAW (VOLUNTEERED)
- <4> OTHER (SPECIFY) [specify]
- <8> DON'T KNOW
- <9> NO ANSWER

==>

(One half of respondents receive yc6a and the other half receive yc6b. This rotates the order in which the alternatives are presented.)

>yc6a< There are two approaches in Virginia for dealing with juvenile offenders. One is the juvenile correctional center, which is a centralized prison for young people. The other approach includes community-based programs, such as very close supervision of offenders, treatment and counseling services, and so forth. Some people argue that we should send more juvenile offenders to juvenile correctional centers. Others think we should expand and improve the community-based programs. Which do you think the state should do?

PROMPT IF NECESSARY: "Send more juveniles to correctional centers, or expand and improve community based programs?"

- <1> JUVENILE CORRECTIONAL CENTERS
- <2> COMMUNITY-BASED PROGRAMS
- <3> BOTH (SPECIFY) [specify]
- <4> OTHER (SPECIFY) [specify]
- <8> DON'T KNOW
- <9> NO ANSWER

==>[goto yc7]

>yc6b< [equiv yc6a] There are two approaches in Virginia for dealing with juvenile offenders. One includes community-based programs, such as very close supervision of offenders, treatment and counseling services, and so forth. The other approach is the juvenile correctional center, which is a centralized prison for young people. Some people argue that we should expand and improve the community-based programs. Others think we should send more juvenile offenders to juvenile correctional centers. Which do you think the state should do?

PROMPT IF NECESSARY: "Send more juveniles to correctional centers, or expand and improve community based programs?"

- <1> JUVENILE CORRECTIONAL CENTERS
- <2> COMMUNITY-BASED PROGRAMS
- <3> BOTH (SPECIFY) [specify]
- <4> OTHER (SPECIFY) [specify]
- <8> DON'T KNOW
- <9> NO ANSWER

==>

>yc7< Regardless of the particular approach you favor, do you believe that the state should spend more money, less money, or the same amount as it spends now on dealing with juvenile crime?

- <1> MORE [goto yc8]
- <2> LESS
- <3> SAME
- <4> OTHER
- <8> DON'T KNOW
- <9> NO ANSWER

==>[goto yc9]

>yc8< Three possible ways of finding the money are, first, borrowing it through bonds; second, raising taxes; and third, cutting other social programs. If these were the only alternatives, which would you prefer?

PROMPT IF NECESSARY: "Borrowing the money, raising taxes, cutting other social programs?"

- <1> BORROWING; BONDS
- <2> RAISING TAXES
- <3> CUTTING OTHER SOCIAL PROGRAMS
- <4> OTHER (SPECIFY) [specify]
- <8> DON'T KNOW
- <9> NO ANSWER

==>

>yc9< In Virginia today, juveniles being held in jail prior to their trials are kept separate from adult inmates. Some people say that this practice is too expensive, and that being mixed with adult inmates will help discourage youth from committing crimes. Others say that juveniles are at high risk of being victimized or influenced by adult inmates and should not be placed with them.

What about you... should juveniles awaiting trial be put in jail with adult inmates or should they be kept separate?

- <1> PLACE WITH ADULTS
- <2> KEEP SEPARATE
- <3> DEPENDS (VOL.)
- <8> DON'T KNOW
- <9> NO ANSWER

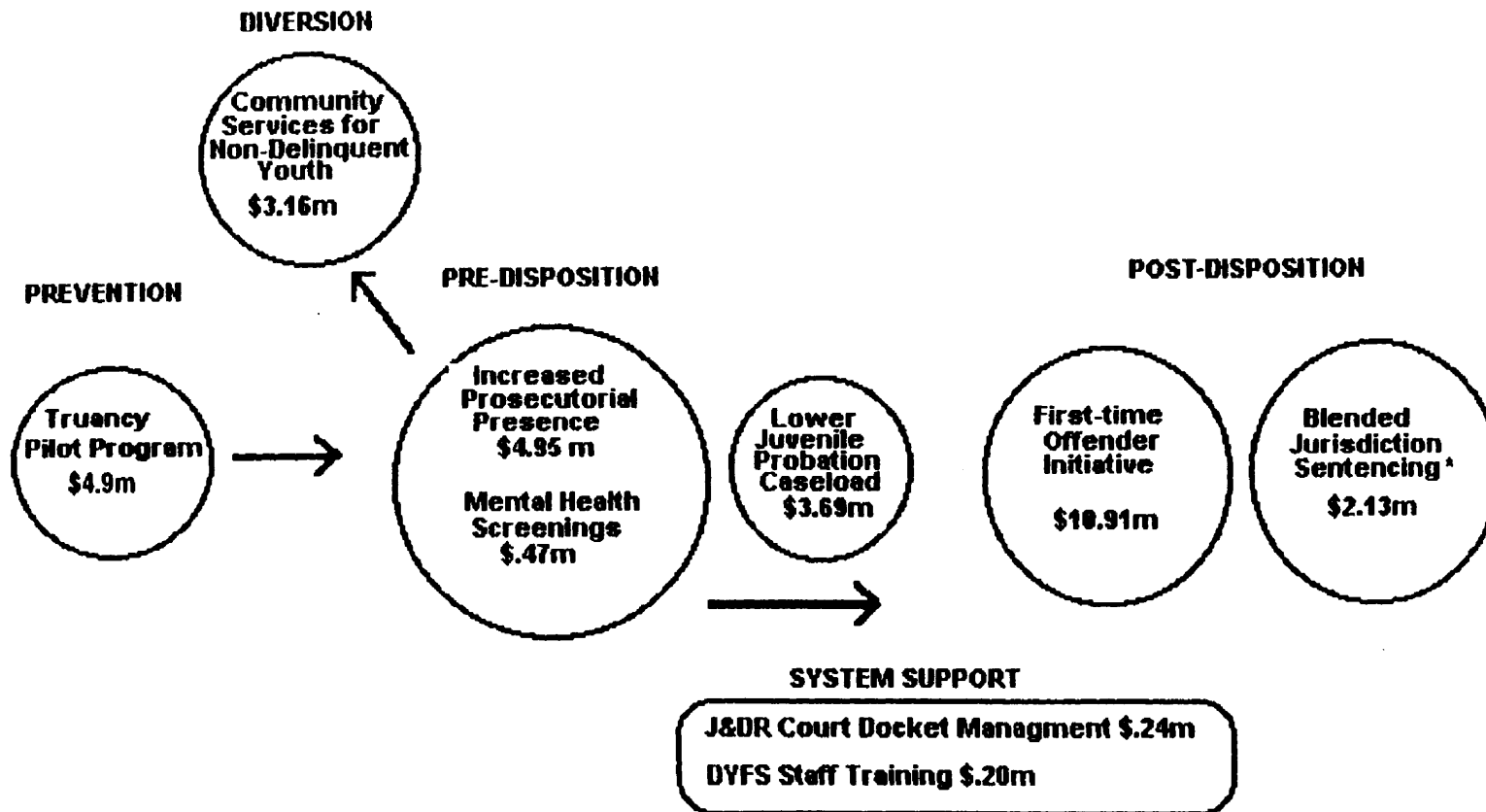
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# HJR 604 Study of Juvenile Justice System Reform 1995 LEGISLATIVE PACKAGE

## Budget Initiatives DRAFT PROJECTIONS FY 97 COSTS: \$30.65 million



**Additional Scheduled System Funding FY 97:**

1. Court Service Units (816 FTEs) \$35,286,042
2. VJCCA (Pre- and Post-Dispositional Services) \$17,537,453
3. Secure Detention Facilities \$11,436,465

§ 30.19.1:4 DOC Impact in FY 2006 is \$2.22 million.



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# Juvenile Waiver in the United States 1979 - 1995: A Comparison and Analysis of State Waiver Statutes

By Eric Fritsch and Craig Hemmens, J.D.

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## Introduction

In recent years the American criminal justice system has been severely and repeatedly criticized for its apparent failure to control crime. Criminologists, criminal justice practitioners, and the general public have all expressed dismay over the rising crime rate and the escalation of violence.<sup>1</sup> The public protests the coddling of criminals;<sup>2</sup> police complain they lack the personnel necessary to fight crime; and conservative scholars insist that some people are just plain evil and bound to commit crimes regardless of what society does.<sup>3</sup> Many members of these disparate groups share the perception that the criminal justice system's rehabilitation and treatment orientation is at least partly to blame for the current crime problem. Such critics advocate a change in the focus of the criminal justice system to an emphasis on deterrence, retribution and incapacitation.<sup>4</sup>

This move away from rehabilitation has had a marked impact on every level of the criminal justice system, from the police to the courts to corrections. One area which has been particularly affected by this shift in justice policy is the juvenile justice system. Since the turn of the century the juvenile justice system has been kept separate from the adult criminal justice system, and juveniles have been treated differently than adults. The recent trend, how-

ever, is to treat juvenile offenders the same as adult offenders, particularly where juveniles are charged with serious crimes. The 1980s has seen the public endorse and many state legislatures adopt a "get tough on crime" approach to serious and violent juvenile offenders.<sup>5</sup>

This article seeks to examine the impact of this change in the role of sanctions on one aspect of the juvenile justice system, the process of transferring a juvenile offender to adult court through the waiver of juvenile court jurisdiction. The decision whether to adjudicate the juvenile offender in juvenile court or adult criminal court reflects a choice between the disparate goals of rehabilitation and retribution. The increased use of juvenile waiver can be seen as a response to the recent criticism of the rehabilitative ideal which the juvenile justice system exemplifies. It can also be seen as an attempt to answer the criticisms of retribution and deterrence advocates, who claim that the juvenile justice system fails to protect society from criminals and that it undermines the moral force of the criminal justice sanction by failing to punish offenders adequately.

## Types of Juvenile Waiver

There are several different types of waiver. Twelve states have prosecutorial waiver,<sup>6</sup> which is based on concurrent jurisdiction between

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juvenile and adult criminal courts for some offenses.<sup>7</sup> The prosecutor has the option of filing charges against juvenile offenders in either juvenile or adult court. This method of transfer is perhaps the most controversial,<sup>8</sup> because it vests considerable discretion in the prosecutor, whose primary duty is to secure convictions and who is traditionally more concerned with retribution than with rehabilitation. Prosecutorial waiver, the least used method of waiver, is not the subject of this paper. Instead, we examine changes in the two most common types of waiver statutes, judicial and legislative, between 1979 and 1995.

The most common method of waiver and the one that has the longest history is judicial waiver.<sup>9</sup> Originally this was the only means of transferring juveniles to adult criminal court.<sup>10</sup> The juvenile court judge uses his discretionary authority to waive jurisdiction and send the case to adult court. A juvenile court may decide on its own motion to transfer a juvenile to adult court, or the prosecutor may move to transfer and the juvenile court judge must decide the motion. Judicial waiver is the most popular form of waiver,<sup>11</sup> receiving general support from scholars, criminal justice professionals, and professional organizations such as the American Bar Association<sup>12</sup> and the National Advisory Committee on Criminal Justice Standards and Goals.<sup>13</sup>

Another form of waiver, and the one which has received the most attention in recent years, is legislative, or automatic, waiver. This type of waiver places some juvenile offenders into the adult criminal justice system at the point of arrest, bypassing the juvenile court altogether.<sup>14</sup> There are two types of legislative waiver. One type, referred to as "offense exclusion," excludes some offenses from juvenile court jurisdiction. These are usually serious, violent crimes such as murder, rape, and aggravated assault. The reason for excluding juveniles charged with such offenses from the juvenile justice system is that juvenile courts cannot impose sufficiently severe sanctions for such offenses.<sup>15</sup> A second type of legislative waiver excludes from juvenile court those juveniles who possess a particular combination of prior record and present offense. This form of waiver is directed at juvenile offenders who have failed

to desist from criminal activity despite previous contact with the juvenile justice system.

Between 1979 and 1995, several states have modified the judicial waiver process, either by lowering the age at which a juvenile is eligible for waiver or by increasing the number of offenses which are eligible for judicial waiver. To a lesser degree, states have also made increasing use of legislative, or automatic, waiver, primarily by adding offenses which are excluded from juvenile court jurisdiction or by enacting an entirely new waiver statute where none previously existed.

In this paper we examine the changes in judicial and legislative waiver statutes between 1979 and 1995 to determine whether state statutes reflect the public shift from support for rehabilitation to an emphasis on "getting tough on crime" during this period. This examination is based on a comparison of state juvenile waiver statutes as they existed in 1979<sup>16</sup> and current (through 1995) juvenile waiver statutes. We contend that an increase in the number of offenses excluded from juvenile court jurisdiction and a lowering of the age when criminal culpability attaches are indicators that state legislatures are moving toward more punitive social control measures for juvenile offenders. But before we analyze this thesis we discuss how the juvenile justice system has arrived at this critical crossroads.

### **Creation of the Juvenile Court**

For nearly a century, the American juvenile justice system has operated under the assumption that juvenile offenders should be handled both separately and differently from adult offenders.<sup>17</sup> The creation of a separate juvenile justice system represented an acceptance of Positivist notions that the law should distinguish between the offender and the offense,<sup>18</sup> and could prevent future delinquency with proper individualized response and treatment.<sup>19</sup> In this sense the juvenile court's creation and propagation supported a belief that social problems could and should be dealt with on an individual level, rather than by treating juvenile crime as a symptom of social structural flaws. The primary justification for creating a

separate juvenile justice system was the distinction between punishment and treatment.<sup>20</sup> The criminal justice system at the turn of the century emphasized the classical school's belief in punishment and deterrence as proper goals. Separating juvenile offenders from adult criminals would allow the juveniles to be treated instead of punished.

The idea that juveniles should be treated differently than adults represented a radical shift from earlier attitudes towards juvenile offenders. At common law only children under the age of seven were considered incapable of felonious intent. This became known as the "infancy defense."<sup>21</sup> Children between the ages of seven and 14 were considered similarly incapable unless it could be established that the child was able to understand the consequences of his actions. Persons over the age of fourteen were considered fully responsible for their actions.<sup>22</sup> At common law juvenile offenders received the same punishment as adult offenders and were usually housed in the same facilities. Before the establishment of New York's House of Refuge in 1825, no state bothered to separate children from adults in prison.<sup>23</sup> By 1899 there were 65 facilities for juveniles in the United States,<sup>24</sup> but juvenile offenders still received the same punishment as adults.

Several events contributed to creation of a separate juvenile justice system. The Industrial Revolution of the late nineteenth century transformed America from a rural country to an urban nation. As more and more people moved to the cities, the number of children in urban areas increased dramatically. Many of these children were often left unsupervised, because both parents worked. Juvenile delinquency became a problem in many cities.<sup>25</sup> At the same time immigration from Europe rose dramatically, and many immigrants chose to live in urban areas. These immigrants brought with them values that often differed from those of the white, Protestant, middle class that dominated America during this time.<sup>26</sup> Reformers such as Jane Addams became concerned about the welfare of these urban children, while others became concerned that the influx of new and different cultures and values was creating confusion and social disorganization.<sup>27</sup> The Progressive movement combined these con-

cerns to produce wide ranging social reforms. The plight of the urban poor received a great deal of attention. Social welfare societies and other similar organizations sprung up across the country. A popular topic of both Progressive reformers and criminal justice professionals was the care and control of children.

The Progressive era reformers called for a separate system of juvenile courts which could focus primarily on helping the wayward child, as opposed to the strictly adversarial, punishment-oriented adult criminal courts.<sup>28</sup> This became known as the "child saving movement."<sup>29</sup> Proponents of a separate juvenile justice system believed that juveniles lacked the maturity and level of culpability that traditional criminal sanctions presupposed, and that juvenile offenders should therefore not only be treated as less blameworthy but also as more amenable to treatment and rehabilitation than hardened adult criminals.<sup>30</sup> As one writer of the time put it, the purpose of the juvenile court was:

"not so much to punish as to reform, not to degrade but to uplift, not to crush but to develop, not to make a criminal but a worthy citizen."<sup>31</sup>

A major justification for creating juvenile courts was the *parens patriae* doctrine, which derived from English common law.<sup>32</sup> This doctrine grew out of the belief that the King was the symbolic father of the country and as such assumed absolute responsibility for the children of the country. Thus the King's chancellors adjudicated all juvenile questions separately from the criminal courts.<sup>33</sup> Adoption of the *parens patriae* doctrine in the United States allowed the state to intervene and act in the best interest of the child whenever it was deemed necessary. Timothy Hurley, the president of the Chicago Visitation and Aid Society, a prominent reform organization, was quite explicit in his endorsement of the *parens patriae* doctrine and its application to the juvenile court:

"The fundamental idea of the juvenile court is so simple it seems anyone ought to understand it. It is, to be perfectly plain, a return to paternalism. It is the acknowledgment by the state of its rela-

tionship as the parent of every child within its borders."<sup>34</sup>

State intervention was not limited to juveniles who had committed crimes. The *parens patriae* doctrine compelled the state to intervene in the lives of children who were straying from the path of righteousness. Any delinquent act or status offense could result in intervention.<sup>35</sup> Some have seen the creation of the juvenile court as little more than a method of controlling the masses of children born to recent immigrants.<sup>36</sup> Others have claimed the idea was embraced by the state because it was cheaper and easier to implement than extending full due process rights to children or incarcerating them along with adults.<sup>37</sup> Others are more reluctant to attribute such dark motives to the Progressive reformers, arguing instead that the reformers were motivated largely by their concern for the well-being of the urban poor and by their fear that the social structure was disintegrating.<sup>38</sup> Whatever the motives, the result was an entirely new method of dealing with juvenile offenders.

In 1899 the first juvenile court was established in Illinois,<sup>39</sup> marking the formal beginning of a separate juvenile justice system. Other states quickly followed Illinois' lead. Within 12 years, 22 states had adopted some form of juvenile court system.<sup>40</sup> By 1920 all but three states had juvenile courts,<sup>41</sup> and by 1932 all but two states had enacted juvenile codes.<sup>42</sup> By 1945 every state had a juvenile court system.<sup>43</sup> The juvenile court system in most states was organized as an entity entirely distinct from the adult court system. Juvenile proceedings were held in their own courtrooms, with judges who heard only juvenile cases. Some states even went so far as to erect separate physical facilities for adult and juvenile courts.

Juvenile court procedure was markedly different from that of the general jurisdiction court. Hearings were private and informal in nature. Due process requirements such as the right to a trial by jury and the right to have a lawyer present were discarded as unnecessary to achieve the purpose of the juvenile court, which was not to assess blame, but to determine the best method of treatment. The juvenile court was intended to help the child to

assist in discovering the causes of his delinquency and to provide the counseling and treatment necessary to set him on the path to an upstanding adulthood. Juvenile court judges enjoyed enormous discretionary power.<sup>44</sup> Juvenile court jurisdiction was classified as civil rather than criminal.<sup>45</sup> A whole new vocabulary sought to differentiate juvenile court activities from adult criminal court activities. Juveniles were not arrested; they were "taken into custody." Instead of indicting a juvenile, prosecutors "petitioned the juvenile court." Juveniles were not convicted; they were "adjudicated delinquent." Juvenile court sanctions were not referred to as sentences, but as "dispositions." Juveniles were not sent to prisons; they were sent to "training schools" or some other euphemistically named institution.<sup>46</sup>

Progressive reformers believed that a system of individualized justice could right the social wrongs that had led to the downfall of so many children. They believed that through science, the causes of juvenile delinquency could be discovered and the problem cured, just as doctors diagnose and treat sick patients. Individualized treatment was essential.<sup>47</sup> All that was necessary to solve the juvenile delinquency problem was to create an institution which had the means to accomplish this goal. A writer of the era summarized the way many felt about the juvenile court:

"Its approach to the problem which the child presents is scientific, objective, and dispassionate. The methods which it uses are those of social case work, in which every child is an individual."<sup>48</sup>

The juvenile court was intended not to punish, but to treat. Each juvenile was unique, and therefore each case required different treatment. Each child's situation would be explained to the court, which would then decide not how to punish the wayward child, but how to help him. Help could take many forms, from a stern lecture to assignment to a training school to permanent removal of the child from the home.

This belief that the juvenile court's primary purpose was to help the child remained a cornerstone of the American juvenile justice system for decades. As late as the 1960s, most

state statutes still declared the purpose of the juvenile justice system was to help the child rather than to explicitly punish him.<sup>49</sup> In 1967 the President's Commission on Law Enforcement and Administration of Justice recommended maintaining separate juvenile and adult court systems, even while admitting that the juvenile justice system had so far failed in its task of rehabilitating juvenile offenders.<sup>50</sup>

### Legal Challenges to the Juvenile Court

The juvenile justice system continued to grow in size and power well into the 1960s, when several United States Supreme Court decisions forced a change in the form of the juvenile court system and when the rising crime rate caused many to reexamine the role of the criminal justice system, including the juvenile court. In 1966, in *Kent v. United States*,<sup>51</sup> the Supreme Court for the first time directly addressed juvenile court procedures. *Kent* extended several due process rights to juveniles involved in waiver hearings. The Court said that the decision whether to transfer a juvenile to adult court required a full hearing. The Court also established the juvenile's right to have counsel present at the waiver hearing. The Court noted that the extra protections and benefits supposedly accorded children in juvenile court might not be worth the loss of rights accorded adult criminals:

"There is evidence . . . that the child receives the worst of both worlds: that he gets neither the protections accorded to adults nor the solicitous care and regenerative treatment postulated for children."<sup>52</sup>

Judicial waiver is currently governed by the factors and procedures outlined in *Kent*. Thirty-seven states have enacted legislation based on the *Kent* criteria to guide juvenile judges in waiver hearings.<sup>53</sup>

One year after *Kent* was decided, the Supreme Court again examined juvenile court procedures. *In re Gault*<sup>54</sup> held that whenever a juvenile was charged with an act which could result in his being sent to a state institution, be it a prison or a reform school, he was must be

accorded due process. Rights guaranteed the juvenile under the rubric of due process included the right to counsel, the right to confront one's accusers and cross-examine witnesses, and the right not to incriminate oneself. Several other cases followed *Kent* and *Gault*, each subtracting elements that had distinguished the juvenile court from adult courts.<sup>55</sup> Meanwhile, liberals criticized the juvenile justice system not only for abridging the rights of juveniles, but also for failing to provide any substantive aid to juveniles.<sup>56</sup> These critics pointed out the abuses in juvenile correctional institutions and suggested that the coercive nature of forced rehabilitation was a violation of the juvenile's rights.<sup>57</sup>

### Public Challenges to the Juvenile Court

At the same time as the Supreme Court was forcing juvenile courts to undergo massive internal changes, American society was experiencing a large increase in crime. Juvenile crime in particular was increasing at a dramatic rate, increasing by almost 250% between 1960 and 1980.<sup>58</sup> Not only was the amount of juvenile crime up, but the types of crimes being committed by juveniles seemed to be changing for the worse. More and more juveniles were being charged with serious crimes such as assault, rape, and murder. It seemed that juveniles were no longer content to act out their delinquency with spray paint or stolen cars. Instead, juveniles were turning to guns and violence. Both criminal justice professionals and the public sensed that the juvenile justice system was failing to reduce or control crime.

In 1967 the President's Commission on Law Enforcement and the Administration of Justice said "America's best hope for reducing crime is to reduce juvenile delinquency and youth crime."<sup>59</sup> The Juvenile Justice and Delinquency Prevention Act<sup>60</sup> and the National Advisory Committee on Criminal Justice Standards and Goals<sup>61</sup> both suggested that this goal could be achieved by making the juvenile justice system less punitive. Diversion, deinstitutionalization, and decriminalization were all recommended. These recommendations were based largely on labeling theory,

which suggested that the stigmatization associated with being adjudicated a juvenile delinquent actually pushed some juveniles into further deviance.<sup>62</sup> Many states implemented diversionary programs such as community treatment and intensive supervision.

One result of the increased use of diversionary programs was that the less serious offenders, such as those charged with "status" offenses, were removed from the juvenile justice system, leaving only the most serious, hard-core offenders in the system.<sup>63</sup> This made the acts of the serious offenders more conspicuous, which in turn led to the public perception that there was a tremendous increase in violent juvenile crime and that the juvenile justice system was failing to control it.<sup>64</sup> Between 1960 and 1975, juvenile arrests increased over 140%, while adult arrests increased less than 13%.<sup>65</sup> Gang activity became a major problem in some large urban areas, and much of the gang activity involved extreme violence.<sup>66</sup> Studies indicated that a disproportionate amount of juvenile crime was being committed by a small percentage of juvenile offenders. One large study of juvenile delinquency found that approximately 6% of juvenile offenders accounted for 52% of all delinquent acts.<sup>67</sup>

Some began to blame the juvenile justice system's emphasis on rehabilitation and treatment for the failure to halt the growth of crime. These "crime control conservatives"<sup>68</sup> believed that the emphasis on treatment was thwarting the effectiveness of the criminal law and undermining the moral structure of society.<sup>69</sup> Conservative critics began to call for a shift away from the "rehabilitative ideal" espoused by Progressive reformers<sup>70</sup> to a focus on the more limited goals of retribution and deterrence.<sup>71</sup> These critics suggested that the whole notion of rehabilitating or treating offenders was illogical because it incorrectly assumed the offender was sick rather than a free-willed, rational actor.<sup>72</sup> This disenchantment with rehabilitation extended from adult courts to juvenile courts. Critics began to call for revision of the methods of handling juvenile offenders.<sup>73</sup> Chief among the complaints was the criticism of the juvenile courts' perceived leniency towards juveniles charged with serious crimes.<sup>74</sup>

Other critics decried the rehabilitation model's emphasis on the offender rather than the offense. As one conservative critic put it:

"The victim of a 15-year-old mugger is as much mugged as the victim of a 20-year-old mugger, the victim of a 14-year-old murderer or rapist is as dead or raped as the victim of an older one."<sup>75</sup>

In 1980, the Joint Commission on Juvenile Justice Standards of the Judicial Administration and the American Bar Association proposed that the criminal law's legalistic, due process-oriented principles replace the juvenile justice system's rehabilitative orientation.<sup>76</sup>

Conservative critics were not alone in their criticisms of the criminal justice system. Many liberals were disenchanted with the concept of rehabilitation and treatment of offenders. Rehabilitation did not seem to be working.<sup>77</sup> The coercive nature of forced treatment offended many liberal critics who believed that the discretion inherent in the rehabilitative model was too easily abused by state agents. Discretion was a key component of the juvenile justice system. Many critics complained that juvenile court judges and prosecutors often abused their power. Liberals began to suggest that the state should not and could not force individuals to change,<sup>78</sup> and thus that the state's power should be limited and the focus of the criminal justice system should be on insuring that all who came into contact with it were treated fairly and equally.<sup>79</sup> The result was general agreement among many liberals and conservatives that rehabilitation had failed and that the goals of the entire criminal justice system should be redirected. This odd coupling of liberal and conservative critics led to what became known as the "just deserts" model.<sup>80</sup>

### **Changes in Juvenile Court Jurisdiction**

State legislatures began to respond to the criticisms of the existing criminal justice system and the calls to "get tough on crime." Prison sentences were made longer, indeterminate sentencing was replaced with determinate sentencing, and parole "good time" laws were eliminated in many states. The juvenile justice



system was also singled out for revision. Many states amended their statutes to emphasize that punishment should now be as central a concern as rehabilitation in the juvenile court's decision making process.<sup>81</sup> For example, when Washington changed its legislation regarding juveniles, the objectives of the juvenile justice system were rewritten to include "making the juvenile accountable for his criminal behavior" and to "provide *punishment* commensurate with the age, crime, and criminal history of the juvenile offender."<sup>82</sup>

Washington was the first state to enact a determinate sentencing statute for juvenile offenders.<sup>83</sup> One state went so far as to pass laws requiring relatively long determinate sentences for juveniles convicted of specified crimes in juvenile court.<sup>84</sup> Other states lowered the minimum age of adult criminal court jurisdiction for some offenses. Still other states amended the jurisdiction of their juvenile corrections system to allow it to confine juveniles for a longer period of time. Texas, for instance, increased the age at which the Texas Youth Commission was required to release an incarcerated juvenile from 18 to 21.<sup>85</sup> These measures were indicators that legislatures had retreated from a belief in the *parens patriae* doctrine and instead embraced a belief in deterrence and retribution, the main principles of the "just deserts" model.<sup>86</sup> No longer were juvenile offenders to be treated as children deserving of protection from the full force of the criminal law by virtue of their immaturity. Instead, juveniles accused of serious crimes were to be held accountable for their actions and punished accordingly.

One of the most common methods employed to increase the punitive nature of the juvenile justice system was to permit increased use of the waiver process. Waiver involves removing a juvenile offender from juvenile court jurisdiction of the juvenile court and processing him/her as an adult in the general jurisdiction criminal court. This process is most commonly referred to "as waiver of jurisdiction" or "transfer," although it is sometimes referred to as "determination of fitness," "certification," "reference," "decline," or "re-

mand."<sup>87</sup> The two reasons most commonly given for making it easier to transfer juvenile offenders to adult court are: (1) that the juvenile justice system has failed to control these juveniles and (2) these juveniles have demonstrated, either by the seriousness of their offense or by the frequency of their appearances in the juvenile justice system, that they are not amenable to the sort of treatment the system provides.<sup>88</sup> Thus they deserve to be treated as adults rather than as children. Being treated as an adult in this instance means being punished in adult court rather than being rehabilitated in juvenile court. Transferring a juvenile to adult criminal court has been described as the legal equivalent of admitting that the juvenile justice system's rehabilitation efforts have failed.<sup>89</sup>

### Judicial Waiver Statutes

While most states had always permitted some use of juvenile waiver,<sup>90</sup> waiver was quite rare until the late 1960s.<sup>91</sup> Early waiver statutes gave the juvenile court complete authority and discretion to transfer a juvenile offender to general jurisdiction criminal court.<sup>92</sup> The burden of proof was on the official attempting to have the juvenile transferred to adult criminal court.<sup>93</sup> By 1970 every state allowed some form of waiver.<sup>94</sup> Between 1971 and 1981, juvenile transfers increased nationally from less than 1% to slightly more than 5% of juvenile arrests, an increase of 400%.<sup>95</sup> Juvenile transfers are continuing to increase.<sup>96</sup> The continuing legal and public challenges to the juvenile justice system led many state legislatures to modify their judicial waiver statutes. In the 1970s and 1980s every state amended its juvenile court jurisdiction.<sup>97</sup> Table 1 outlines these changes in judicial waiver statutes. Changes either modified the age at which a juvenile could be waived to adult court, modified the offenses eligible for judicial waiver, or both. Changes are highlighted in boldface.<sup>98</sup>

Ohio Ohio Rev. Code Ann. Tit. 21, 2151.26	1979	15 and older	Felony offense
	1995	No change	No change
Oklahoma Okla. Stat. Ann. tit. 10, 1112	1979	Any age	Felony offense
	1995	No change	No change
Oregon Or. Rev. Stat. Ann. 419.533	1979	16 and older	Any offense
	1995	Added the following: 15 and older  Any age	Class A or B felony, or selected Class C felony Murder, 1st degree manslaughter, 1st degree assault, 1st degree sexual assault, 1st degree robbery
Pennsylvania 42 Pa. Cons. Stat. Ann. 6355	1979	14 and older	Felony offense
	1995	No change	No change
Rhode Island R.I. Gen. Laws 14-1-7, 14-1-7.1 14-1-7.4	1979	16 and older	Any offense
	1995	Added the following: Any age  16 or older	Any offense punishable by life imprisonment Any felony offense, drug offense with one prior drug-related conviction
South Carolina S.C. Code Ann. 20-7-430	1979	Any age 16 and older	Murder, sexual assault Any offense
	1995	Added the following: 14 and older	
South Dakota S.D. Codified Laws Ann. 26-11-4	1979	Any age	Any offense
	1995	No change	No change
Tennessee Tenn. Code Ann. 37-1-134	1979	16 and older 15 and older	Any offense Murder, manslaughter, aggravated sexual assault, aggravated robbery, aggravated kidnaping
	1995	Modified as follows: Any age	Murder, manslaughter, aggravated sexual assault, aggravated robbery, aggravated kidnaping
Texas Tex. Fam. Code Ann. 54.02	1979	15 and older	Felony offense
	1995	Modified as follows: 14 and older	No change
Utah Utah Code Ann. 78-3a-25	1979	14 and older	Felony offense
	1995	No change	No change
Vermont Vt. Stat. Ann. tit. 33,5506	1979	No provision for judicial waiver	No provision for judicial waiver
	1995	Modified as follows: 10 to 13	Murder, manslaughter, aggravated assault, armed robbery, kidnaping, aggravated sexual assault, aggravated burglary
Virginia Va. Code Ann. 16.1-269	1979	15 and older	Felony
	1995	Modified as follows: 14 and older	No change

Washington  Wash. Rev. Code Ann. 13.40.110	1979	16 and older	Class A felony or attempt, 2nd degree assault, 1st degree extortion, 2nd degree kidnaping, 2nd degree sexual assault, 2nd degree robbery, indecent liberties
	1995	<b>Added the following: 15 and older  17 and older</b>	<b>Class A felony, or attempt to commit Class A felony</b>  <b>2nd degree assault, 1st degree extortion, 2nd degree kidnaping, 2nd degree sexual assault, 2nd degree robbery, indecent liberties</b>
West Virginia  W.Va. Code Ann. 49-5-10	1979	Any age  Any age  Any age 16 and older	Treason, murder, armed robbery, kidnaping, 1st degree arson, 1st degree sexual assault, Violent felony offense if prior violent felony adjudication Felony offense if two prior felony adjudications Violent felony offense, or any felony offense if prior felony adjudication
	1995	No change	No change
Wisconsin Wis. Stat. Ann. 48.18	1979	16 and older	Any offense
	1995	<b>Modified as follows: 14 and older</b>	<b>1st or 2nd degree murder, 1st degree sexual assault, kidnaping, burglary, drug offenses, any felony offense if committed in furtherance of organized gang activity</b>
Wyoming Wyo. Stat. 14-5-237	1979	Any age	Any offense
	1995	No change	No change

As Table One makes clear, there have been numerous modifications of judicial waiver statutes in the 50 states between 1979 and 1995. Eighteen states have modified their judicial waiver statutes. The nature of these modifications varies. Some states have lowered the age at which a juvenile is eligible for judicial waiver. Montana, for instance, lowered the age at which a juvenile charged with murder or sexual assault could be waived from 16 years to 12 years. Idaho lowered the age for transfer eligibility from 15 years to 14 years. Other states went even further, doing away with the age limit altogether. For example, Arizona's judicial waiver statute in 1979 allowed the transfer of a juvenile 14 or older charged with any offense. This statute was modified to allow the transfer of any juvenile, regardless of age.

Other states modified their judicial waiver statutes by adding offenses to the list of crimes eligible for judicial waiver. New Mexico in 1979 allowed waiver of 15 year-olds charged with murder. By 1995 a 15 year-old charged with assault, kidnaping, aggravated battery,

sexual assault, robbery, aggravated burglary, or aggravated arson could also be waived to adult criminal court.

Still other states modified their judicial waiver statutes by not only lowering the age at which some offenders could be transferred, but by combining this change in age eligibility with an increase in the number of offenses eligible for transfer. For instance, Oregon in 1979 allowed waiver of 16 year-olds charged with any offense. By 1995 Oregon had lowered the age eligibility for a juvenile charged with a felony offense to 15 years of age, and had totally eliminated the age restriction for a juvenile charged with the more serious felony offenses of murder, first degree manslaughter, assault, sexual assault, and robbery.

Other states actually raised the age limit for some offenses eligible for waiver, while lowering it for others. Washington in 1979 allowed judicial waiver of 16 year-olds charged with a Class A felony or attempt, second degree assault, first degree extortion, indecent liberties,

second degree kidnaping, second degree sexual assault, and second degree robbery. By 1995 Washington's judicial waiver statute had been modified, lowering the age of eligibility for transfer from 16 to 15 for Class A felonies, while raising the age of eligibility for transfer from 16 to 17 for second degree assault, first degree extortion, indecent liberties, second degree kidnaping, second degree sexual assault, and second degree robbery.

### Legislative Waiver Statutes

Legislative waiver, the second type of waiver we examine, is sometimes referred to as "automatic waiver" because juvenile court jurisdiction is removed automatically, without a motion by the prosecutor or a decision by the juvenile court judge. Statutes exclude speci-

fied offenses or offenders from juvenile court jurisdiction. Generally, this exclusion is reserved for the most serious offenses or for repeat offenders. By statutorily excluding particular offenses or offenders from juvenile court jurisdiction, legislatures are changing the juvenile justice system's orientation from rehabilitation and individualized treatment to retribution and punishment.<sup>99</sup>

This method of transfer is the most interesting in its implications for the juvenile justice system, as its recent adoption and expansion indicates the changing perceptions of the proper role of the criminal justice system in general and the juvenile justice system in particular. Table 2 outlines the changes in legislative waiver statutes between 1979 and 1995, and also shows the states which have adopted legislative waiver during this period.

State And Statute Citation	Year	Ages at Which Legislative Waiver Applies	Crimes Eligible for Legislative Waiver
Colorado  Col. Rev. Stat. 19-1-104(b)	1979	16 and older	Any offense punishable by death or life imprisonment Any felony if prior felony adjudication
	1995	<b>Modified as follows: Revoked legislative waiver statute</b>	<b>None</b>
Connecticut  Conn. Gen. Stat. 46b-127	1979	14 and older	Murder or Class A felony if one prior Class A felony adjudication; or Class B felony if two Prior Class A or B felony adjudications
	1995	No change	No change
Delaware  Del. Code Ann. tit. 10, 921	1979	Any age	1st or 2nd degree murder, sexual assault, kidnaping
	1995	No change	No change
District of Columbia D.C. Code Ann. 15-2301(3)	1979	16 and older	Murder, sexual assault, 1st degree burglary, armed robbery
	1995	No change	No change

Georgia Ga. Code Ann. 15-11-5	1979	No legislative waiver	No legislative waiver
	1995	<b>Modified as follows: 13 and older 15 and older</b>	<b>Murder, aggravated sexual assault, armed robbery</b>  <b>Burglary, if 3 prior burglary adjudications</b>
Hawaii Ha. Rev. Stat.	1979	No legislative waiver	No legislative waiver
	1995	<b>Modified as follows: 16 and older</b>	<b>Class A felony if one prior violent felony adjudication or any two prior felony adjudications within two years</b>
Idaho Id. Code 16-1806A	1979	No legislative waiver	No legislative waiver
	1995	<b>Modified as follows: 14 and older</b>	<b>Murder, attempted murder, sexual assault, robbery, mayhem, illegal possession of drugs/firearms near school or school event</b>
Illinois Ill. Ann. Stat. 405.5.4	1979	No legislative waiver	No legislative waiver
	1995	<b>Modified as follows: 15 and older</b>  <b>15 and older</b>	<b>1st degree murder, aggravated sexual assault, armed robbery, possession or sale of drugs at school or school event.</b>  If prior felony adjudication and forcible felony in furtherance of organized gang activity; or prior forcible felony adjudication and felony in furtherance of organized gang activity
Indiana Ind. Code Ann. 31-6-2-1(d)	1979	16 and older	Murder
	1995	<b>Modified as follows: 16 and older</b>	<b>Sexual assault, kidnaping, armed robbery, car jacking, criminal gang activity, possession of firearm; any misdemeanor or felony if prior felony or misdemeanor conviction</b>
Kansas Kan. Stat. Ann. 38-1602(b)(3)	1979	No legislative waiver	No legislative waiver
	1995	16 and older	Felony, if prior felony adjudication
Louisiana  La. Rev. Stat. Ann. 1570(A)(5)	1979	15 and older	1st or 2nd degree murder, manslaughter, aggravated sexual assault Armed robbery, aggravated burglary, aggravated kidnaping
		16 and older	
Maryland  Md. Code Ann. 3-804(e)	1979	14 and older	Any offense punishable by death or life imprisonment Armed robbery
		16 and older	
Minnesota Minn. Stat. Ann. 260.125	1979	No legislative waiver	No legislative waiver
		1995	<b>Modified as follows: 16 and older 14 and older</b>
Mississippi  Miss. Code Ann. 43-21-105(f)	1979	13 and older	Any offense punishable by death or life imprisonment
		No change	
Nebraska  Neb. Rev. Stat. 43-247	1979	16 and older Any age	Misdemeanor — concurrent jurisdiction Felony — concurrent jurisdiction
		1995	

Nevada Nev. Rev. Stat. 62.040	1979	Any age	Murder or attempted murder
	1995	No change	No change
New Mexico N.M. Stat. Ann. 32A-2- 20, 32A-2-3	1979	No legislative waiver	No legislative waiver
	1995	<b>Modified as follows: 16 and older</b>	<b>1st degree murder</b>
North Carolina N.C. Gen. Stat. 7A-608	1979	14 and older	Murder
	1995	<b>Modified as follows: 13 and older</b>	<b>Class A felony</b>
Ohio Ohio Rev. Code Ann. Tit. 21, 2151.25	1979	No legislative waiver	No legislative waiver
	1995	<b>Modified as follows: Any age</b>	<b>Murder, 1st and 2nd degree felony if prior murder adjudication</b>
Oklahoma  Ok. Stat. Ann. tit. 10, 1104.2	1979	16 and older	Murder, sexual assault, kidnaping, robbery, arson, manslaughter, aggravated assault, Burglary w/ 3 prior adjudications for burglary, aggravated drug offense
	1995	<b>Modified as follows:</b>	<b>1st degree murder</b>
Pennsylvania 42 Pa. Cons. Stat. Ann. 6355	1979	Any Age	Murder
	1995	No change	No change
Rhode Island R.I. Gen. Laws 14-1-7.1	1979	16 and older	Any felony if two prior felony adjudications
	1995	<b>Modified as follows: 16 and older</b>	<b>Drug offense if previously adjudicated for drug offense</b>
Vermont Vt. Stat. Ann. tit. 33, 5506	1979	Any age	Murder
	1995	<b>Modified as follows: 14 or older</b>	<b>Murder, manslaughter, aggravated assault armed robbery, kidnaping, aggravated sexual assault, aggravated burglary</b>

Examination of Table 2 makes it clear that the most serious crimes are the ones most commonly excluded from juvenile court jurisdiction, as one would expect. Several states, however, exclude all felonies, including some relatively minor, nonviolent offenses. In 1979, 14 states had some form of legislative waiver. Between 1979 and 1995, eight states enacted legislative waiver statutes, while three states amended existing statutes. Only one state, Colorado, repealed legislative waiver during this time period. In 1993 Colorado adopted a system of prosecutorial waiver. Indiana is an example of a state which modified an existing legislative waiver statute. In 1979 Indiana automatically excluded from juvenile court jurisdiction juveniles 16 years of age and older charged with murder. By 1995 Indiana had modified its legislative waiver statute to automatically exclude 16 year-olds charged with

sexual assault, kidnaping, armed robbery, car jacking, or any felony if the juvenile had a prior misdemeanor or felony conviction.

Legislative waiver gained in popularity during the 1980s when eight states adopted it. States which adopted legislative waiver during the 1980s often limited its use to the most serious offenses. For example, New Mexico restricted its use to juveniles 16 years of age or older charged with first degree murder.

On the other hand, some other states adopted legislative waiver during this period not merely for serious offenses, but also for repeat offenders. Georgia automatically excluded from juvenile court jurisdiction juveniles 15 years of age or older who had three prior burglary adjudications. Hawaii adopted legislative waiver for juveniles 16 years of age or older charged with a Class A felony who had a prior violent

felony adjudication or any two felony adjudications.

On the surface it would seem that legislative waiver, regardless of its form, is designed to achieve several goals. First, it removes some discretion from the juvenile court judge, who traditionally has enjoyed wide latitude in determining which offenders should be waived to general criminal court. According to one scholar, legislative waiver has received much support in recent years because it "provides a rational, non-discretionary, and easily administered method for deciding which youths should be prosecuted as adults."<sup>100</sup> Second, it recognizes and codifies the recent move away from rehabilitation toward an emphasis on the more limited goals of retribution and deterrence. Third, it signals a change in the juvenile justice system's focus from the individual offender to the offense. This is a critical shift because, as previously noted, one of the juvenile justice system's original goals was to do what was best for the offender, regardless of offense. Under legislative waiver, these concerns have been altered so that the seriousness of the offense takes precedence over issues related to the offender. Fourth, it emphasizes a shift in the juvenile justice system's purpose from treating the individual juvenile to protecting society.

### **Discussion**

In recent years, the "get tough on crime" clamor has filtered into the juvenile justice system. State legislatures have acted in the 1980s and early 1990s to provide the juvenile justice system with mechanisms to impose more punitive sanctions on serious and violent juvenile offenders. Numerous state legislatures have either lowered the judicial waiver age or have added offenses eligible for judicial waiver to general jurisdiction court. In addition, numerous states have enacted legislative waiver statutes which automatically send an offender to adult court for prosecution based on the offense committed. Therefore, in recent years state legislatures have enacted substantive changes in state statutes governing waiver to adult court, which illustrates the move toward

more punitive social control measures for serious and violent juvenile offenders.

During the past twenty years the juvenile justice system has come under attack from all sides. Liberals decry the system's occasional disregard for due process and the ease with which the state may intervene in the lives of juveniles. Conservatives complain that the juvenile justice system is too easy on young criminals, that this failure to adequately punish juvenile offenders not only fails to prevent future criminal activity but also fails to adequately address society's right to punish persons who violate its laws. The result of this attack on the juvenile justice system has been a retreat from the rehabilitative ideal. This retreat has had a major impact on juvenile court jurisdiction. Virtually every state has acted in some way to restrict juvenile court jurisdiction to increase the likelihood that juveniles will be sanctioned more severely than in the past. The strategies employed to achieve this restriction of the juvenile court's jurisdiction have differed from state to state, but the purpose of the statute changes has been the same.

The question that now confronts the juvenile justice system, state legislatures, and the public is: What do we want from the juvenile justice system? Restrictions on juvenile court jurisdiction reflect a disillusionment with the rehabilitative ideal and an apparent acceptance of the more limited goals of retribution and incapacitation. Studies of the waiver process suggest that waiver is not accomplishing these new goals. Waiver is not being used to isolate serious violent juvenile offenders;<sup>101</sup> juveniles who are waived to adult court are not receiving harsher sentences than they would in juvenile court;<sup>102</sup> and the juvenile crime rate is not decreasing.<sup>103</sup> Empirical evidence also suggests that changing the juvenile justice system goal from rehabilitation to retribution may be an overreaction to the juvenile crime problem because many youths may commit only one serious crime and then cease to be criminally active.<sup>104</sup> Focusing on punishment rather than treatment and diversion for first-time juvenile offenders, even those accused of serious crimes, may stigmatize such offenders without any benefit to society other than the satisfaction of

a desire for revenge. Does all this indicate that the increased use of waiver is ineffective at preventing crime? Or has the concept of juvenile waiver simply been misused and misapplied, much as the concept of rehabilitation was poorly implemented and poorly practiced?

### Conclusion

The criminal justice system in the United States has been marked by cyclical shifts between the goals of punishment and rehabilitation. The juvenile justice system was created during one shift in the cycle, and it is currently being modified as the pendulum swings back toward the goal of punishment. Perhaps the answer to the problem lies in a disavowal of the dualistic paradigms of good/bad, rehabilitate/punish. The dualism paradigm has been pre-eminent in Western thought since St. Augustine divided everything into the human and natural worlds in the fourth century.<sup>105</sup> The limitations of such a paradigm are perhaps nowhere more evident than in the criminal justice system. Even today, after a century of study, the causes of crime are largely unknown. How then can we expect a system predicated upon the dualism paradigm of right and wrong to solve the complex problem of crime? There are no simple solutions, as the increase in the use of juvenile waiver clearly demonstrates. Punishing children as though they were adults does not stop crime. It is not that simple. Instead, we must focus on developing innovative strategies to deal with juvenile offenders rather than merely modifying strategies that have failed in the past.

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### Notes

- <sup>1</sup>"Public Angry Over Level of Violence," *USA Today*, September 28, 1994.
- <sup>2</sup>"Residents Unite Against Freeing Killer in Rhode Island," *Dallas Morning News*, August 8, 1994.
- <sup>3</sup>J. Q. Wilson & R. Hernstein, *Crime and Human Nature* (1985); E. van den Haag, *Punishing Criminals* (1975).
- <sup>4</sup>A. von Hirsch, *Doing Justice* (1971); G. Newman, (1983); van den Haag, *supra* note 3; Wilson, *supra* note 3.
- <sup>5</sup>Examples of this new attitude include juvenile boot camps, police monitoring programs such as SHOCAP (Serious Habitual Offender Comprehensive Action Program), lowering the age at which offenders are eligible for the death penalty, and the expansion of mechanisms for waiving a juvenile offender to adult court for prosecution.
- <sup>6</sup>B. Krisberg & J. Austin, *Reinventing Juvenile Justice* (1993). Florida has long allowed extensive use of prosecutorial waiver; Colorado has just enacted a prosecutorial waiver statute.
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- <sup>51</sup>*Kent v. United States*, 383 U.S. 541 (1966).
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was not modified by 1993, the cell indicates "no change," meaning that the law is the same as it was in 1979.

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<sup>101</sup>Hamparian et al., *supra* note ; Nimick et al., *supra* note 92; Bishop et al., *supra* note ; Champion, (1989).

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<sup>103</sup>Bureau of Justice Statistics, *BJS Data Report 1987* (1988).

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