

JUVENILE

CODE

JUVENILE JUSTICE IN ALASKA
a report to
THE HONORABLE BILL SHEFFIELD
GOVERNOR
STATE OF ALASKA
from the
DIVISION OF FAMILY & YOUTH SERVICES
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Executive Summary

Despite widespread and persistent beliefs, juvenile crime in Alaska is neither increasing nor becoming more violent. The best measures show that while adult crime has increased at the same rate as the Alaska's population, juvenile crime has declined both in total numbers and rate and is only one-fourth of total crime in the state. Only 2% of Alaska's juvenile crime is violent crime. This is 1/10 of serious, violent crime in the state and only 1/2 of 1% of total Alaska crime.

Because juveniles commit generally less serious crimes and have a greater potential for rehabilitation than adult offenders, Alaska's juvenile justice system operates differently from the criminal justice system. The vast majority of young offenders are first time and less serious offenders who can be successfully diverted from the formal juvenile justice system. Court action is reserved for repeat offenders and those who have committed serious offenses. Most are adequately controlled and rehabilitated in community settings. A small number require the control and structure of secure detention and treatment facilities.

Programs for juvenile offenders were separated from adult correction programs and transferred to the Division of Family and Youth Services four years ago. Since then juvenile delinquency has received greater attention and services provided to protect the public and rehabilitate young offenders have increased dramatically. The number of youth under probation supervision is up 45% and the average populations of juvenile detention and secure treatment facilities have increased by 58% and 30% respectively. With greater focus, remedial increases in service, and earlier intervention fewer youth are "slipping between the cracks." Serious or repeat offenders are identified and dealt with sooner reducing multiple offenses. In short, increases and improvements in service seem to have been a primary factor in reducing juvenile crime in Alaska.

Despite essential growth, detention facilities average 40% above capacity and there are waiting lists for entry into secure treatment programs. Even planned expansion will not meet projected needs for these services. Overburdened programs quickly become ineffective and continued reductions in juvenile crime cannot be expected in the face of a growing population and overburdened programs.

The response cannot be to simply build more and larger facilities. This simplistic approach focuses massive resources on a single aspect of juvenile delinquency and has been discredited by its failure elsewhere. Its virtually limitless costs alone preclude adoption of this approach. Instead the Department of Health and Social Services has developed a balanced strategy essential in a time of decreasing resources and increasing population. The strategy emphasizes regionalization and increases in prevention, early intervention and communitybased services accompanied by modest increases in secure detention and treatment capacity. Other management initiatives to implement this strategy are development of a systematic method of case management and implementation of a comprehensive management information system (SYSMIS).

A systematic method of case management will provide a framework for effectively allocating resources on individual client and overall program levels, and for short and long range planning. A comprehensive information system is essential to provide information needed for monitoring and evaluating services and programs, and for decision making.

This strategy will help limit the need for growth in costly institutions, make community-based services available on a broader basis throughout the state and insure that limited resources are used most effectively to protect the public and rehabilitate young offenders.

DESCRIPTIVE ANALYSIS OF JUVENILE CRIME IN ALASKA

Certain misperceptions about juveniles and crime are widely accepted by the public and many policy makers and have influenced public policy relating to juvenile justice. These misperceptions are enforced periodically by sensational news reports and the entertainment media. It is important to consider these persistent perceptions in light of available facts if significant policy decisions are to be made wisely.

Incidence of Juvenile Crime

The most widely accepted belief about juvenile crime is that it is widespread and increasing - that there is a juvenile crime wave far out of proportion with the number of juveniles and beyond the level of adult crime. Available facts, however, do not support this belief.

Conservative estimates of population growth indicate that the population of youth in Alaska (those 0 - 18 years of age) increased by approximately 15% from 1979 to 1983. As Chart I indicates this represents an increase of 19,000 juveniles from 134,000 to 153,000. The adult population is believed to have grown at about the same rate and to be slightly more than twice the size as the juvenile population - approximately 325,000 persons.

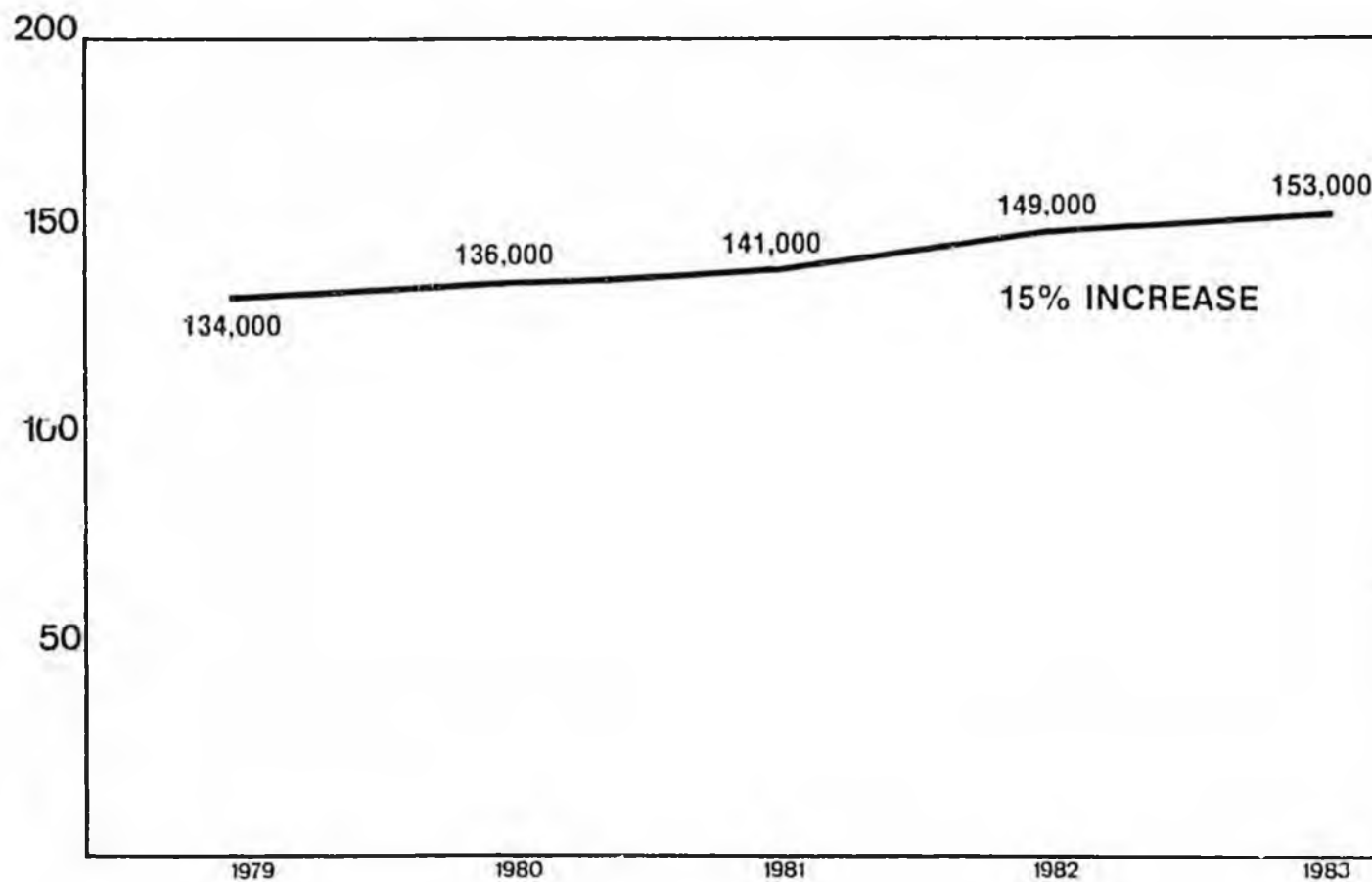
Despite the significant population increase juvenile crime as measured by arrests declined slightly. Chart 2 shows that juvenile arrests have remained relatively stable between 1979 and 1983, declining slightly - about 6%. In contrast adult arrests have shown a marked increase after 1980 and an overall increase during the five year period of about 13%. Juveniles arrests have declined despite population growth while increases in arrests of adults have essentially paralleled population growth.

Chart 3 illustrates another important measure of crime, the rate of arrest. The rate of juvenile arrests (arrests per 1000 persons) was relatively stable until 1982 when it declined sharply. This decline continued in 1983 resulting in an overall decline of 24% during the period 1979 - 1983. This decline follows a national trend of decreasing juvenile arrest rates. However, Alaska's juvenile arrest rate, 32.24 per 1000, is less than one half the most recently calculated national rate. (1) In contrast Alaska's adult arrest rate does not show a similar trend although the 1983 level was slightly (8%) below the 1979 high of 46.56 arrests per 1000 persons.

In summary, juvenile arrests in Alaska are declining despite significant population increases and the rate of juvenile arrest has declined substantially. Alaska's juvenile arrest rate is far below the national juvenile rate and 25% lower than Alaska's adult arrest rate.

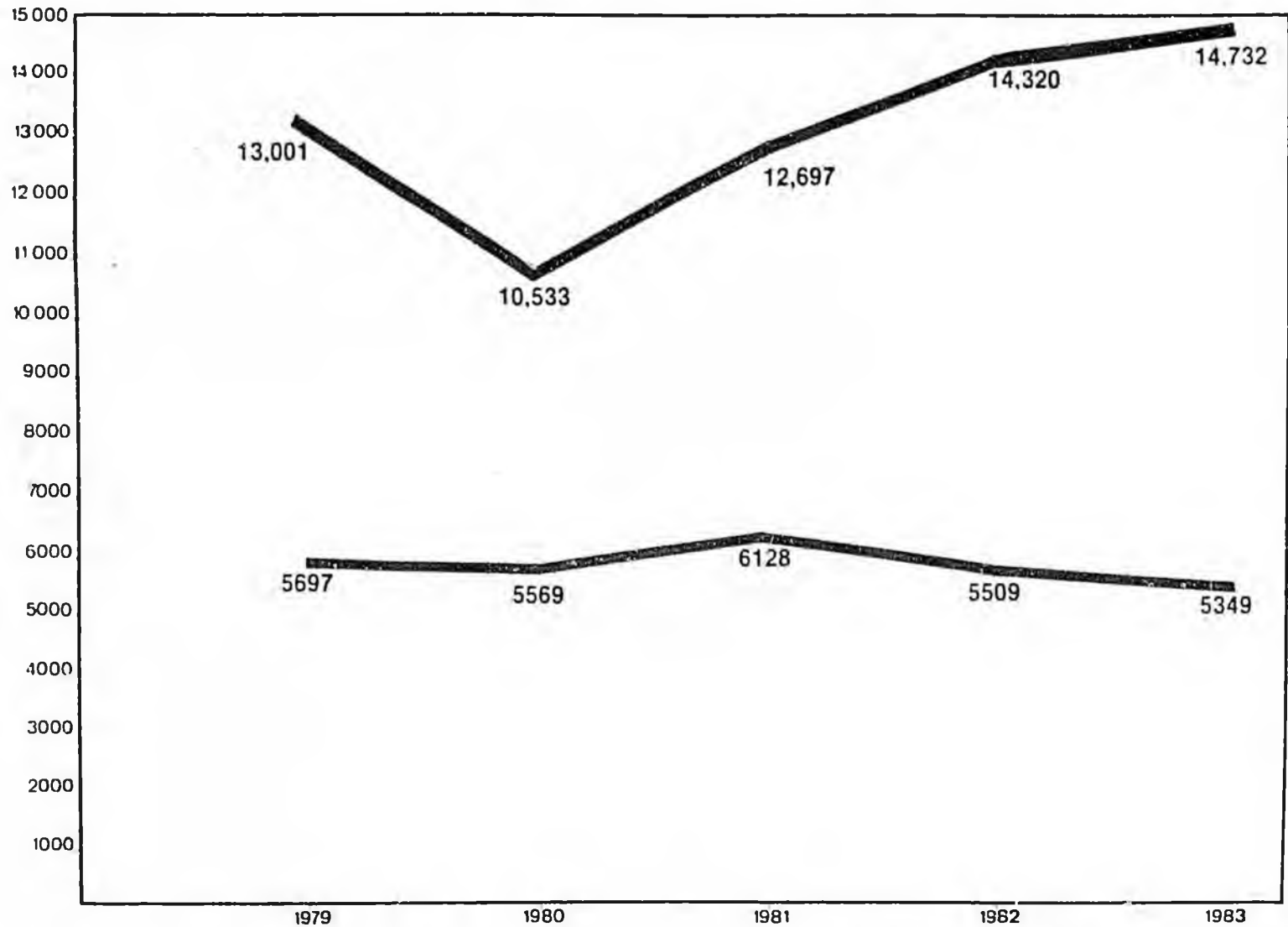
(1) Report to the Nation on Crime and Justice: The Data, U.S. Department of Justice, Bureau of Justice Statistics, 1983.

ALASKA YOUTH POPULATION (0 to 18 Years)



Source Data: Alaska Population Overview — 1981.
Alaska Department of Labor
U.S. Bureau of Census, 1980

ARRESTS IN ALASKA

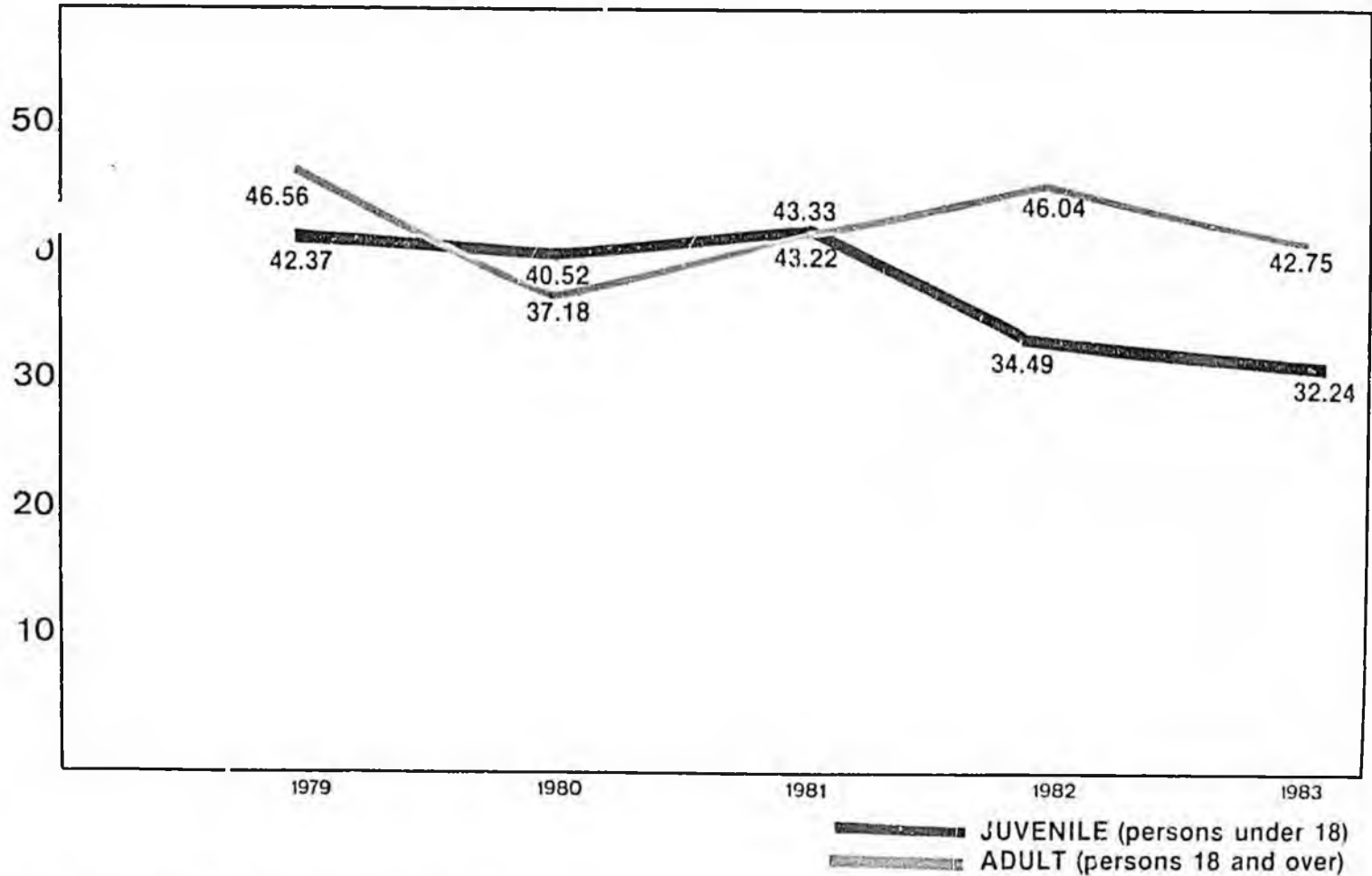


Source: *Crime in Alaska 1979-1983*. Department of Law
Department of Public Safety

— JUVENILE (persons under 18)
— ADULT (persons 18 and over)

ALASKA ARREST RATES

ARRESTS
PER 1000
PERSONS



Data Sources: Arrest data, *Crime in Alaska — 1983*, Alaska Department of Public Safety
Alaska Population Overview — 1982, Alaska Department of Labor

Profile of Juvenile Crime

Another popularly accepted belief about juvenile crime is that it is characterized by a high level of violence - that juveniles commit a disproportionate number of violent crimes and that juvenile crimes often involve gratuitous violence.

Insight into the nature of juvenile crime in Alaska can be gained from studying the types and proportions of crimes for which juveniles are arrested and comparing these with adult arrests. Chart 4 depicts this information for 1983. Data for 1983 is shown since it is the most recent data available and because the pattern of arrests is essentially the same for the entire five year period.

Most importantly the data shows that arrests for serious violent crimes (homicide, rape, robbery, aggravated assault) are only a tiny proportion (2%) of juvenile arrests and only a small (10%) proportion of the total arrests for these crimes.

The data shows that juvenile crime in Alaska is primarily property crime (thefts, from shoplifting to burglary) which account for about one-half (49%) of all juvenile arrests. The other main categories of juvenile crime are liquor law violations such as minor consuming (21%), and status offenses such as runaway and curfew violations (8%). The smallest number and percentage of juvenile arrests (116 or 2% of total) is for serious violent crimes, - homicide, rape, robbery and aggravated assault. Other crimes against persons, such as misdemeanor assaults, account for only 3% of juvenile arrests.

A comparison of juvenile and adult arrests shows that arrests for violent crimes and crimes against people comprise a significantly greater proportion of adult arrests and that adult arrests for violent crimes are ten times greater than the number of juvenile arrests.

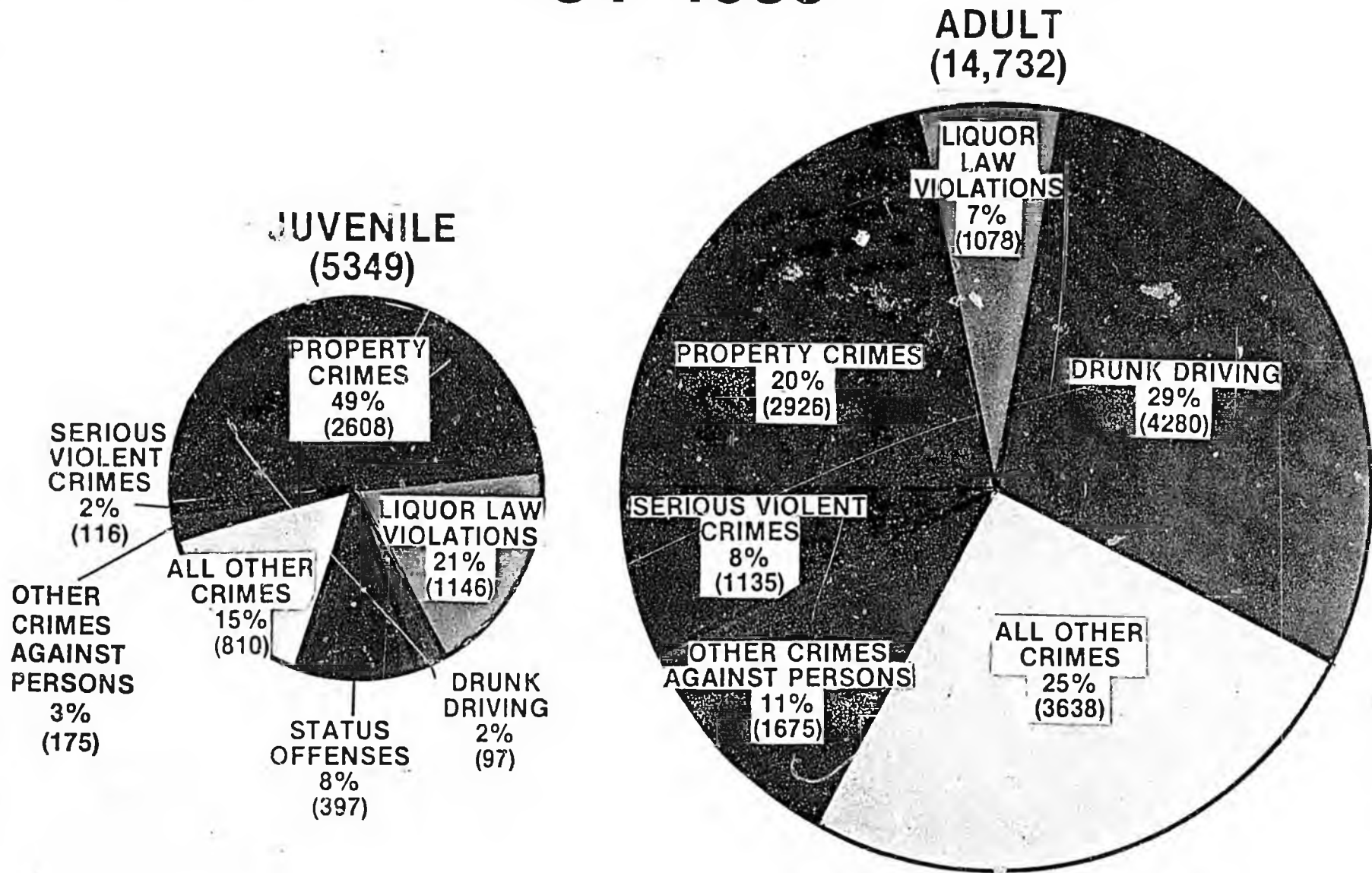
Interpretation

Although juvenile crime at any level is a serious social concern, national studies indicate that the magnitude of the problem is exaggerated in public perception. Studies and data also show that the public perception of a drastic and disproportionate increase in violent and serious crime by juveniles is erroneous. In fact, the National Crime Survey showed that during a recent five year period both the number and rate of personal victimizations by juveniles decreased while victimizations committed by adults increased. The same study showed that personal victimizations committed by juveniles were less serious in terms of weapons use, rate of injury, and financial loss, than similar crimes committed by adults. (2)

A study by Dr. Marvin Wolfgang of the University of Pennsylvania, which tracked all juveniles born in Philadelphia in 1958 is equally important in understanding violent juvenile crime. The Wolfgang study found that a small number of

(2) Analysis of National Crime Victimization Survey Data To Study Serious Delinquent Behavior, U.S. Department of Justice, Criminal Justice Research Center, M.J. Hindelang and M.J. McDermott, 1981.

PROFILE OF ARRESTS CY 1983



Data Source: Crime in Alaska — 1983
Alaska Department of Public Safety

repeat offenders commits a disproportionate number, perhaps the majority, of violent crimes committed by juveniles. This study concluded that there is a need to be selective in identifying and dealing differently with that small number of juveniles while reacting in a far less severe manner to the majority of young offenders.

While there have been no such comprehensive studies specific to Alaska a comparison of Alaska and national data indicates that the findings of national studies probably hold true here. (3)

- o Alaskan juveniles comprise 32.5% of the state population while nationally juveniles make up 27.5% of the population.
- o Juvenile arrests comprise 26.6% of total arrests in Alaska compared to 19.8% nationally. This difference is approximately equal to the difference in the proportions of juveniles to the total population.
- o Only 2% of juvenile arrests in Alaska are for serious, violent crimes (murder, rape, robbery, aggravated assault) compared to 4.2% nationally.
- o Juvenile arrests for serious violent crimes in Alaska are 10% of the total number of arrests for these crimes compared to 18.5% nationally.
- o The proportion of juvenile arrests for violent crimes in Alaska has remained at the 10% level since 1979.
- o Nearly half (49%) of Alaska's juvenile arrests are for property crimes compared to 42% nationally. Two thirds of these arrests in Alaska are for thefts.
- o Status offenses (curfew, runaway, liquor law violations) account for nearly one third (29%) of Alaska juvenile arrests compared to 18% nationally.

In general terms then, Alaska's juvenile crime patterns parallel national trends, with some important differences. While total juvenile crime and rate of juvenile crime are declining both nationally and in Alaska, these declines are accompanied nationally by a decline in the juvenile population while Alaska's juvenile population is increasing.

Perhaps the most important difference is in the level of violent crime. Violent crime by juveniles in Alaska is a much smaller proportion of both total juvenile crime and total violent crime than is the case nationally (about half the national proportions), and a minute proportion (one-half of 1%) of all crime in the state. Juvenile property crime is a higher proportion of total property crime in Alaska than is true nationally (47% vs 37%) and is the most prevalent type of juvenile crime. Juvenile crime in Alaska is largely (80%) property crime, liquor law violations, and status offenses. Juvenile crime is only about one-fourth (26.6%) of the total crime problem in the State compared to 20% nationally. The difference in these proportions is almost precisely the

(3) SOURCEBOOK OF CRIMINAL JUSTICE STATISTICS 1983, U.S. Department of Justice, Bureau of Justice Statistics.

same as the difference in the proportion of juveniles to the total state versus national population - 5%.

JUVENILE JUSTICE SYSTEM IN ALASKA

Juvenile justice systems were established nationwide and in Alaska in recognition of significant differences in the characteristics and rehabilitative potential of adult and juvenile offenders and differences in the general types and seriousness of offenses committed by the two groups. The vast majority of juvenile crime is far less serious than adult crime and the likelihood of changing behavior of children is greater than the likelihood of rehabilitating adult offenders. In recognition of these differences the juvenile justice system has developed with a greater reliance on informal resolution, diversion, and intervention than is true in the adult criminal justice system. The emphasis of the juvenile system has been to employ the least intensive and least expensive interventions necessary to achieve the equally weighted goals of protection of the public and rehabilitation of the juvenile offender.

The juvenile justice system may be seen then as a screening process through which the less volatile and more readily rehabilitated youth are separated from those who present a danger to themselves and others. Assessments of the risk juvenile offenders present and of their rehabilitative needs are inherent in key decisions in the juvenile justice system and are of prime importance in the distillation process. The effectiveness of a juvenile justice system may be measured by its ability to accurately assess risk and need and provide services which successfully address each. The essence of evolution in juvenile justice is improvement in methods of assessing risk and need and providing more effective services.

System Flow

Chart 5 illustrates in simplified form the flow of the juvenile justice system. The chart emphasizes key decision points and actions in the screening process. Because complete statistical information is not routinely collected, the chart illustrates estimated client flow during calendar year 1982 based on a sampling study by Wasserman and McNabb (4) (commissioned by the Division of Family and Youth Services).

Key decision points and actions illustrated are:

1. Decision to arrest - This is a decision of law enforcement based on evidence of a crime. The data shows that only about 3% of the total juvenile population is arrested even if multiple arrests are not considered.
2. Decision to detain or release to parent - Detention of juveniles on arrest is a decision made by police officers based on the officer's assessment of danger to the youth or others. As chart 5 illustrates, a substantial number of juvenile arrests (nearly half) result in secure detention. This occurs despite the fact that the vast majority of juvenile arrests are for

(4) Youth Services Research and Evaluation Report, P.Z. Wasserman and S.L. McNabb, 1983.

status or property offenses and most of those youths detained are eventually dealt with informally. It is clear that the rate of detention is unjustified by the types of offenses being committed and the level of danger presented by the youth. Certainly the national detention rate is far below the nearly 50% level found in Alaska. This high rate of detention has a significant impact on the population of juvenile detention facilities and locally operated municipal jails. It also causes a variety of problems including overcrowding in juvenile detention facilities, inefficient use of adult facilities, and detention of juveniles in adult facilities without statutorily required sight and sound separation from adults.

3. Decision to release from detention, dismiss, divert through informal action or initiate formal action - In general this is a decision of the DFYS intake officer, often in consultation with legal counsel. This decision is based on an assessment of (a) the offense, (b) the youth and the youth's past behavior, and (c) the likelihood that public protection and rehabilitation of the child can occur through informal action (e.g., restitution, community service, counseling, etc.) or that formal court action will be necessary to achieve these goals. Chart 5 shows and Chart 6 more graphically illustrates that the vast majority of juvenile offenders (first offenders and those who have committed less serious offenses) are diverted from the system and informal supervision is employed. Chart 6 indicates that an estimated 74% of juvenile offenders were diverted from the formal juvenile justice system in 1982. Eight percent required a higher level of intervention through informal probation supervision for a short period of time, up to six months. A very small number (1%) of cases were dismissed as unfounded or lacking sufficient evidence.
4. Formal action - Filing of formal delinquency petitions is the responsibility of the intake officer but may also be initiated by prosecutors. In a very small number of cases - those few juveniles who have committed offenses so serious and whose rehabilitative potential is so small that they can not be appropriately dealt with in the juvenile justice system - waiver of juvenile jurisdiction may be sought.

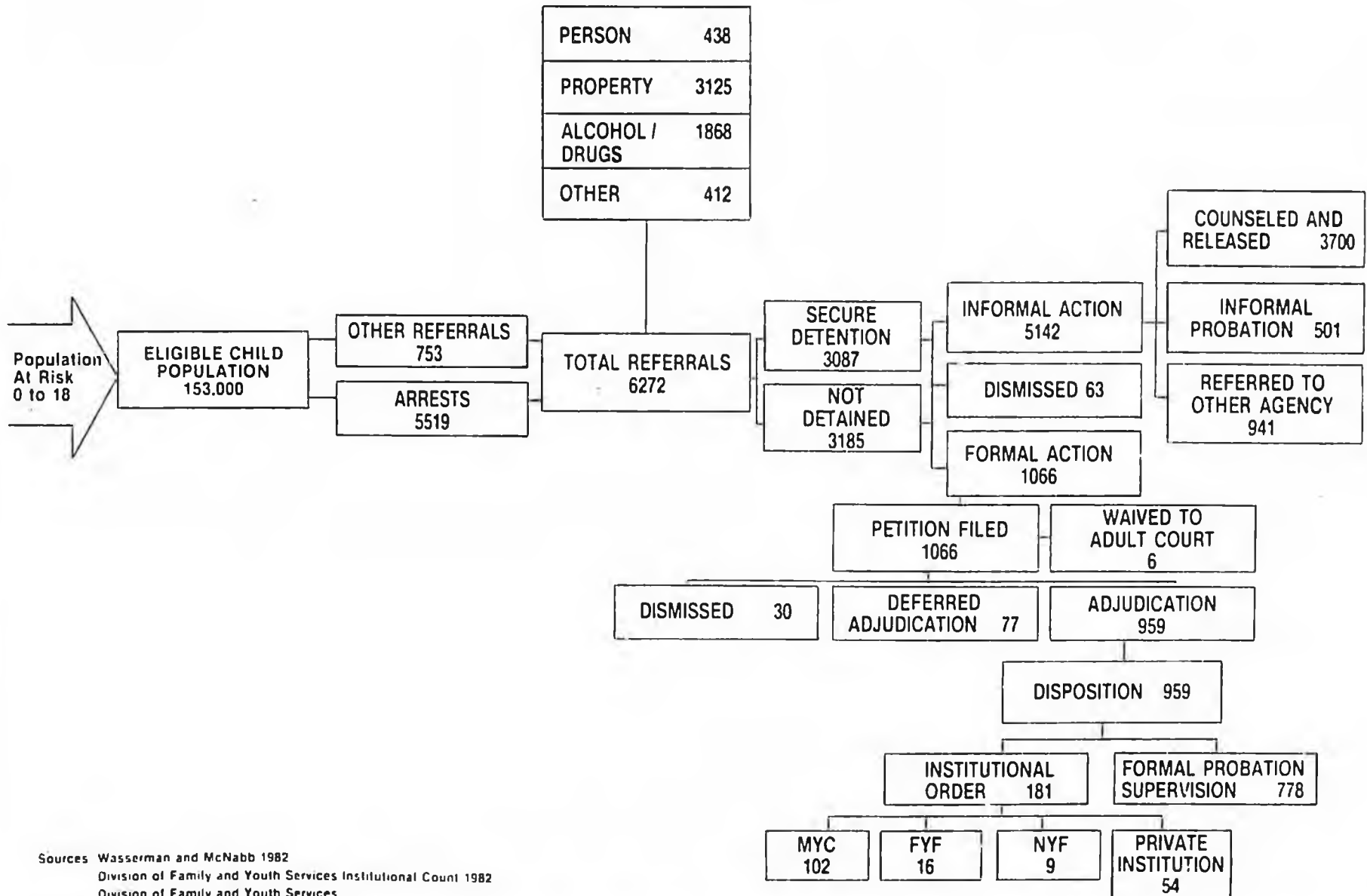
Formal petitions were filed in 17% or nearly 1,100 cases in 1982. The majority (90%) resulted in delinquency adjudications. Approximately 3% were dismissed before trial or were found insufficient to prove delinquency. Adjudication was deferred in about 7% of cases, generally conditioned upon satisfactory behavior under probation supervision. Waiver to adult jurisdiction occurred in 6 cases.

5. Disposition - After a finding of delinquency the court determines, within statutory guidelines, the general plan to be implemented to both protect the public and to rehabilitate the young offender. Chart 6 shows that the majority (72%) of formal actions resulted in formal probation supervision in the community. Approximately 181 cases (67%) resulted in orders requiring placement of youths in secure rehabilitative treatment facilities or structured private residential care facilities. The number of youth institutionalized is roughly one and one half times the number of

juveniles arrested for serious or violent crimes (181 institutionalizations versus 116 violent crime arrests) indicating that the most severe sanction and expensive treatment is reserved for those youth who present a danger to the community.

JUVENILE JUSTICE SYSTEM

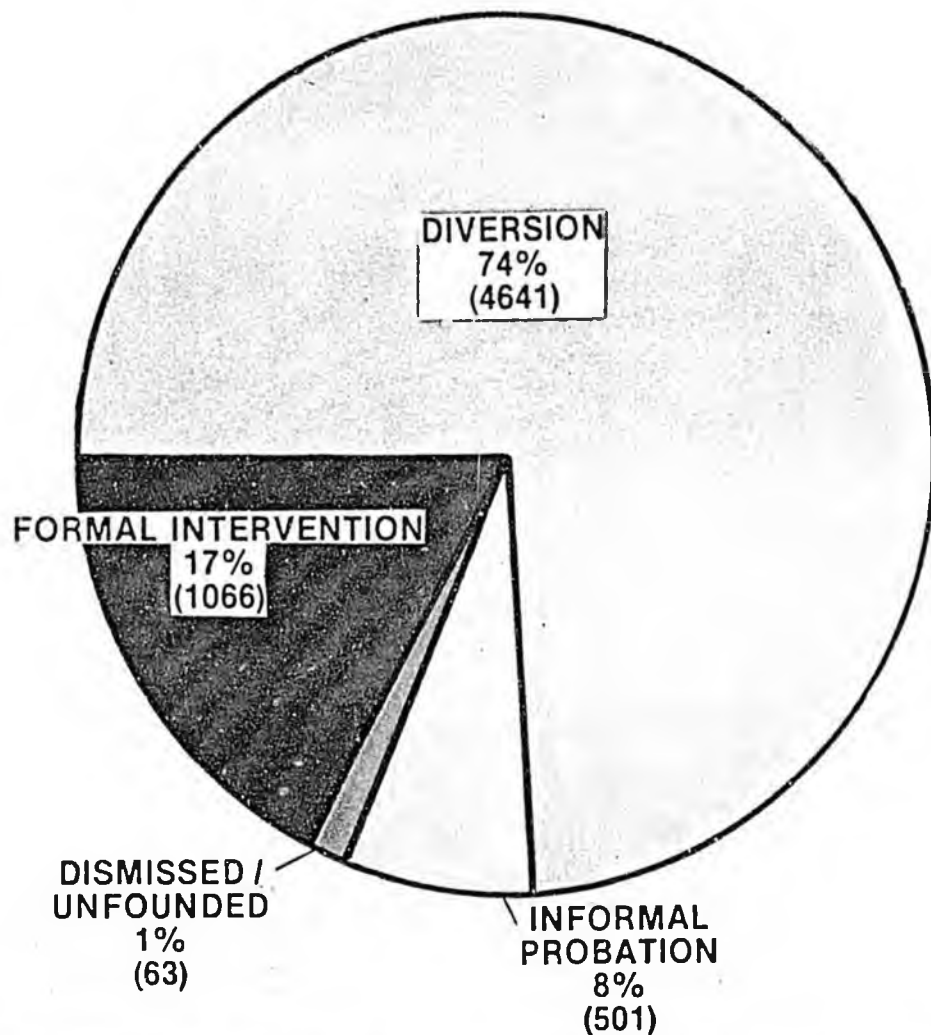
CLIENT FLOW CY 1982



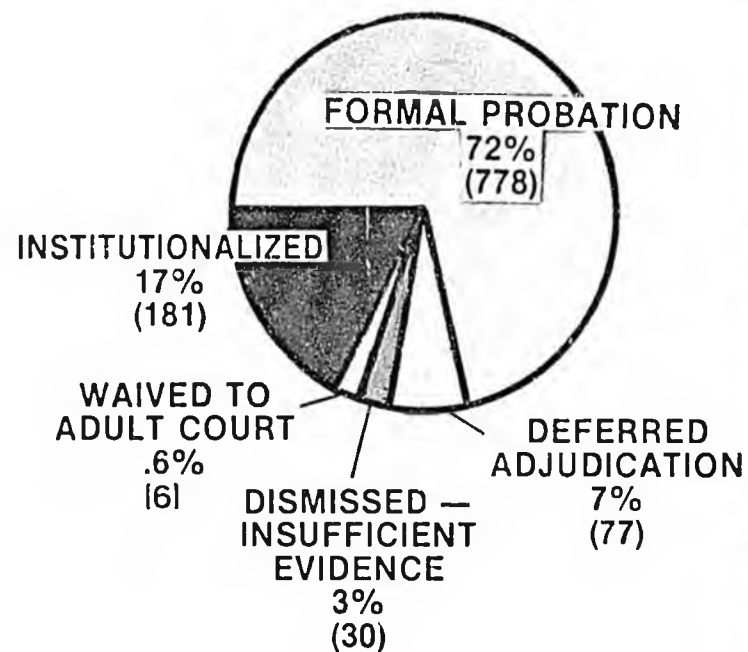
Sources: Wasserman and McNabb 1982
 Division of Family and Youth Services Institutional Count 1982
 Division of Family and Youth Services
 Field Action Summaries 1982

INTERVENTIONS EMPLOYED 1982

ARRESTED / REFERRED YOUTH 6272



FORMAL INTERVENTIONS 1066



DHSS RESPONSE TO JUVENILE CRIME

Perspective

Before December, 1980 responsibility for providing rehabilitation programs for juvenile offenders was assigned to the Division of Corrections within the Department of Health and Social Services. These programs were provided largely as an adjunct to adult correctional programs. In all areas of the state except Anchorage and Fairbanks probation officers were assigned both adult and juvenile cases. Only one facility existed for the detention and secure treatment of juveniles (McLaughlin Youth Center). Because of this structure juvenile programs were largely subordinated to adult programs. Responsibility for providing juvenile rehabilitation programs was transferred to the Division of Family and Youth Services in December, 1980; an action based on recommendations from several studies which indicated that increased efficiency and effectiveness could be expected from such a change. In December, 1984 full responsibility for performing the juvenile intake function for the superior court was administratively transferred to the Department of Health and Social Services. Previously this function had been split between the Alaska Court System and the Department of Health and Social Services. Court system employees performed the juvenile intake function in Anchorage, Fairbanks, Kenai and Palmer and DHSS juvenile probation officers performed the function in all other areas of the state.

Growth in Demand for DHSS Services : Probation, Detention, Secure Treatment

Charts 7, 8 and 9 illustrate the significant increases in the demand for DHSS services to protect the community and to rehabilitate juvenile offenders.

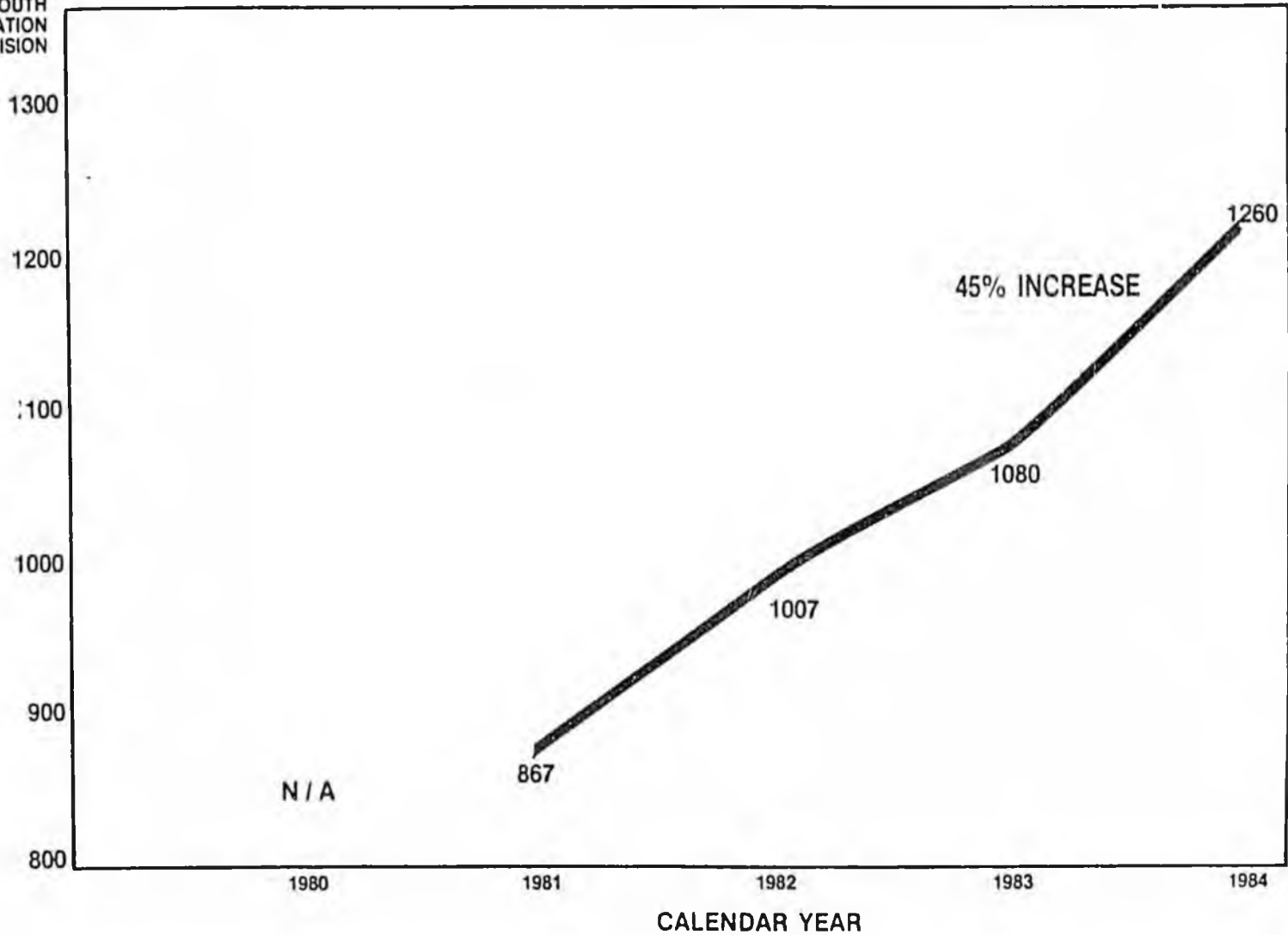
Probation: Chart 7 illustrates the average number of youth under probation supervision from 1981 through 1984. Youth under formal, court ordered supervision comprise 90% of these cases while youth under informal supervision as a diversion from formal justice system account for 10%. As is illustrated there was a 45% increase in the average number of youth under probation supervision during the four year period, rising from 867 in 1981 to 1260 in 1984.

Detention: Chart 8 illustrates the growth in the average number of youth detained in juvenile detention facilities since 1978. It also projects future growth and compares this with the actual and planned capacity of juvenile detention facilities.

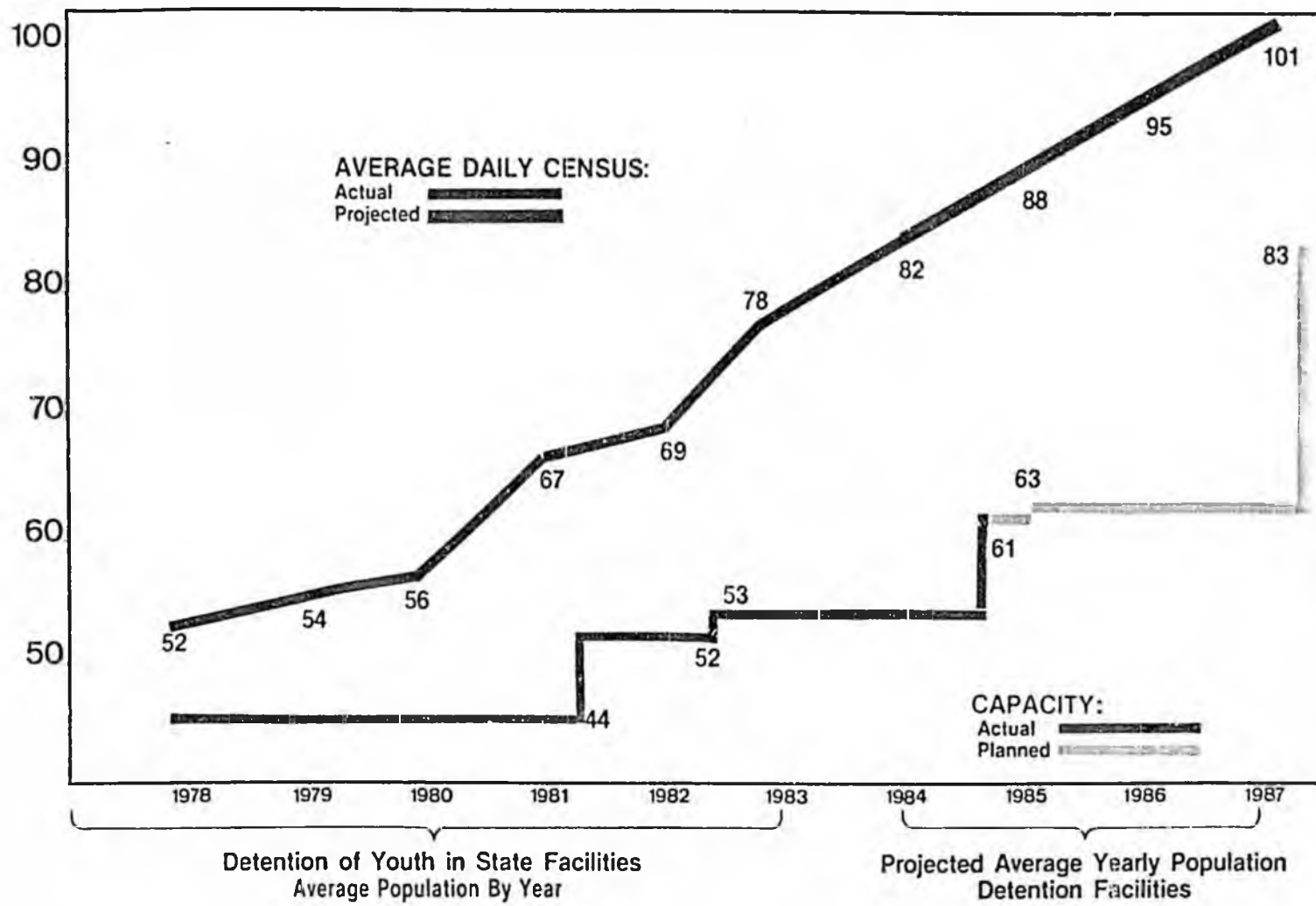
Between 1978 and 1984 there was a 58% increase in the average daily population of juvenile detention facilities. The average daily census was approximately 18% above actual capacity in 1978 and, despite growth in the capacity of juvenile detention facilities, presently exceeds actual capacity by approximately 40%. Juvenile detention facilities in Anchorage and Fairbanks are dangerously overcrowded at the present time and if the historical growth rate holds true to 1987 even the planned 30% increase in juvenile detention facility capacity will not meet the need and the detention facilities will continue to be seriously overcrowded.

GROWTH IN PROBATION SERVICES

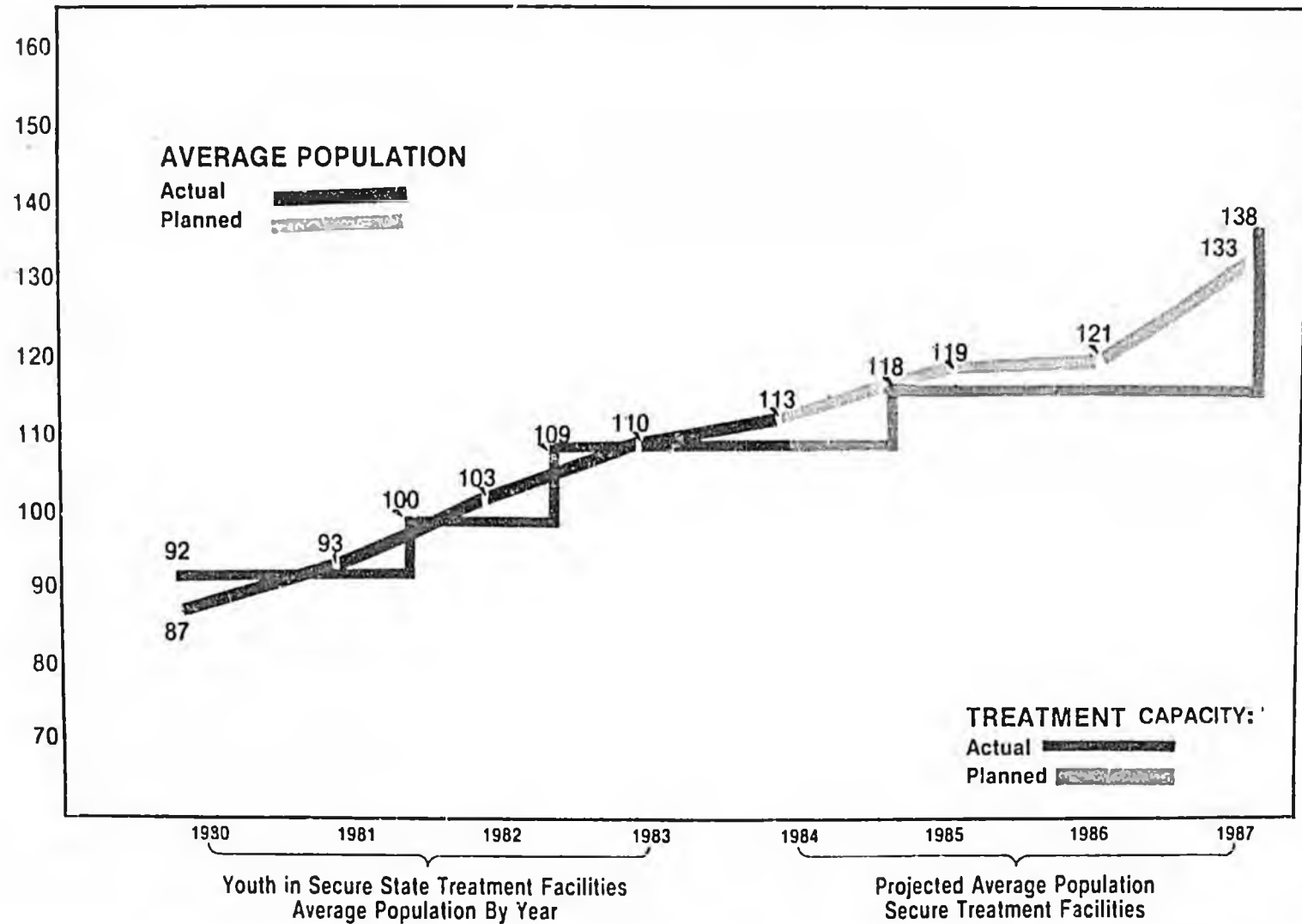
AVERAGE NUMBER
OF YOUTH
UNDER PROBATION
SUPERVISION



GROWTH IN DETENTION



GROWTH IN SECURE TREATMENT



These figures do not include youth detained in municipally operated jail facilities around the state and do not, then, represent the full extent of the juvenile detention problem.

The significant growth in the population of juvenile detention facilities seems contradictory to what might be expected given the decrease in the number of juveniles being arrested. Obviously part of this increase may be explained by an increase in the detention capacity since an increase in the capacity, if filled, will lead to a higher daily population rate. However, the demand is far greater than increases in capacity. Possible explanations for this seeming contradiction are:

1. an over-utilization of detention upon arrest;
2. lack of immediate (24 hour) intake and diversion services result in the unnecessary detention of youth who do not truly present a danger to themselves or to the community (This was found to be true by a grand jury in the Fairbanks area and led to recommendations that DFYS assume greater intake authority in order to correct the problem.);
3. lack of sufficient secure treatment capacity which results in a backlog of adjudicated youth being held in detention pending placement in a secure treatment program.

Secure Treatment: Chart 9 illustrates the growth in secure treatment for juvenile offenders. The chart shows that the actual number of youth being treated in secure facilities is essentially the same as the capacity of those facilities. Projections show that this will continue to be true in the future. This does not provide a complete picture of the need for secure treatment because the population in secure treatment is administratively held at the rated capacity. Population is limited to maintain the effectiveness of the rehabilitation programs and preclude the development of a dangerous circumstance due to overcrowding. The number of youth in treatment at any given time is controlled through several important mechanisms:

1. an admission policy which requires the release of a youth who has completed the treatment program before admitting another youth;
2. decreases in the length of treatment which allows treatment of a greater number of youth without increases in facility capacity;
3. utilizing secure detention as an interim placement for youth who require secure treatment pending an opening in a secure treatment program;
4. placement of a strictly limited number of youth in secure facilities outside the state.

Analysis

The dramatic growth in numbers of youth receiving probation, detention and secure treatment services seems unwarranted by the level and nature of juvenile

crime in Alaska. The number and rate of juvenile arrests shows a decrease and the seriousness of offenses committed by juveniles is relatively stable, yet there is an increasing number of juveniles under probation supervision, in detention, and in secure treatment. These seemingly contradictory sets of facts may be complementary instead. The following hypotheses may help explain some of the apparent anomalies in the data.

1. When rehabilitative services for juvenile offenders were part of an adult corrections agency, services for juveniles were subordinated to efforts to deal with adult criminals and many youths were allowed to "slip between the cracks" resulting in multiple offenses and arrests of the same youths before intervention occurred.
2. Reorganization of rehabilitative services for juvenile offenders within a child and family-focused agency resulted in increased attention to juvenile offenders and increased service levels.
3. Intervention in matters of juvenile delinquency is occurring earlier and higher levels of services are being provided.
4. Increased services and earlier intervention result in earlier identification of repeat offenders and greater use of the formal juvenile justice system to deal with these youth.
5. Earlier intervention, earlier identification of repeat or serious offenders, and higher service levels result in reductions in repeat offenses and arrests, and a lower overall rate of arrest.

YOUTH SERVICES OUTLOOK : ISSUES AND STRATEGIES

The juvenile system has evolved rapidly since separation of juvenile rehabilitation programs from the adult correctional system four years ago. This evolution has included long delayed growth, increased sophistication, and change in emphasis. However a number of critical issues and problems remain and these must be addressed immediately or in the near future. The choices made in addressing these issues and problems will determine the structure of correctional services for youth and the allocation of resources within that structure for many years.

In general terms the broad problem being faced is that of protecting the public through rehabilitation and control of young offenders when the population of youth is increasing and resources are limited. Decisions made will determine whether Alaska develops a highly centralized approach relying heavily on long term institutional placements or adopts a regionalized approach relying more on prevention, early intervention, and community based treatment.

Issues

Specific system problems to be addressed include:

1. a need for detention and secure treatment of juveniles which exceeds present capacities and will exceed planned expanded capacities;
2. a growing need for detention and secure treatment outside the major urban areas.
3. a need for alternative services and approaches in order to limit growth in expensive detention and secure treatment;
4. an increased need for probation and other community-based services.
5. a need for systematic prioritization of services based on risk and need of youth and available resources; and
6. a need for information on juvenile offenders sufficient to allow analysis of trends, evaluation of program effectiveness, short term plan adjustments, and long term planning.

DFYS Strategy

The Division of Family and Youth Services has developed a balanced strategy for achieving its mandate to protect the public and rehabilitate juvenile offenders, while addressing current system problems. This strategy focuses on reducing deficits in certain critical services, limiting future need for expansion in institutional services, and containing costs through increased program efficiency and effectiveness. The strategy has five major initiatives which are:

1. Increasing secure detention and treatment capacity;

2. Increasing emphasis on prevention, early intervention, and community based services;
3. Regionalization of services;
4. Development of systematic case management system;
5. Development of a comprehensive management information system.

Initiative Number 1 : Increase in Detention and Secure Treatment

Chart 10 illustrates detention and secure treatment capacity of state operated juvenile facilities as they presently exist and as planned through FY 86. With additions planned through FY 86, detention capacity will increase by 46%, treatment capacity will increase 41%, and capacity for closed treatment (treatment for the most difficult and dangerous of juvenile offenders) will increase by 100%. The total capital cost of these increases will be approximately \$9.9 million. Additional operating costs are estimated at approximately \$4.2 million per year.

Even with these unavoidable additions to detention and treatment capacity, projections show that the demand for these services will meet or exceed the expanded capacity (charts 8 and 9). And, while development of increased detention and treatment capacities are necessary, charts 10 and 11 illustrate that these are expensive services. As chart 11 shows the true expense cannot be measured simply in terms of the initial capital costs. Construction costs of a 20 bed facility (a 20 bed facility is the minimum size for cost efficiency) comprise only 10% of the total life cycle cost of the facility. Operating costs of a facility account for 90% of total costs. Thus, even if all other factors were disregarded, costs alone would require that use of detention and secure treatment be highly selective.

Initiative Number 2 : Increased Emphasis on Community Based Services

To avoid unending increases in detention and secure treatment DFYS proposes to increase community-based rehabilitative efforts for juvenile offenders. These services include prevention and diversion services as well as probation supervision and alternatives such as foster care.

An initial step in increasing emphasis on community-based services, assumption of statewide control over the juvenile court intake function, was achieved on December 3, 1984. Implementation of uniform statewide policies for juvenile intake and the availability of intake officers on a 24 hour basis in state operated detention facilities will allow better and quicker screening to reduce unnecessary detention of youth who do not pose a danger to the public. It will also allow earlier and more effective intervention and diversion services following the initial arrest of juveniles. Funding of prevention and diversion programs through grants is an important part of increasing reliance on community-based services. A model program providing community service as a diversion alternative has recently been expanded to include restitution collection and to serve the most populated areas in the state.

DIVISION OF FAMILY AND YOUTH SERVICES

Secure Youth Facilities

	EXISTING CAPACITY FY 84					PLANNED ADDITIONS TO CAPACITY AND COSTS FY86						NET GAIN
	DETENTION	TREATMENT	CLOSED TREATMENT	TOTAL BEDS	FY84 OPERATING COSTS	DETENTION	TREATMENT	CLOSED TREATMENT	TOTAL BEDS	CAPITAL COSTS	ADDITIONAL PLANNED OPERATING COSTS	
McLaughlin Youth Center	44	78	113	136	6425.	0	0	5	5	800.	300.	5
Fairbanks Youth Facility	8	12		20	1520.	12	0	8	20	3250.	900.	20
Nome	1	9		10	936.	2	9	0	11	900.	700.	11
Bethel	0	0		0	0	8	12	0	20	3400.	1480.	20
Juneau	4	0		4	*	4	20	0	24	1500.	850.	24
TOTALS	57	99	13	174	8881.	26	41	13	80	9850.	4230.	80

EXISTING CAPACITY FY 84

PLANNED ADDITIONS TO CAPACITY AND COSTS FY86

Sources: Division of Family and Youth Services, Capital Budget FY85
 Department of Health and Social Services, Capital Plan, FY85
 Division of Family and Youth Services, Budget FY84

*Information not comparable operated as facility for both adult prisoners and juveniles in FY84

TYPICAL YOUTH FACILITY COSTS

20 Beds

CONSTRUCTION

Cost per bed 170,000

Cost per facility 3,400,000

ANNUAL OPERATING

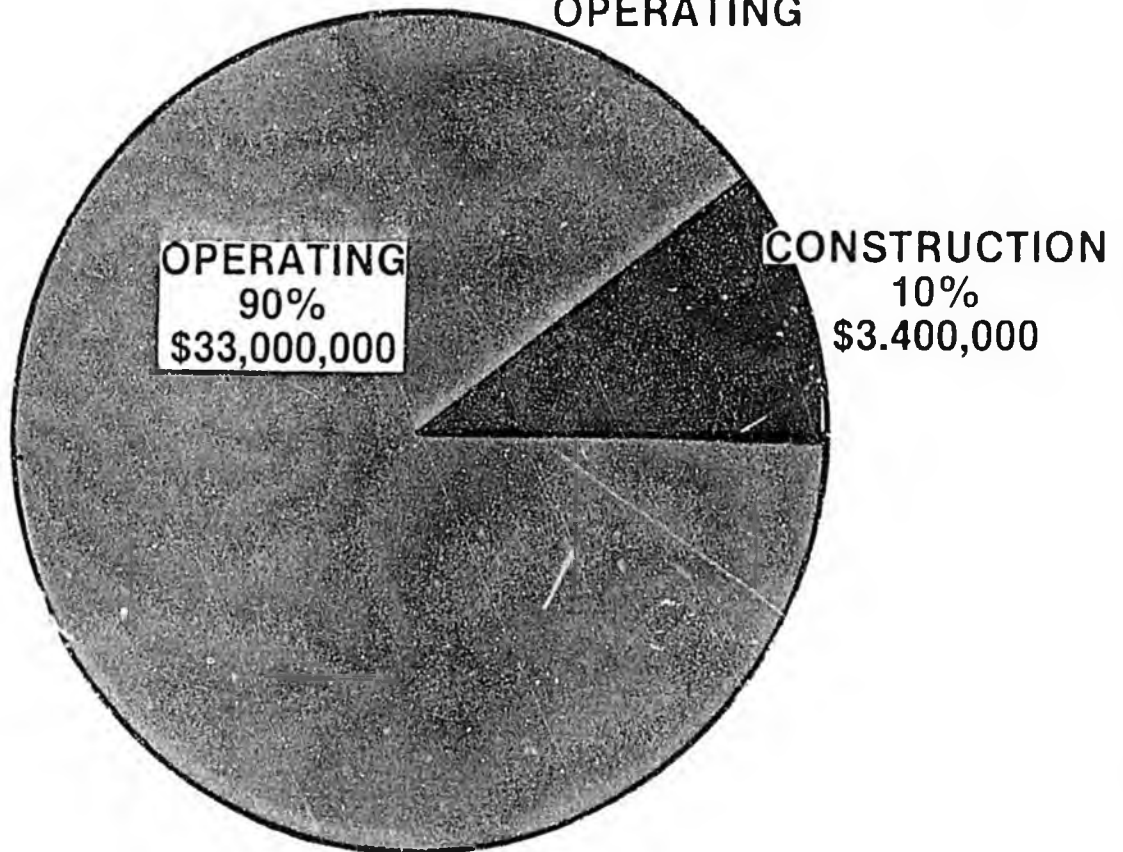
Staff cost 1,160,000

Food cost 72,000

Maintenance 60,000

Utilities 43,900

TOTAL ANNUAL OPERATING 1,335,900



Life Cycle Cost Comparison
20 Year Life Expectancy

Initiative Number 3 : Regionalization

DFYS' regionalization strategy is illustrated in Chart 12. As the chart shows, this is a significant departure from the centralized approach of the past. This configuration will improve secure detention and treatment services in several ways. Since intake and diversion services will be available from the regional facilities unnecessary detention of many youth will be eliminated and earlier intervention and diversion will occur. The need to transport youths from outlying areas to a centralized facility in Anchorage or Fairbanks will be reduced thereby reducing the time youths spend in detention and treatment. In addition greater reliance on existing community and family resources will occur in all aspects of intervention, diversion and treatment, increasing their effectiveness.

The regional approach will more efficiently utilize resources since it will allow better and earlier screening and intervention. Reductions in length of time necessary for rehabilitation of juvenile offenders will allow more youth to be rehabilitated without an otherwise necessary expansion of facilities.

Regionalization of services will, then, expand the types of services available in outlying areas, better utilize community and family resources in rehabilitation efforts, provide earlier and more effective intervention and diversion, allow a greater number of treatment strategies to be used, reduce the time necessary for detention and treatment of youth, and allow a larger number of youth to be served without continuing institutional expansion.

Initiative Number 4 : Case Management

To ensure that agency resources are used most effectively DFYS is developing a formal, systematic method of case management. This will give DFYS an objective, reliable method of assessing the risks presented by delinquent youth and their rehabilitative needs. It will also establish workload and performance standards, uniform methods of case planning, and mechanisms for monitoring and evaluation for individual cases.

On both an individual case and program level development of a formal method of case management will provide a systematic planning process. This process will provide a framework for analyzing problems, developing objectives, identifying resources to be used in achieving objectives, and achieving accountability through monitoring and evaluating effectiveness and performance. A critical part of a case management system is the collection of information about clients and programs essential in providing a basis for decisions on all levels. Without a sufficient capability for collection and analysis of needed information a case management system cannot function effectively.

Initiative Number 5 : Management Information System (MIS)

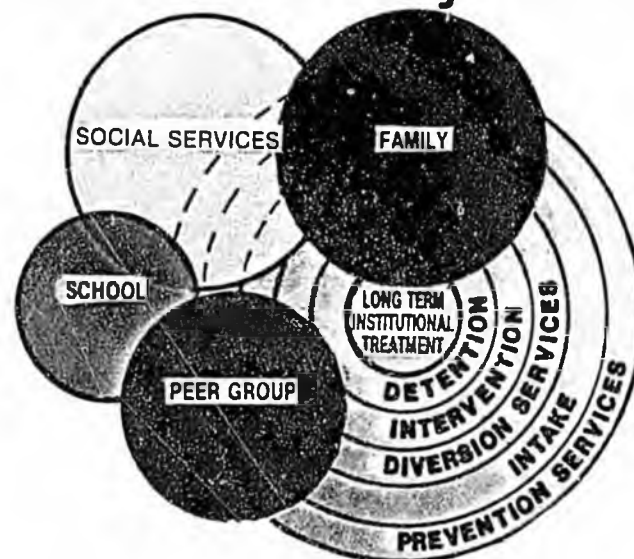
Development of a comprehensive management information system is essential to DFYS' overall strategy since it will enable the agency to routinely collect information necessary for numerous case and management functions.

REGIONAL YOUTH DETENTION AND TREATMENT CENTERS

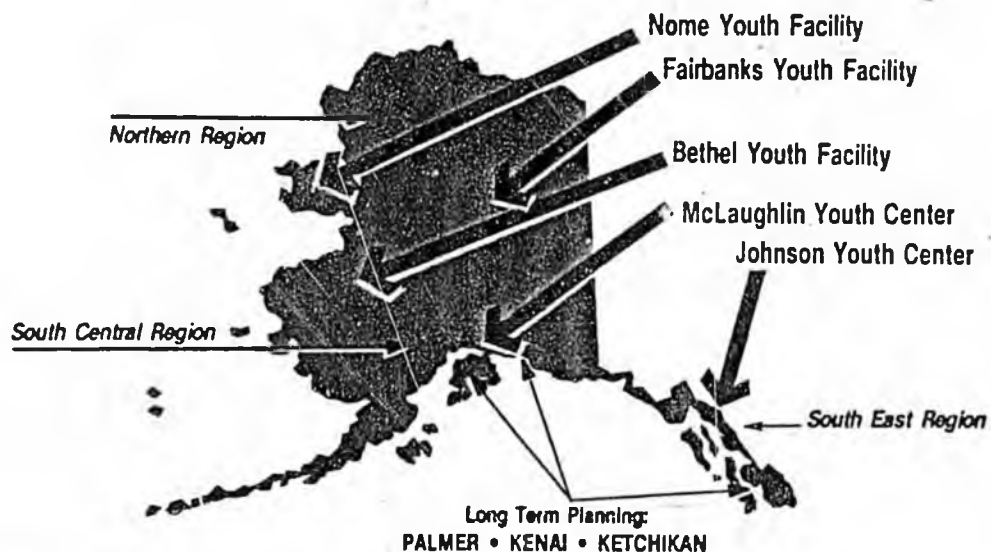
Youth Community Based Services - Division of Family and Youth Services



1978



1988



A comprehensive MIS will provide detailed information for program evaluation and accountability, and for a variety of decisions from the individual client level to the administrative and legislative policy level.

The Department has been mandated to require and collect statistics on juvenile offenses and offenders, but has not had the capability to do so. With the assumption of responsibility for the juvenile court intake function DFYS now has the ability to develop a system of tracking juvenile offenders from the time of their referral to the intake officer through all processes of the juvenile justice system. This is extremely important since it can provide previously unavailable information for analysis of statewide trends. Major policy decisions and day to day program operations require such information and the evaluations such information makes possible. With completion of this initiative, the Department will be able to carry out this mandate and meet information needs on a general level.

Conclusion

Significant progress has been made in recent years to address the problem of juvenile crime in Alaska. Separation of services for juvenile offenders from programs for adult criminals has focused greater attention on juveniles and resulted in dramatic increases and improvements in services. This has been a primary cause for decreases in both total numbers and rate of measurable juvenile crimes. Earlier intervention and increased service means fewer youth become repeat offenders and serious offenders are identified and dealt with sooner.

However, Alaska's population continues to increase and programs for juvenile offenders are now overburdened. This has occurred at a time when revenues have begun to decline and resources are increasingly limited. Without effective use of available resources and some resource increases program effectiveness will decline and increases in juvenile crime will almost certainly occur.

The strategy devised by DFYS to protect the public and rehabilitate young offenders is designed to direct resources to the most cost effective services and contain the need for additional resources. The strategy includes several management initiatives. Some are designed primarily to address specific problems presently being faced. Others will increase accountability and effectiveness of existing services. Development of a systematic method for identifying future problems and needs, evaluating programs and services, and allocating resources most effectively as circumstances change will be a primary focus in these initiatives.

The need for resources will undoubtedly increase as the state's population increases. However, DFYS' management initiatives are predicated on limiting the need for additional resources through informed planning and decision making and by concentrating on the most effective and least expensive services. Immediate needs will require increased resources for institutional services. But regionalization will insure the most effective use of these and future resources.

Through these initiatives and emphases DFYS hopes to avoid the failures of other states in focusing on a single aspect of juvenile crime - the end of the service continuum, institutions and secure treatment. Instead DFYS hopes to focus resources on prevention, diversion, early intervention, and community - based services. These approaches effectively protect the public and rehabilitate the vast majority of young offenders without the massive resource requirements of institutions.



**National Office
for Social Responsibility**

208 N. Washington St., Alexandria, VA 22314 (703) 549-5305

MARCH 21, 1986

HONORABLE PATRICK M. RODEY
CHAIRMAN
SENATE JUDICIARY COMMITTEE
STATE CAPITOL
JUNEAU, AK 99811

CHAIRMAN
Samuel M. Convissor
RCA Corporation
New York

PRESIDENT
Robert J. Gemignani
NOSR
Washington, DC

BOARD OF DIRECTORS
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International Rubber
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Suzanne Dicks
Washington, DC

W. Roderick Hamilton
Webster & Sheffield
New York

Elizabeth D. Kelly
Newport News, VA

Gov. Raymond P. Shafer
Coopers and Lybrand
Washington, DC

Lelan F. Sillin, Jr.
Northeast Utilities
Hartford, Connecticut

Roger Wilkins
Institute for Policy Studies
Washington, DC

DEAR CHAIRMAN RODEY:

THE FEDERAL OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION (OJJDP) HAS ANNOUNCED A NATIONAL INITIATIVE TO EXPLORE THE FEASIBILITY OF CONTRACTING-OUT THE OPERATION OF CORE PROBATION FUNCTION(S) TO THE PRIVATE SECTOR. THE NATIONAL OFFICE FOR SOCIAL RESPONSIBILITY (NOSR) HAS BEEN AWARDED A CONTRACT TO ASSIST IN SELECTING DEMONSTRATION SITES FOR THIS INITIATIVE.

STATE AND LOCAL JURISDICTIONS RESPONSIBLE FOR JUVENILE PROBATION SERVICES ARE ELIGIBLE TO APPLY AS A DEMONSTRATION SITE. THOSE SELECTED WILL BE PROVIDED WITH THE NECESSARY FEDERAL ASSISTANCE TO PLAN AND IMPLEMENT A COMPETENT DEMONSTRATION.

NOSR WILL BE HOLDING A SERIES OF INFORMATIONAL OUTREACH SESSIONS ACROSS THE COUNTRY TO INFORM JURISDICTIONS ON ALL ASPECTS OF THE INITIATIVE, AND TO PROVIDE COMMUNITIES INTERESTED IN BEING CONSIDERED AS DEMONSTRATION SITES WITH THE APPROPRIATE APPLICATION PROCEDURES.

AS A STATE LEGISLATOR YOU UNDOUBTEDLY ARE FACED WITH MAKING TOUGH DECISIONS ON EXPENDITURES FOR ALL TYPES OF SERVICES. PRIVATE SECTOR PROBATION OFFERS AN OPTION WHICH CAN BE MORE COST EFFECTIVE WHILE MAINTAINING A HIGH LEVEL OF CORRECTIONAL SERVICES. IT IS AN APPROACH WHICH MAY BE TAILORED TO OTHER SERVICES AS WELL. I ENCOURAGE YOUR ATTENDANCE, OR THAT OF YOUR PRINCIPAL STAFF ASSISTANT, AT ONE OF THESE SESSIONS. THE PROBATION ADMINISTRATOR AND THE APPROPRIATE JUDICIAL REPRESENTATIVE FROM YOUR JURISDICTION HAVE ALSO BEEN INVITED. THE INFORMATIONAL SESSIONS FOR YOUR REGION OF THE COUNTRY WILL BE HELD ON:

1. WEDNESDAY, APRIL 30, 1986

LOS ANGELES AIRPORT MARRIOTT
5855 WEST CENTURY BLVD.
LOS ANGELES, CALIFORNIA

2. FRIDAY, MAY 2, 1986

BOARD CHAMBERS
ALAMEDA COUNTY ADMINISTRATION BUILDING
ROOM 512
1221 OAK STREET
OAKLAND, CALIFORNIA

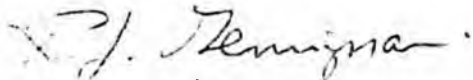
3. TUESDAY, MAY 6, 1986

AUDITORIUM
PORTLAND CITY BUILDING
520 S.W. 5TH
PORTLAND, OREGON
(NEXT TO CITY HALL)

YOU MAY CHOOSE TO ATTEND ONE OF THE ABOVE SESSIONS. EACH SESSION WILL BEGIN AT 9:30 A.M. NOSR WILL PROVIDE PERTINENT INFORMATION ABOUT THE INITIATIVE AND APPLICATION PROCEDURES BY 12 NOON. FOR THOSE WHO WISH TO REMAIN FOR INDIVIDUAL CONSULTATIONS AND/OR FURTHER DISCUSSION OJJDP AND NOSR STAFF WILL BE AVAILABLE UNTIL 4:30 P.M.

PLEASE COMPLETE AND RETURN THE ENCLOSED RESPONSE SHEET TO NOSR. WE WILL MAIL YOU ADVANCED READING MATERIALS AND AGENDA UPON RECEIPT. IF YOU HAVE QUESTIONS YOU MAY CALL US AT (703) 549-5305.

CORDIALLY,



ROBERT J. GEMIGNANI
PRESIDENT

RJG/EB

ENCLOSURE

RESPONSE SHEET

1. / YES, I OR MY REPRESENTATIVE WILL ATTEND THE SESSION IN:
 / Los ANGELES, CA, APRIL 30, 1986
 / OAKLAND, CA, MAY 2, 1986
 / PORTLAND, OR, MAY 6, 1986

2. / NO, I WILL NOT BE ABLE TO ATTEND

3. LIST OTHERS WHOM YOU SUGGEST SHOULD BE INVITED TO THIS INFORMATIONAL SESSION:

NAME: _____
TITLE: _____
ADDRESS: _____
TELEPHONE #: _____

NAME: _____
TITLE: _____
ADDRESS: _____
TELEPHONE #: _____

NAME: _____
TITLE: _____
ADDRESS: _____
TELEPHONE #: _____

4. COMMENTS:

NAME: _____
TITLE: _____
ADDRESS: _____
TELEPHONE #: _____

NATIONAL OFFICE FOR SOCIAL RESPONSIBILITY
208 NORTH WASHINGTON STREET
ALEXANDRIA, VA 22314
(703) 549-5305

**Municipality
of
Anchorage**



POUCH 6-650
ANCHORAGE, ALASKA 99502-0650
(907) 264-4545

TONY KNOWLES
MAYOR

OFFICE OF THE MUNICIPAL ATTORNEY

December 5, 1984

Senator Pat Rodey, Chairman
Senate Judiciary Committee
301 West Fireweed Lane, Suite 102
Anchorage, Alaska 99503

Re: Juvenile Code Revisions

Dear Pat:

I circulated your inquiry among members of my staff and received the attached comments from Assistant Municipal Attorney Mike Marsh. If we can be of further assistance in your work on the Juvenile Code or other matters coming before the Judiciary Committee, please let me know.

Very truly yours,

DEPARTMENT OF LAW

A handwritten signature in cursive script, appearing to read "Jerry Wertzbaugher", written over a horizontal line.

Jerry Wertzbaugher
Municipal Attorney

JW:gml
Attachment

Municipality of Anchorage

MEMORANDUM

RECEIVED

NOV 13 1984

Dept. of Law
Administration

DATE: November 13, 1984

TO: Jerry Wertzbaugher, Municipal Attorney

FROM: Mike Marsh, Assistant Municipal Attorney *Mike Marsh*

SUBJECT: Junvenile Code Changes

My only suggestion:

AS 47.10.090(a) places strict limits on access to records of adjudications of delinquency (juvenile convictions) on criminal charges. The only way the Municipal Prosecutor can learn about a defendant's convictions as a juvenile (adjudications), for perhaps serious crimes, is to subpoena the Family Court Intake Officer to the sentencing. This obviously cannot be done for every sentencing and the Prosecutor only subpoenas the intake officer when the Prosecutor has a strong suspicion that the defendant has a criminal history as a juvenile. This means that there is great potential for a District Court Judge to unknowingly sentence an adult defendant as a first offender, when the defendant has actually committed similar crimes before as a juvenile. AS 47.10.090(a) should be amended to allow court employees to reveal a defendant's record of juvenile convictions (adjudications) to prosecuting attorneys, subject to the same safeguards currently provided for adult criminal histories (6 AAC 60.010 et seq.).

MM:mrk

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

December 5, 1984

BILL SHEFFIELD, GOVERNOR

REPLY TO:

1031 W 4th AVENUE
SUITE 200
ANCHORAGE, ALASKA 99501
PHONE: (907) 276-3550

1st NATIONAL CENTER
100 CUSHMAN ST.
SUITE 400
FAIRBANKS, ALASKA 99701
PHONE: (907) 452-1568

POUCH K - STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

465-3603

Honorable Patrick Rodey
Alaska State Senate
801 W Fireweed, Suite 102
Anchorage, AK 99503

Dear Senator Rodey:

Thank you for asking me to comment on the possible revision of Alaska's Juvenile Code. Several years back I investigated various potential revisions to the portions of the statutes concerning juveniles alleged to be delinquent. The Department of Law was interested in exploring a statutory model developed in the State of Washington. I have not, however, done any work in this area since that time.

A major concern to me has been the difficulties that the Department of Health and Social Services has in dealing with protecting children in need of aid, generally teenagers, who refuse to remain in foster homes or other non-secure settings. Although the Department of Health and Social Services is charged with protecting these children, there are few adequate resources either social or legal to accomplish that task.

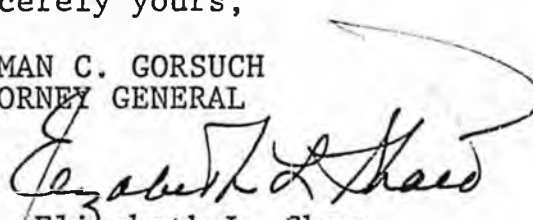
Another area for revision could be the incorporation of the Indian Child Welfare Act requirements into our current statutes.

I am certain that other assistant attorneys general, who work with children's matters, would be able to offer more specific suggestions for statutory revisions.

Sincerely yours,

NORMAN C. GORSUCH
ATTORNEY GENERAL

By:


Elizabeth L. Shaw
Assistant Attorney General

ELS:bap

ALASKA STATE SENATE

PATRICK RODEY
SENATOR

POUCH V
JUNEAU, ALASKA 99811
(907) 465-3793
(907) 465-3754

November 28, 1984

Thomas H. Robertson
Assistant Attorney General
Department of Law
Pouch K, State Capitol
Juneau, Alaska 99811

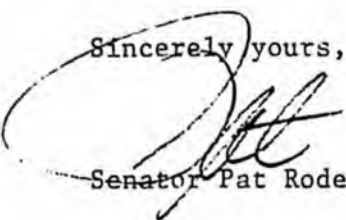
Dear Tom:

Thank you for your letter of November 23, 1984.

I would appreciate it if you would contact me sometime in December on the results of your informal in-house poll and let me know the issues the Department of Law feels need to be addressed in a revision of the juvenile code.

I look forward to working with you and the Governor on this important area.

Sincerely yours,



Senator Pat Rodey

PR/rp

cc: Norman C. Gorsuch
Attorney General

Don Edwards
Assistant Attorney General

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

BILL SHEFFIELD, GOVERNOR

REPLY TO:

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JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

465-3603

November 23, 1984

Honorable Patrick Rodey
Alaska State Senate
801 W Fireweed, Suite 102
Anchorage, AK 99503

Dear Senator Rodey:

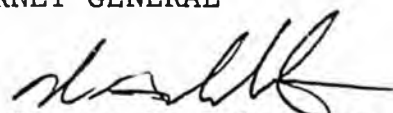
General Gorsuch has asked that I respond to your letter of November 2, 1984, requesting suggestions for revision of the juvenile code. We are conducting an informal poll of attorneys handling children's cases and hope to provide you with our suggestions by mid-December. Assistant Attorney General Don Edwards of our Anchorage office is coordinating this effort.

If you have questions in the meantime, please do not hesitate to contact Don or me.

Very truly yours,

NORMAN C. GORSUCH
ATTORNEY GENERAL

By:



Thomas H. Robertson
Assistant Attorney General

THR:bap

cc: Norman C. Gorsuch
Attorney General

Don Edwards
Assistant Attorney General

*Letter sent
to list info paper*

November 2, 1984

Dear

Alaska's Juvenile Code has not been reviewed and revised for several years. I believe a host of changes are necessary. As an attorney and former Chairman of the Senate Judiciary Committee, I would appreciate your candid thoughts on those practical changes which can be made. Any suggestions you make will be confidential and will not be released without approval.

With your help, we should be able to get some legislation moving and some changes made this coming session.

Sincerely,

Pat Rodey

276-6731
801 W Fireweed Suite 102
Anchorage, Alaska 99503

ALASKA STATE SENATE

PATRICK RODEY
SENATOR

POUCH V
JUNEAU, ALASKA 99811
(907) 465-3793
(907) 465-3754

November 30, 1984

George Mason, Supervisor
Community Unit
Family Connections
1836 West Northern Lights
Anchorage, Alaska 99503

Dear George:

I understand that you are interested in the proposed juvenile code revisions I am working on, and I understand you wrote to me about it. I apparently did not receive your reply, so I would appreciate it if you could take the trouble to write to me again about your concerns.

The background to this proposed revision goes back to a couple of years ago when the legislature did an extensive revision of the criminal code, but decided not to go into any revisions of the juvenile code at that time. This was in part because the issues were so complex, and also because there were other issues and revisions at the time that took priority over revisions of the juvenile code.

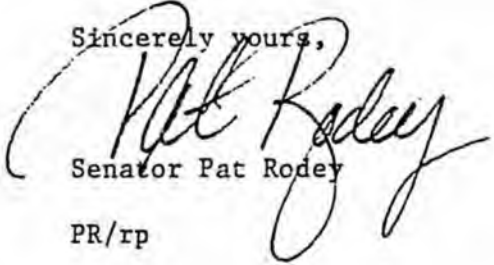
To help you focus better on the areas I plan to concentrate on in the juvenile code revision, I would be especially interested in any comments you might have regarding juvenile offenders, as well as the issues of child abuse and sexual abuse.

My staff is attempting to obtain a copy of the juvenile code for you; it will be sent on to you as soon as we receive it.

It would be timely if you could get any comments to us by January 1 for inclusion into a draft bill for the code revision, and at the very latest by January 30. Once a bill gets submitted for this, it will have scheduled public hearings in various legislative committees, including the Senate Judiciary Committee, which I will chair. I will let you and other interested parties know when the hearings for this are scheduled for my Committee.

Thank you again for your interest and concern.

Sincerely yours,


Senator Pat Rodey

PR/rp

*Letter sent
to list info/ped*

November 2, 1984

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With your help, we should be able to get some legislation moving and some changes made this coming session.

Sincerely,

Pat Rodey

276-6731
801 W Fireweed Suite 102
Anchorage, Alaska 99503

1 COPIES of this resolution shall be sent to the Honorable Ted Stevens
2 and the Honorable Frank Murkowski, U.S. Senators, and the Honorable Don
3 Young, U.S. Representative, members of the Alaska delegation in Congress.

ALASKA STATE SENATE

PATRICK RODEY
SENATOR

POUCH V
JUNEAU, ALASKA 99811
(907) 465-3793
(907) 465-3754

November 30, 1984

George Mason, Supervisor
Community Unit
Family Connections
1836 West Northern Lights
Anchorage, Alaska 99503

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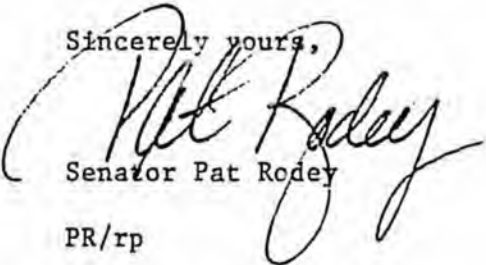
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Thank you again for your interest and concern.

Sincerely yours,


Senator Pat Rodey

PR/rp



A counseling agency for youth and their families

1836 W. Northern Lights, Anchorage, Alaska 99503

(907) 279-0551

November 8, 1984

Senator Patrick Rodey
801 W. Fireweed, Suite 102
Anchorage, AK 99503

Dear Senator Rodey,

On behalf of the staff of Family Connection, I want to thank you for your invitation to assist in your efforts to review and revise the Alaska Juvenile Code. As you are no doubt aware, our agency specializes in work with families and juveniles. Of particular importance to us are issues of abuse, neglect, child welfare, runaways, and emergency foster care.

Again, we appreciate this opportunity to participate in your efforts, and we wish you success at the many tasks ahead. To best assist you and your staff in this matter, please let us know of your progress, type and format of input, or any other relevant information. Meanwhile, we will begin to formulate our thoughts and suggestions on this significant issue.

We look forward to helping,

Sincerely,

George Mason
Community Unit Supervisor

cc: Peter Scales, Ph.D.
Executive Director

ALASKA STATE SENATE

PATRICK RODEY
SENATOR

POUCH V
JUNEAU, ALASKA 99811
(907) 465-3793
(907) 465-3754

November 27, 1984

Jay Warner, Intake Officer
Trial Courts, State of Alaska
Third Judicial District
303 "K" Street
Anchorage, Alaska 99501


Dear Jay:

Thank you for your letter of November 20, 1984.

I appreciate your comments, and as I develop more information on the topic during the coming session, I will get back in touch with you to obtain your comments and insights.

Meanwhile, if you have any other comments or observations, please feel free to contact me about them.

Sincerely yours,



Senator Pat Rodey

PR/rp

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

BILL SHEFFIELD, GOVERNOR

REPLY TO:

1031 W 4th AVENUE
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FAIRBANKS, ALASKA 99701
PHONE: (907) 452-1568

POUCH K - STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

January 21, 1985

Honorable Pat Rodey
Alaska State Senate
Pouch V
Juneau, Alaska 99811

Re: Confidential Comments on
Possible Revisions of the
Juvenile Code

Dear Senator Rodey:

You will recall the letter of November 20, 1984, from Thomas H. Robertson which indicated that I would be responding to your inquiry about possible changes in the juvenile code. I have canvassed the attorneys in the Juneau, Fairbanks, and Anchorage Human Services sections, of the Office of the Attorney General. This letter summarizes some of the views of the attorneys. The views are offered as points of discussion and not as final conclusions as to what changes should be made.

As a general prefatory statement, it is the strong and unanimously held view that additional funding for new positions (attorneys, paralegals or possibly even law student interns) is by far the best thing which the Legislature could do to enhance the Department of Law's child protection efforts. Although all agree that some changes to the juvenile code would be very worthwhile, the code is functional and there are no major problem areas. The statutes which we have are adequate--at least for our purposes in civil child in need of aid cases. However, understaffing frequently prevents our effective use of them. The Governor's Child Protection bill, to be submitted this session, will, hopefully, net one additional attorney for Fairbanks and

Honorable Pat Rodey
Re: Confidential Comments on Possible
Revisions of the Juvenile Code

January 21, 1985
Page 2

one additional attorney for Anchorage. The additional two attorneys do not come anywhere near keeping pace with the growth of the workload for Human Services areas in recent years. 1/

The Governor's Child Protection Legislation

I understand the Governor will soon be submitting legislation designed to address those changes in the child protection laws, which the Department of Law and the Department of Health and Social Services feel are most critical.

AS 47.10.010

AS 47.10.010(a)(2)(F) (physical abuse and neglect) is believed by some of the attorneys to be subject to attack on the grounds that it is vague. Apparently similar wording has been stricken down by other states' supreme courts. Subparagraph (F) is unnecessary since subparagraph (A), as interpreted by the definition of "caring" [AS 47.10.290(9)], and subparagraph (C) cover anything which subparagraph (F) might contemplate.

AS 47.10.020

This section arguably permits private parties to bring petitions alleging a child to be in need of aid, or for delinquency. Some assistant attorneys general believe that this could be a problem.

AS 47.10.080(f)

The supreme court's interpretation of the above statute in Rita T. v. State, 623 P.2d 344 (Alaska 1981) exploits ambiguity in the statute to conclude that where an adoptive placement of a child has not been finalized by court order, the previously entered order terminating parental rights can be repeatedly re-examined. This injects needless uncertainty into adoption processes and, in our view, tips the balance too far in the favor of parental rights at the expense of the rights of the child. This section of the statute could be changed to clarify that an order terminating parental rights is a final order which is not subject to periodic collateral attacks.

1/ For example, the Anchorage child protection caseload has more than tripled since 1980.

Interviewing Children In Schools

Some school districts (e.g., City of Anchorage, Matanuska-Susitna Borough and Kodiak) have entered into "hold harmless" agreements wherein the state has agreed to hold the school district harmless in return for which the school district has agreed to permit social workers access to interview children without parental consent under specified circumstances. The agreements also outline the parties' responsibilities to notify parents in a timely fashion. However, other school districts have not entered into these agreements and arbitrarily withhold permission for investigators to contact children. This is especially a problem in sexual abuse cases because disclosure to the parents that an investigation is underway permits a parent to pressure the child into not disclosing any information. This problem could be addressed statutorily by requiring schools and other institutions having children in their custody to permit access to specified investigators for specified purposes without prior notification to parents. The statute could also outline notification timeframes and responsibilities and define the liability of the entities involved.

Mental Illness And Incarceration As Grounds For Termination of Parental Rights

Occasionally it may be necessary to terminate parental rights because of chronic mental illness or long term incarceration. Currently, there are no references to these as grounds for termination of parental rights in the children's code. While this does not mean that we do not terminate parental rights for these reasons, the task is much more difficult without statutory guidance. Obviously, drafting additions to the code to address these issues should be done with extreme care. In particular, mental illness grounds should be drafted only after due deliberation and consultation with mental health experts. Nevertheless, having worked in this area for a number of years, I believe it is imperative that termination of parental rights be permissible on grounds which arise primarily out of serious mental illness.

Abandonment

In Adoption of V. M. C., 528 P.2d 788 (Alaska 1974), the court has defined abandonment. It may be useful to include this definition of abandonment in the children's code.

Location of Relinquishment Provisions

Some assistant attorneys general believe that relinquishment provisions should be moved from AS 25.23.180 to AS 47.-10. In the process, the statute could be clarified to state that relinquishments can only be given to agencies and not to private individuals. Consents to adoption, which are revocable under limited circumstances until the final adoption decree, would still be available for use in so called "private" adoptions. 2/

Indian Child Welfare Act

Some assistant attorneys general have suggested that some cross-reference of the children's code to the Indian Child Welfare Act in the areas of notice of proceedings and termination of parent rights would be useful since issues occasionally arise as to how this federal statutory overlay affects procedures under the state children's code.

Separation Of Delinquency And CINA Statutes

It might be useful to separate those statutes dealing with delinquency from those statutes dealing with child in need of aid proceedings. Occasionally, it is unclear whether or not certain provisions of the children's code apply to delinquencies and child in need of aid proceedings, or to only one of those types of proceedings.

Clarification And Simplification

Much of the children's code could use re-drafting to clarify its meaning. The goal of this effort could be to clarify the currently accepted intent and to incorporate judicial interpretations. For example, AS 47.10.080 is extremely difficult to understand. To my knowledge it has been the subject of at least two supreme court appeals and there is another supreme court appeal pending which will interpret this statute. 3/

2/ Several assistant attorneys general believe that the adoption code is in far greater need of revision than the children's code. I suggest that interested persons call Kathleen Harrington, the Anchorage Probate Master, and the counsel for the Catholic Social Services Agency for comments on changes to the adoption code.

3/ For another example see the discussion above under the heading "AS 47.10.010." As a general rule of drafting, definitions should not be needed to separate sections to clarify the meaning of statutes.

Honorable Pat Rodey
Re: Confidential Comments on Possible
Revisions of the Juvenile Code

January 21, 1985
Page 5

Conclusion

The changes noted above are deserving of exploration. However, we do not believe, given current under-staffing, that we have the ability to expend the time necessary to explore and draft needed changes during this legislative session. Nevertheless, we remain intensely interested in these subjects and ask that you consult with us at any critical stages. We are encouraged by your interest in this area and are pleased to work with you now and in the future on these projects.

Sincerely,

NORMAN C. GORSUCH
ATTORNEY GENERAL

By: 

Donald W. Edwards
Assistant Attorney General

cc: Ron Lorensen
Art Peterson

Alaska Association Chiefs of Police

107 South Willow Street, Kenai, Alaska 99611



November 7, 1984

The Honorable Pat Rodey
Alaska State Senate
801 W. Fireweed
Suite 102
Anchorage, Alaska 99503

Dear Senator Rodey,

We appreciate your inquiry concerning the need to change portions of Alaska's Juvenile Code. During the next several weeks particular attention will be given to this area and our input will be forwarded to your office.

Again, thank you for contacting us on this matter of great importance.

Respectfully yours,

Chief Richard Ross
President
Alaska Association
Chiefs of Police

RAR/kdl

Legislator pushes automatic waiver plan for youth crime

by Rosanne Pagano
Times Writer

When Pat Rodey discusses criminal youth in a roomful of Alaska Democrats, he likes to rely on Sen. Ted Kennedy who, Rodey claims, once warned against laws that specially shield teens from stiff prosecution.

"The poor and the elderly — those most often victimized by juveniles — don't make the distinction," Rodey quoted. "And neither should we."

Rodey, a Democratic state senator from Anchorage, relied

on the Kennedy logic to explain his bill that will automatically send youths, aged 16 and 17, into adult courts on murder, rape or kidnapping charges. If adopted, the bill will take away power judges now have to decide case-by-case when juveniles should be tried as adults.

"Make no mistake," Rodey said in his Thursday talk before the Bartlett Democratic Club, "they (teenagers) know what they're doing." As an example, he told of the case of a minor accomplice who was encouraged to

club to death the victim of an adult attacker. Rodey claimed the adult handed the weapon over, knowing a youth's punishment would be more mild.

"I say this (special treatment) is unfair and unreasonable," Rodey said.

But he was unable to say exactly how many sophisticated, violent, unremorseful youth are escaping adult punishment because they are being tried in the juvenile system, where trials are secret and emphasis is on rehabilitation, not punishment.

"I can't say there's a floodgate," Rodey said. "We're talking about relatively small numbers."

How small those numbers are is unclear, said Public Defender Dana Fabe, who countered Rodey. She said no statistics exist to prove the need for his bill, first introduced in 1981.

"It's my experience," she said, "that in the vast majority of cases, when the prosecutor asks that a juvenile be waived (into adult court), the judge agrees." In fact, Fabe said a judge ruled

just last week to send a 17-year-old into adult court on a sex offense charge.

And, she said, automatically sending 16-and 17-year-olds to adult court gives prosecutors unchecked power because they will determine where a youth is tried by deciding which offense to try.

"Sen. Rodey's bill is like a net that has some holes in it," she said. "It doesn't take into account the child's remorse, cooperation since the crime, past attempts to treat that child and whether she is a victim of

abuse."

Recent state figures on waivers to adult court are incomplete. One recent survey showed 23 youths were remanded from 1981 to 1984. At least 13 of those were for crimes included in Rodey's bill; 14 of the youths were aged 16 or 17.

Fabe also wondered whether more stringent law is needed at all, since state figures suggest the arrest rate for juveniles is not rising. In a later conversation, she agreed with a part of

See Crime, page B-3

ANCHORAGE TIMES FRIDAY DEC 12, 1985

Crime

Continued from page B-1

Rodey's bill that will remove first-time juvenile offenders convicted of certain crimes from the presumptive sentencing laws. What Alaska courts should do with criminal youth is a popular question, especially since the arrests this summer of two youths, aged 19 and 14, in connection with the shooting deaths of three elderly Anchorage residents.

A judge may decide next month whether the 14-year-old should be tried as an adult. Only a few days ago, the Anchorage Chamber of Commerce Crime Commission recommended that a court reform law like Rodey's should be a top priority for the 1986 legislature.

But at least one state official is ready to question that reform. Michael L. Price, director of the Division of Family and Youth Services, which oversees the youth correction system, said Thursday that automatic waiver laws are like presumptive sentencing laws because both attempt to impose sure punishment.

Price said, "I plan to ask legislators, if punishment is working why are adult violent crimes still up?" Presumptive sentencing went into effect here in 1980. Price's figures show that between 1980 to 1983, the number of adult violent crime arrests has increased from 864 statewide to 1,035.

"Everyone's for law and order," he said. "but you have to ask, 'What are the facts?'"

Funeral correction

The funeral service for Daniel D. Enders, 26, will be held at 2 p.m. Saturday at Kehl's Forest Lawn Memorial Chapel in Anchorage. A story on the service on Page B-3 of Thursday's paper listed the service location as Palmer.

1 IN THE HOUSE

BY PESTINGER, FURNACE, UEHLING,
FLOOD, BARNES AND BUSSELL

2

HOUSE BILL NO. 109

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to criminal prosecution of minors."

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

8 * Section 1. AS 12.55.015 is amended by adding a new subsection to
9 read:

10 (e) If the court sentences a defendant to a term of imprisonment
11 and the defendant is a minor over whom children's court jurisdiction
12 is waived under AS 47.10.060, the court shall

13 (1) order that the defendant be confined in an institution
14 designated by the Department of Health and Social Services for offend-
15 ers under 18 years of age; and

16 (2) order that the defendant be transferred to an adult
17 correctional facility when the defendant reaches 19 years of age if
18 more than one year then remains of the defendant's term of imprison-
19 ment.

20 * Sec. 2. AS 47.10.060(a) is repealed and reenacted to read:

21 (a) The court shall order a case closed and, subject to the pro-
22 visions of AS 12.55.015(d), the minor shall be prosecuted as if the
23 minor were an adult if the court finds at a hearing on a petition

24 (1) that the minor was 16 years of age or older at the time
25 of the offense and that there is probable cause to believe that the
26 minor has committed an unclassified felony or a class A felony; or

27 (2) that the minor is not amenable to treatment under this
28 chapter and there is probable cause to believe that the minor is
29 delinquent.

LETTER OF INTENT
FOR
CSHB 109 (Judiciary)

The legislature expressly acknowledges that the enactment of this legislation may likely result in the need for additional correctional facilities in future years.

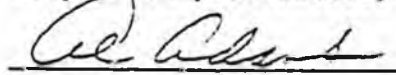
However, it is also clear, as evidenced by the rapid and unpredictable growth in the state's prisoner population, that an accurate assessment of the need for these facilities is not possible at this time.

At the same time, the legislature believes that cost estimates for these facilities can best be determined by detailed planning, analysis, and design of specific facilities in identified locations.

Therefore, the legislature has approved a fiscal note that grants ten per cent of the funds requested by the Division of Adult Corrections for new facilities. These funds shall only be used for planning and detailed design of necessary correctional facilities which are the direct result of the passage of CSHB 109 (Judiciary).

Following the completion of this work, the agency may present to the legislature a capital budget request for these facilities.

Respectfully Submitted,



Al Adams, Chairman
House Finance Committee

THE LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE

FISCAL NOTE

cl 9/14/83

I. REQUEST

Bill/Resolution No. CSHS 109 (Judiciary)
 Title... Persons 16 or 17 yrs. charged with major felonies... waiver proceedings
 Requested by House Finance Committee Date April 29, 1983

II. FISCAL DETAIL

Agency Affected Department of H & SS--Division of Adult Corrections
 Program Category Affected Administration of Justice
 BRU, Program, Or Subprogram(s) Affected ADULT CONFINEMENT
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES		1008.4	*			
700 GRANTS, CLAIMS, ETC.						
TOTAL		1008.4	*	**	**	**

FUNDING (Thousands of Dollars)

GENERAL FUND		1008.4	*	**	**	
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

FULL TIME				**	**	**
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

The 1008.4 shall be appropriated and expended in compliance with a letter of intent to be adopted by the legislature. As provided for in the letter of intent, these funds represent 10 per cent of the funds initially estimated by the Division of Adult Corrections for the construction of new correctional facilities and are to be used for detailed planning and design of those facilities. The legislature acknowledges that additional bed space may be necessary if this measure is approved, but would prefer to appropriate funds for capital improvements on the basis of clearly delineated plans and cost estimates.

*As noted, the legislature acknowledges that additional funds for capital construction may be necessary in FY 85 but prefers to address the need for and extent of those appropriations at that time.

**Inasmuch as operational costs in the form of additional personnel, contractual services, commodities and the like are closely linked to decisions on capital construction, the legislature declines to endorse any estimates of those costs at this time. When capital construction plans are known, these additional costs will be addressed.

IV. DATE April 26, 1983

PREPARED BY Albert R. Adams
 AGENCY House Finance Committee

Original: Legislative Finance
 Budget and Management

PHONE 465-2706

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Page 1 of 5

Bill No.: House Bill No. 109 No. 2 Date on Bill: January 24, 1983
 Title: "An Act relating to the criminal prosecution of minors."
 Sponsor: Representatives Pestinger, Furnace, Uehling, Flood, Barnes, and Bussett
 Requestor: _____

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86		
Capital		15,714.0	-0-	-0-	-0-	-0-
Operating		-0-	-0-	3,389.7	3,563.0	3,776.7
Total		15,714.0	-0-	3,389.7	3,563.0	3,776.7

b. Revenues:

Revenue		-0-	-0-	-0-	-0-	-0-
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2. Source of funds to offset fiscal impact of Bill:

Funding source not identified by Bill author.

3. Assumptions:

Available statistical data indicates there would be 31 juveniles arrested annually for unclassified or class A felonies. This would represent an increase of 28 in the number of juveniles subjected yearly to prosecution as adults. An average of 3 juveniles are waived from juvenile court jurisdiction each year under the existing judicial waiver mechanism. Of the additional 28 juveniles subjected to adult prosecution, 18 would be convicted and sentenced to imprisonment for periods of up to 20 years if adult prosecution and conviction rates are assumed. The first two years of the sentence would be served in a juvenile facility with up to 13 years served in an adult facility if it is assumed all offenders earn their maximum good time based on a formula of one day good time for three days served.

4. Disclaimer:

This statement has not been reviewed by the OMB in the Office of the Governor. It does not represent the policy of the Sheffield Administration or the final estimate of fiscal impact.

Prepared By: Roger C. Lange and Michael L. Priddy Phone: 465-3376 & 465-3170
 Division: Adult Corrections and Family and Youth Services Date: February 22, 1983

Approved by Commissioner: Peter L. Rodin, Ph.D. Date: 3/4/83
 Department: Health & Social Services

5. Distribution:

- Original to Legislative Finance
- Copy to OMB
- Copy to Sponsor

FISCAL NOTE CONTINUATION

HOUSE BILL NO. 109 No. 2

Page 2 of 5

"An Act relating to criminal prosecution of minors."

COST ESTIMATES

- A. Enactment of House Bill No. 109 will have a significant fiscal impact on the Department of Health and Social Services, both in juvenile and adult corrections. Since the new language would class individuals sixteen years and older as adults for unclassified and class A felonies, the time served by convicted sixteen and seventeen year-olds would increase substantially.

It is the estimate of the Department of Health and Social Services that ultimately an additional 97 beds will be needed to care for this group of individuals in a secure setting. Details of this estimate follow.

B. Youth Services Impact

1. FY 84 Capital Expenses: The construction of facilities to house 40 juveniles sentenced as adult prisoners is based upon the most recent available arrest data (1981).
2. This data shows that approximately 28 additional juveniles would annually be subject to prosecution under adult criminal statutes for unclassified and class A felony offenses. Assuming a conviction rate equal to the conviction rate for adult offenders similarly accused it might be expected that 18 juveniles would be convicted of such offenses annually and sentenced as adults under the provisions of House Bill No. 109.

Analysis of the arrest data yields expected frequency of convictions and sentences which would result in all juveniles sentenced as adults serving at least two years in the juvenile facility prior to transferring to an adult facility and two youths expected to serve their entire sentence of 3.75 years in a juvenile facility. Within two years 36 juveniles would then be serving adult sentences of at least two years in juvenile facilities. This population would stabilize after two years at approximately 36-40 because of the transfer of prisoners to adult facilities.

The FY 84 estimate is based upon 464 square feet for each of 40 maximum security cells; plus 1 station for each of the 2 detention units: one to accommodate 5 staff and 1 to accommodate 6 staff including the typist; and 1 common day room that can be utilized for meals, a rehabilitative program (counseling and education), and recreation. (No costs are included for a kitchen, as meals would be prepared in the existing facilities at McLaughlin and carried to the units.) It is also assumed that the Department's major study for

FISCAL NOTE CONTINUATION

HOUSE BILL NO. 109 No. 2

Page 3 of 5

expansion would be revised to accommodate construction of the two units to connect with the existing building.

DOT/PF cost estimates for 464 square feet in a maximum security facility during the FY 85 construction season is \$162.0. This includes design and planning costs which would begin in FY 84. The remaining funds would be carried over into FY 85 for construction and equipping the units.

$$\$162.0 \times 40 \text{ cells} = \$6,480.0$$

3. FY 86 Operating Costs and Juvenile Expenses

June 30, 1985 would be the estimated completion date. Operating costs are estimated as follows:

100 Personal Services	\$1,391.6
200 Travel	24.5
300 Contractual Services	119.0
400 Commodities	131.6
500 Equipment	22.6
700 Benefits to Individuals	109.4
	<hr/>
	\$1,798.7

The above estimates are based upon 30% of the related costs for the McLaughlin Youth Center's FY 84 Governor's Budget, with 6% added for FY 85 and FY 86.

Personal Services includes 1 Unit Leader, 3 Youth Counselor III's, 5 Youth Counselor II's, and 4 Youth Counselor I's for each unit. The staffing pattern is based on the necessity of operating the units as maximum security facilities. This level of security is required due to the high escape risk presented by those juveniles to be housed and upon the nature of the offenses for which they are sentenced. An Assistant Cook will serve in the existing kitchen, and a Clerk Typist III will provide all clerical support for both units.

Travel of staff to meetings, conferences, courses, and for transportation of new hires is included.

Contractual Services are estimated for the additional costs for communications, utilities, copier usage, equipment rental, inmate laundry, and fire, accident, and liability insurance.

Commodities include purchase of food, replacement of tableware, glassware, bedding, janitorial and cleaning supplies, and general office supplies.

Equipment items necessary for on-duty staff, closed circuit TV monitor of units and a camera for inmate ID are included.

FISCAL NOTE CONTINUATION

HOUSE BILL NO. 109 No. 2

Page 4 of 5

Benefits to Individuals includes costs for medical and dental care, and a work program for 20 inmates.

C. Adult Confinement

It is assumed that no appreciable bed impact will be experienced by the Division of Adult Corrections until FY 1986. This is based on the assumption that the average age of offenders affected by this legislation will be 17 years, and that they will serve two years in a juvenile facility prior to transfer to an adult facility. This fiscal note identifies a need for 57 additional beds in an adult facility.

Based on arrest data indicating 28 additional persons 16 and 17 years of age being subject to adult prosecution annually for crimes in the unclassified or class A felony categories, and using conviction rates and average sentence lengths for adult offenders, the following is predicted:

1. Unclassified Felony

One conviction per year with an average sentence of 15 years to serve (20 years less good time) will require 13 additional beds.

2. Sexual Assault I (Rape) With Gun, Dangerous Weapon, and/or Caused Serious Physical Injury

One conviction per year with a sentence of 7.5 years to serve (10 years less good time) will require 5.5 beds.

3. Sexual Assault I (Rape) Without Weapon/Injury

Three convictions per year with a sentence to serve of 6 years (8 years less good time) will require 12 beds.

4. Class A Felony With Gun

Five convictions per year with a sentence to serve of 5.25 years (7 years less good time) will require 16.25 beds.

5. Class A Felony Without Gun

Eight convictions per year and two sentenced so as to serve all time in a juvenile facility. Therefore, 6 individuals will serve an average of 1.75 years in an adult facility.

$$6 \times 1.75 = 10.5 \text{ beds}$$

6. Total beds required is 57 (rounded).

FISCAL NOTE CONTINUATION

HOUSE BILL NO. 109 No. 5

Page 5 of 5

7. Cost Estimates

- a. Capital Expenditures: Because of the serious nature of the offenses, construction of maximum security beds was considered appropriate at \$162,000 per bed.

57 beds @ \$162,000 per bed
57 x \$162,000 = \$9,234,000

- b. Operating Expenditures: It is estimated that 23 positions will be required to provide security and support for these 57 beds: 1 Correctional Officer III, 20 Correctional Officer II's, and 2 Institutional Counselors. Costs for these positions will not occur until FY 1985, the anticipated opening date for the new beds.

FY 1986 Costs - Adult Confinement

Personal Services	\$1,177,700
Travel	6,400
Contractual Services	184,000
Commodities	187,000
Equipment	5,900
Inmate Gratuities	<u>30,000</u>

TOTAL \$1,591,000

Inflation of 6% for all expenditure object groups was assumed calculating subsequent fiscal years.

POSITION PAPER

HOUSE BILL NO. 109

PAGE 1

"An Act relating to criminal prosecution of minors."

House Bill No. 109 would add additional provisions to AS 12.55 and AS 47.10 to accomplish two major purposes. The Act would: 1) alter and further define the process by which a determination is made to waive juvenile court jurisdiction over certain minors and subject them to prosecution as adults; and 2) define the type of facility in which minors who have been prosecuted and sentenced as adults are to serve their terms of imprisonment.

Section 2 of HB 109 would maintain the existing judicial waiver mechanism and mandate waiver of juveniles 16 years old or older upon a court finding of probable cause to believe they had committed an unclassified or class A felony. This Bill would embody in statute the presumption that older youths accused of serious violent crimes are responsible and should be held accountable for their acts as would adults similarly accused. The focus in dealing with such youth under the adult criminal code would be primarily upon retribution and deterrence rather than upon the equal balancing of the interests of the public and the youth under the juvenile code.

The effect of Section 2 of the Bill would be to increase the number of juveniles subject to prosecution under the adult criminal statutes and to increase the liability of such juveniles to sanctions more severe, both in nature and duration, than those to which they would have been liable under the juvenile code. Based on Calendar Year 1981 arrest data, it can be estimated that approximately 31 persons 16 and 17 years of age are arrested annually for crimes in the unclassified and Class A felony categories and would be, therefore, subject to prosecution as adults under the provisions of House Bill No. 109. This would represent an approximate increase of 28 in the number of juveniles prosecuted each year as adults.

The Department supports the conceptual basis for the alteration of AS 47.10.060 proposed in House Bill No. 109 - the presumption that older juvenile offenders accused of serious and violent crimes should be held accountable as adults. It is the Department's position that, though few in number, older youths accused of heinous violent crimes require sanctions qualitatively and quantitatively different from those available under the jurisdiction of the juvenile court. An additional provision is suggested, however, to protect the interests of those juveniles who, though accused of offenses which would require their waiver to adult jurisdiction, are ultimately acquitted or convicted only of lesser included offenses which would not mandate waiver of the juvenile. Such a provision could be added as AS 47.10.060(f) and be worded as follows:

- (f) Any person over whom jurisdiction is waived under (a)(1) of this section who is prosecuted as an adult but is acquitted or convicted of a lesser included offense which would not make him eligible for waiver under (a)(1) shall be subject to juvenile court

POSITION PAPER

HOUSE BIL. NO. 109

PAGE 2

jurisdiction for disposition and for subsequent unlawful conduct other than that governed under (a)(1) or (a)(2).

In addition, the Department supports maintaining the existing judicial waiver allowing for adult prosecution of those persistent, repetitive juvenile offenders who have not or are unlikely to respond to treatment within the juvenile justice system. A discretionary waiver mechanism also allows for the prosecution as an adult for the rare juvenile below the age of 16 who has committed an egregious violent crime and is not amenable to rehabilitative treatment within the juvenile justice system.

Section 1 of House Bill No. 109 would provide statutory definition of the type of facility in which minors who have been sentenced as adults are to serve their term of imprisonment. The Bill would add provisions to AS 12.55.015 to require those juvenile defendants who had been prosecuted and convicted as adults would, if sentenced to a term of imprisonment, be confined in a juvenile correctional facility until reaching age 19, after which they would be transferred to an adult facility if more than one year remained on their terms of imprisonment. The Department opposes this provision.

It is expected that youth receiving substantial adult sentences for serious crimes would require a much greater level of security than would be provided in juvenile institutions. In addition, administrative prudence would also require that such youths be separated from other less sophisticated juveniles and be provided with rehabilitative programs differing markedly from those designed for younger juvenile offenders. Older youths convicted of serious, violent crimes would best be dealt with in a system designed to provide a continuum of security and rehabilitative program levels to address the range of maturity and sophistication of young adult offenders. Such a continuum could best be provided within the adult correctional system.

Housing juvenile offenders convicted as adults in juvenile facilities on an interim basis would tend to make rehabilitative programs within those facilities less effective. The interim nature of programs designed for juveniles sentenced as adult offenders would render the programs less effective and decrease the level of motivation of those offenders involved in them. In addition, the presence within a juvenile facility of a group of older, more sophisticated, violent offenders would be a disruptive influence on treatment programs for younger offenders. Finally, it is the position of the Department that the protection of sentenced juvenile offenders from abuse or exploitation by adult prisoners within the adult correctional framework would be best achieved administratively rather than through legislation such as Section 1 of HB 109. A classification system assessing each individual offender's characteristics and circumstances and assigning the offender to a facility and program which provides adequate security and appropriate rehabilitative programming is a more appropriate method of providing necessary protection and a decidedly more flexible mechanism for managing prisoner populations.

POSITION PAPER

HOUSE BILL NO. 109

PAGE 3

In summary, the Department is supportive of the concept of holding older juveniles accused of serious, violent crimes accountable within the adult criminal system. However, the Department suggests an additional provision which would preclude any inequities for those juveniles ultimately acquitted after prosecution in the adult system for waivable offenses or after having been convicted of lesser offenses which would not make them eligible for mandatory waiver. The Department opposes the provision requiring juveniles convicted and sentenced under the adult criminal statutes to be housed in juvenile facilities.

RECOMMENDED BY: *Yvonne Elder Walker*
Yvonne Elder Walker
Acting Director
Division of Family and
Youth Services

DATE: *February 3, 1983*

RECOMMENDED BY: *Roger C. Lange*
for Roger Endell, Director
Division of Adult
Corrections

DATE: *February 14, 1983*

APPROVED BY: *John R. Bay*
for Robert London Smith, Ph.D.
Commissioner

DATE: *2/18/83*

California

§ 705

WELFARE AND INSTITUTIONS CODE

§ 705. Holding minor in psychopathic ward of county hospital

Whenever the court, before or during the hearing on the petition, is of the opinion that the minor is mentally . . . disordered or if the court is in doubt concerning the mental health of any such person, the court may . . . proceed as provided in Section 6550 of this code or Section 4011.6 of the Penal Code.

(Amended by Stats.1970, c. 445, p. 1178, § 3, urgency, eff. July 10, 1970.)

The subject matter of this section insofar as it related to dependent children is now contained in section 357.

Library References
Infants § 16.9.
C.J.S. Infants § 99.

1. In general
In absence of any statutory procedure for so doing, the juvenile court has inherent

power to hold hearing to determine minor's mental competence to understand nature of juvenile court fitness hearing and to assist counsel in rational manner at hearing. James Paul H. v. Superior Court of Riverside County (1978) 143 Cal.Rptr. 393, 77 C.A.3d 169.

§ 706. Evidence as to proper disposition of minor; reception of social study in evidence

After finding that a minor is a person described in . . . Section 601 or 602, the court shall hear evidence on the question of the proper disposition to be made of the minor. The court shall receive in evidence the social study of the minor made by the probation officer and such other relevant and material evidence as may be offered, and in any judgment and order of disposition, shall state the social study made by the probation officer has been read and considered by the court.

(Amended by Stats.1976, c. 1068, p. 4700, § 50.)

The subject matter of this section insofar as it related to dependent children is now contained in section 355.
1975 Amendment. Deleted reference to section 600.

Law Review Commentaries
Parents' rights at dependency hearings. (1973) 6 U.C.D.Law Rev. 240.

1. Construction and application
In respect to a petition to adjudge a child dependent and to award physical custody to a nonparent, a finding of juvenile court jurisdiction does not necessarily require the removal of the child from the then existing custodial circumstance. In re Randy B. (1976) 132 Cal.Rptr. 720, 62 C.A.3d 89.

3. Procedure
Trial court's order committing minor who had pleaded guilty to rape and kidnapping to Youth Authority was improper, where decision to commit was made prior to determination of jurisdictional and dispositional phases of juvenile proceedings and was made after minor had been given alternative of being treated as juvenile and committed to Youth Authority or of being prosecuted as an adult and minor chose to be treated as juvenile. In the Matter of J. L. P. (1972) 100 Cal.Rptr. 601, 25 C.A.3d 86.

§ 707. Fitness hearing

(a) In any case in which a minor is alleged to be a person described in Section 602 by reason of the violation, when he or she was 16 years of age or older, of any criminal statute or ordinance except those listed in subdivision (b), upon motion of the petitioner made prior to the attachment of jeopardy the court shall cause the probation officer to investigate and submit a report on the behavioral patterns and social history of the minor being considered for a determination of unfitness. Following submission and consideration of the report, and of any other relevant evidence which the petitioner or the minor may wish to submit, the juvenile court may find that the minor is not a fit and proper subject to be dealt with under the juvenile court law if it concludes that the minor would not be amenable to the care, treatment, and training program available through the facilities of the juvenile court, based upon an evaluation of the following criteria:

- (1) The degree of criminal sophistication exhibited by the minor.
- (2) Whether the minor can be rehabilitated prior to the expiration of the juvenile court's jurisdiction.
- (3) The minor's previous delinquent history.
- (4) Success of previous attempts by the juvenile court to rehabilitate the minor.
- (5) The circumstances and gravity of the offense alleged to have been committed by the minor.

Underline Indicates changes or additions by amendment

WEL

A determination that under the juvenile courts set forth above, in which a hearing has taken place and no plea which may be entered at the hearing.

(b) The provisions of this section shall apply to a minor is alleged to be a person described in Section 602 when he or she was 16 years of age or older.

- (1) Murder;
- (2) Arson of an inhabited building;
- (3) Robbery with a dangerous weapon;
- (4) Rape with force or violence;
- (5) Sodomy by force, violence, or threat of force or violence;
- (6) Lewd or lascivious acts.

Penal Code:

(7) Oral copulation causing physical harm;

(8) Any offense specified in this section.

- (9) Kidnapping for ransom;
- (10) Kidnapping for any purpose other than for ransom;
- (11) Kidnapping with intent to obstruct justice;
- (12) Assault with a dangerous weapon;
- (13) Assault with a firearm;
- (14) Assault by any means;
- (15) Discharge of a firearm;
- (16) Any offense defined in this section.

(c) With regard to a minor who is the subject of a determination of unfitness, the probation officer shall submit a report on the behavioral patterns and social history of the minor being considered for a determination of unfitness.

Following submission and consideration of the report, and of any other relevant evidence which the petitioner or the minor may wish to submit, the juvenile court may find that the minor is not a fit and proper subject to be dealt with under the juvenile court law if it concludes that the minor would not be amenable to the care, treatment, and training program available through the facilities of the juvenile court, based upon an evaluation of the following criteria:

- (1) The degree of criminal sophistication exhibited by the minor.
- (2) Whether the minor can be rehabilitated prior to the expiration of the juvenile court's jurisdiction.
- (3) The minor's previous delinquent history.
- (4) Success of previous attempts by the juvenile court to rehabilitate the minor.

Asterisks . . . indicate changes or additions by amendment

A determination that the minor is not a fit and proper subject to be dealt with under the juvenile court law may be based on any one or a combination of the factors set forth above, which shall be recited in the order of unfitness. In any case in which a hearing has been noticed pursuant to this section, the court shall postpone the taking of a plea to the petition until the conclusion of the fitness hearing, and no plea which may already have been entered shall constitute evidence at such hearing.

(b) The provisions of subdivision (c) shall be applicable in any case in which a minor is alleged to be a person described in Section 602 by reason of the violation, when he or she was 16 years of age or older, of one of the following offenses:

- (1) Murder;
- (2) Arson of an inhabited building;
- (3) Robbery while armed with a dangerous or deadly weapon;
- (4) Rape with force or violence or threat of great bodily harm;
- (5) Sodomy by force, violence, duress, menace, or threat of great bodily harm;
- (6) Lewd or lascivious act as provided in subdivision (b) of Section 288 of the Penal Code;
- (7) Oral copulation by force, violence, duress, menace, or threat of great bodily harm;
- (8) Any offense specified in Section 289 of the Penal Code;
- (9) Kidnapping for ransom;
- (10) Kidnapping for purpose of robbery;
- (11) Kidnapping with bodily harm;
- (12) Assault with intent to murder or attempted murder;
- (13) Assault with a firearm or destructive device;
- (14) Assault by any means of force likely to produce great bodily injury;
- (15) Discharge of a firearm into an inhabited or occupied building;
- (16) Any offense described in Section 1203.09 of the Penal Code.

(c) With regard to a minor alleged to be a person described in Section 602 by reason of the violation, when he or she was 16 years of age or older, of any of the offenses listed in subdivision (b), upon motion of the petitioner made prior to the attachment of jeopardy the court shall cause the probation officer to investigate and submit a report on the behavioral patterns and social history of the minor being considered for a determination of unfitness. Following submission and consideration of the report, and of any other relevant evidence which the petitioner or the minor may wish to submit the . . . minor shall be presumed to be not a fit and proper subject to be dealt with under the juvenile court law unless . . . the juvenile court concludes, based upon evidence, which evidence may be of extenuating or mitigating circumstances, that the minor would be amenable to the care, treatment, and training program available through the facilities of the juvenile court based upon an evaluation of each of the following criteria:

- . . . (1) The degree of criminal sophistication exhibited by the minor.
- . . . (2) Whether the minor can be rehabilitated prior to the expiration of the juvenile court's jurisdiction. . . .
- . . . (3) The minor's previous delinquent history. . . .
- . . . (4) Success of previous attempts by the juvenile court to rehabilitate the minor. . . .

Asterisks . . . indicate deletions by amendment

ACT

Violent offenses and offenders. Apprehension and release of children — Detention. Appeals.

State v. Linquist, 99 Idaho 766, 101 (1979).

jurisdiction of the United States jurisdiction over any child of any act, omission or status, the county in which the act, following cases:

Prohibited by federal, state, local minority only, regardless of

of any federal, state, local or a crime if committed by an except traffic, watercraft and that the prosecuting attorney citation of a motor vehicle while suspended or revoked; the while under the influence of drugs; the operation of a motor of a watercraft in a careless watercraft, or fish and game violated of any combination of game violations, regardless of or suspension occurred; of the interstate compact on Idaho Code.

Violators of beer, wine or other prohibited by 1976, ch. 233, § 2, p. 1. 222, § 6, p. 412; am. 1982,

took place" for "found or living county." Amendment by ch. 222 added (4). Deleted "a" in clause 2 was inserted. Compiler. of S.L. 1981, ch. 222 is compiled as

16-1804. Transfer from other courts. — If during the pendency of a criminal or quasi-criminal charge against any minor in any other court, it shall be ascertained that the child was under the age of eighteen (18) years at the time of committing the alleged offense, except where such child has left the state, or where said charge is that such child is a juvenile traffic, beer, wine or other alcohol or tobacco violator, or is within the purview of section 16-1806(1)(a) or (1)(b), Idaho Code, it shall be the duty of such court forthwith to transfer the case, together with all the papers, documents and testimony connected therewith, to the court. The magistrate, justice of the peace or district court making such transfer shall order the child to be taken forthwith to the court or place of detention designated by the court or shall release such child to the custody of some suitable person to be brought before the court at a time designated. The court shall then proceed as provided in this act. [1963, ch. 319, § 4, p. 876; am. 1981, ch. 222, § 7, p. 412; am. 1982, ch. 110, § 2, p. 311.]

Compiler's notes. Section 3 of S.L. 1982, ch. 110 is compiled as § 18-1502.

16-1805. Retention of jurisdiction.

Cited in: In re Wolf, 99 Idaho 476, 583 P.2d 1011 (1978).

16-1806. Waiver of jurisdiction and transfer to other courts. — (1) After the filing of a petition and after full investigation and hearing, the court may waive jurisdiction under the youth rehabilitation act over the child and order that the child be held for adult criminal proceedings when:

- (a) A child is alleged to have committed an act after he or she became fourteen (14) years of age which would be a crime if committed by an adult; or
- (b) An adult at the time of the filing of the petition is alleged to have committed an act prior to his having become eighteen (18) years of age which would be a felony if committed by an adult, and the court finds that the adult is not committable to an institution for the mentally deficient or mentally ill, is not treatable in any available institution or facility available to the state designed for the care and treatment of children, or that the safety of the community requires the adult continue under restraint; or
- (c) An adult already under the jurisdiction of the court is alleged to have committed a crime while an adult.

(2) A motion to waive jurisdiction under the youth rehabilitation act and prosecute a child under the criminal law may be made by the prosecuting attorney, the child, or by motion of the court upon its own initiative. The motion shall be in writing and contain the grounds and reasons in support thereof.

(3) Upon the filing of a motion to waive jurisdiction under the youth rehabilitation act, the court shall enter an order setting the motion for

hearing at a time and date certain and shall order a full and complete investigation of the circumstances of the alleged offense to be conducted by the board, or such other state agency or investigation officer designated by the court.

(4) Upon setting the time for the hearing upon the motion to waive jurisdiction, the court shall give written notice of said hearing to the child, and the parents, guardian or custodian of the child, and the prosecuting attorney, at least ten (10) days before the date of the hearing, or a lesser period stipulated by the parties, and such notice shall inform the child and the parents, guardian or custodian of the child of their right to court appointed counsel in accordance with these rules. Service of the notice shall be made in the manner prescribed for service of a summons under section 16-1809, Idaho Code.

(5) The hearing upon the notice to waive jurisdiction shall be held in the same manner as an evidentiary hearing upon the original petition and shall be made part of the record.

(6) If as a result of the hearing on the motion to waive jurisdiction the court shall determine that jurisdiction should not be waived, the petition shall be processed in the customary manner as a youth rehabilitation act proceeding. However, in the event the court determines, as a result of the hearing, that youth rehabilitation act jurisdiction should be waived and the child should be prosecuted under the criminal laws of the state of Idaho, the court shall enter findings of fact and conclusions of law upon which it bases such decision together with a decree waiving youth rehabilitation act jurisdiction and binding the child over to the authorities for prosecution under the criminal laws of the state of Idaho.

(7) No motion to waive youth rehabilitation act jurisdiction shall be recognized, considered, or heard by the court in the same case once the court has entered an order or decree in that case that said child has come within the purview of the youth rehabilitation act, and all subsequent proceedings after the decree finding the child within the purview of the youth rehabilitation act must be under and pursuant to the youth rehabilitation act and not as a criminal proceeding.

(8) In considering whether or not to waive juvenile court jurisdiction over the child, the juvenile court shall consider the following factors:

(a) The seriousness of the offense and whether the protection of the community requires isolation of the child beyond that afforded by juvenile facilities;

(b) Whether the alleged offense was committed in an aggressive violent, premeditated, or willful manner;

(c) Whether the alleged offense was against persons or property, greater weight being given to offenses against persons;

(d) The maturity of the child as determined by considerations of his home, environment, emotional attitude, and pattern of living;

(e) The child's record and previous history of contacts with the juvenile justice system;

(f) The likelihood of rehabilitation of the child by use of facilities available to the court;

full and complete to be conducted by officer designated by

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(g) The amount of weight to be given to each of the factors listed in subsection (8) of this section is discretionary with the court, and a determination that the minor is not a fit and proper subject to be dealt with under the juvenile court law may be based on any one or a combination of the factors set forth above, which shall be recited in the order of waiver.

(9) If the court does not waive jurisdiction and order a child or adult held for criminal proceedings, the court in a county other than the child's or adult's home county, after entering a decree that the child or adult is within the purview of this chapter, may certify the case for disposition to the court of the county in which the child or adult resides upon being notified the receiving court is willing to accept transfer. In the event of a transfer, which should be made unless the court finds it contrary to the interest of the child or adult, the jurisdiction of the receiving court shall attach to the same extent as if the court had original jurisdiction. [I.C., § 16-1806, as added by 1977, ch. 165, § 2, p. 427; am. 1981, ch. 162, § 1, p. 284.]

Sec. to sec. ref. This section is referred to in §§ 16-1804 and 16-1819.

ANALYSIS

- Application.
- Discretion of court.
- Double jeopardy.
- Legislative intent.
- Purpose.
- Waiver.
 - Criteria.
 - Procedural requirements.
 - Review.

Application.

This section and § 18-216 make it clear that not all chronological age juveniles will receive treatment as juveniles. In re Wolf, 99 Idaho 476, 583 P.2d 1011 (1978).

Discretion of Court.

The magistrate did not abuse his discretion in waiving Youth Rehabilitation Act jurisdiction, where there was ample competent evidence in the record from which the magistrate reasonably concluded that defendant was a dangerous individual; that a real possibility existed that he would not be rehabilitated before he reached the age of 21; and that protection of the community required his isolation beyond that afforded by the juvenile facilities. State v. Christensen, 100 Idaho 631, 603 P.2d 586 (1979).

Double Jeopardy.

This section does not authorize an adjudication or determination of facts beyond the existence of probable cause to believe that a particular crime was committed and that a particular juvenile committed it; it merely authorizes the trial court to consider circumstances in aggravation as bearing on

the question of whether juvenile jurisdiction should be retained and a determination which exceeds that narrow scope could result in the attachment of double jeopardy and a plea in bar to any proceedings in an adult court. In re Wolf, 99 Idaho 476, 583 P.2d 1011 (1978).

Legislative Intent.

It was entirely proper for the magistrate, in considering defendant's record and history of previous contacts with the juvenile justice system, to allow testimony concerning his misdemeanor offenses and dismissed felony charges, inasmuch as there is nothing in the Youth Rehabilitation Act to indicate the legislature, in referring to a child's "record" and "contacts with the juvenile justice system," intended to limit the magistrate's consideration to felony type conduct only. State v. Christensen, 100 Idaho 631, 603 P.2d 586 (1979).

Purpose.

This section and its antecedents were intended to implement the statutory provisions of § 18-216 and to the extent of the conflict, § 18-216 controls. In re Wolf, 99 Idaho 476, 583 P.2d 1011 (1978).

The sole function of the transfer hearing is to determine whether the interests of the child and society are best served by Youth Rehabilitation Act proceedings or by adult proceedings, and the hearings upon which the determination is made are to be informal in nature. State v. Christensen, 100 Idaho 631, 603 P.2d 586 (1979).

Waiver.

— Criteria.

A probable cause finding in conjunction with the procedure of waiving juvenile

MEMORANDUM

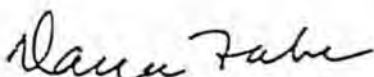
State of Alaska

TO: Senator Victor Fisher

DATE: April 16, 1982

FILE NO:

TELEPHONE NO:

FROM: 
Dana Fabe
Public Defender

SUBJECT: SSSB 685

Thank you for inviting me to comment on the sponsor substitute for Senate Bill No. 685, "An Act relating to unlawful conduct of minors." Our agency is appointed to represent juvenile offenders who cannot afford to retain an attorney. It is my personal opinion that the bill has a number of problems.

The statutory scheme for juvenile offenders now provides that where the court finds any juvenile offender to be untreatable, juvenile jurisdiction may be "waived" and the offender tried as an adult. SSSB 685 would change the law to automatically waive juvenile jurisdiction for all children 16 or over who have been charged with Class A or unclassified felonies. The bill further provides that if the child wishes to petition the court to retain juvenile jurisdiction over him, he may do so but the burden of proving amenability to treatment is his. I see the following problems with this approach:

1. Shift of focus from treatability of offender. The presumptive sentencing provisions of the adult criminal code focus the court's attention almost entirely on the circumstances of the offense rather than the offender. Such factors as the defendant's age, his family background, any drug or alcohol problems which he might have, and his attitude towards treatment and rehabilitation are ignored by the presumptive sentencing provisions of the adult criminal code. These factors are routinely focused upon in the juvenile justice system. It would appear that if there is any place in the system that the rehabilitation of the individual offenders should be emphasized it is in the juvenile justice system.

Many of our juvenile clients have been physically and psychologically abused by their parents. Many have drug and alcohol problems. Many are simply immature and unduly subject to peer pressure. These factors are not recognized as mitigating factors for sentencing under the adult criminal code. Yet, they may be the primary motivators for an offense such as robbing a liquor store in order to obtain alcohol. Thus, my first problem with this bill is that it would radically shift the focus from treating juveniles and preventing them from re-entering the system, to punishing them as adults without concern for the motivating factors behind the offense or amenability to treatment.

2. Increased jail sentences. The adult criminal code establishes severe sentences of presumptive or mandatory incarceration for many persons convicted of Class A or unclassified felonies. A 16 year old who robs a liquor store in order to obtain alcohol and has a firearm in his possession would receive a mandatory presumptive term of six (6) years without the possibility of parole under the adult criminal code.

The bill provides that that 16 year old would remain in a juvenile institution for a period before being transferred at the age of 19 to an adult penitentiary. This sentencing scheme would certainly alter the current treatment emphasis at a juvenile facility such as McLaughlin. Persons with lengthy periods of incarceration would be mixed with juvenile runaways and other kids who do not have serious problems.

Furthermore, a 19 year old youth who is transferred into an adult correctional facility and incarcerated with adult offenders may find himself abused physically and psychologically by the adult inmates. In my opinion, incarceration of youthful offenders who committed crimes as juveniles with adults would be counter-productive to the goals of rehabilitation and reducing recidivism.

3. Waiver hearings -- increased court time. Because this bill sets up a procedure by which any juvenile may challenge his being waived into adult court, the number of waiver hearings are going to increase drastically.

As the law presently stands, professionals from the juvenile intake division and Health and Social Services make a screening determination regarding whether a child is a serious enough offender to be waived into adult court. The primary focus is his amenability to treatment. Waiver hearings are held in the cases where those professionals feel that a juvenile is not amenable to treatment. The revised law will necessitate waiver hearings in virtually every case.

A defense attorney who represents a 16 year old charged with a serious felony will most certainly have to challenge the waiver into adult court in order to effectively represent his client and protect his client's exposure. If the presumptive waiver procedure were not challenged, and the child were later incarcerated for a lengthy period of time, post-conviction relief actions regarding the effectiveness of counsel would certainly result, taking up the time of the appellate courts. Waiver hearings would probably involve psychiatric testimony and testimony of family and friends of the juvenile. These hearings would

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ISSUE !!
Type of
Offense

be time consuming, would occur in almost all cases, and would often result in appeals. This is not an obstructionist view of the system; it is a realistic one, since post-conviction relief challenges on the effectiveness of counsel would certainly result where no attempt was made to keep the child within the juvenile justice system.

The courts do waive juvenile offenders who are not amenable to treatment under the present law. For example, I represented a client charged with killing two taxi drivers who was waived into adult court in a summary fashion based on his prior contact with the juvenile justice system and the nature of the offense. See: J.R. v. State, 616 P.2d 865 (Alaska 1980). This is not an isolated case. See e.g. N.P.A. v. State, 604 P.2d 599 (Alaska 1980). If the legislature wishes to waive more juvenile offenders into the adult court system, changes should be made in the waiver standards, perhaps to make it easier to waive a 16 year old charged with Class A or unclassified felony into adult court.

Again, I appreciate your asking my opinion on this very important matter. If I can answer questions about the specific workings of our office, particularly in terms of juvenile offenders, please do not hesitate to call me.

Juvenile & Family Court
JOURNAL

Special Issue — Summer 1984

The
Juvenile Court
and
Serious Offenders

38 Recommendations

The National Council of Juvenile and Family Court Judges

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Recommendations

I Disposition Policies

1. Serious Juvenile Offenders Should Be Held Accountable By the Courts
2. Individualized Treatment Should Be Considered for Every Juvenile
3. Rehabilitation Should Be a Primary Goal of the Juvenile Court
4. Social Investigations Should Be Used for Individualized Treatment

II Causes and Prevention

5. Families and Schools Should Be Strengthened to Reduce Delinquency
6. Close Liaison Should Be Maintained Between the Courts and the Schools
7. The Impact of School Problems on Delinquency Should Be Researched
8. Business and Labor Should Provide Jobs and Job Training for Juveniles
9. The Causes of Delinquency Should Be Studied In Depth

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10. Guidelines Should Be Developed to Reduce Disparities
11. Provide Judicial Discretion for Individualized Treatment
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21. Programs in the Community Should Provide Adequate Public Protection
22. Programs Should Provide Assistance to Strengthen Families
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25. Methods of Treating Serious Offenders Should Be Further Researched

VII Specific Programs

26. Secure Facilities Should Be Provided for High-Risk Juveniles
27. Substance Abuse Programs Should Be Provided for Juveniles
28. Mental Treatment Facilities Should Be Designed for Juveniles
29. All Programs Should Be Studied for Adverse Impact on Families

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30. Courts for Children Should Have the Stature of General Trial Courts
31. Judges Should Have Long-Term Assignment to This Complex Court
32. Judges Should Lead in Developing Community Resources for Children
33. Research Should Have the Participation of Judges

IX Resources

34. On-Going Training Should Be Provided for the Professional Staff
35. Courts Should Have a Broad Range of Dispositional Resources
36. Judges Should Ensure the Efficient Use of Existing Resources
37. Technical Assistance Should Be Provided for Court Operation
38. Training in Juvenile and Family Law Should Be Provided

THE FACTS

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A Definition of "Serious Juvenile Crime"

The term "serious crime" historically has had no widely accepted definition. Definitions have varied with political philosophies and the prevailing winds of public sentiment as well as empirical research and delinquency theory. However, when researchers are asked to trend changes in the volume of serious crime, they are forced to utilize a definition that is consistent with available data. This practical restriction leads most to adopt as a measure of serious crime the FBI's statistics on the following offenses: murder/non-negligent manslaughter, forcible rape, robbery, aggravated assault (which, as a group, are labeled "Violent Offenses"), burglary, larceny-theft, and motor vehicle theft (which, as a group, are labeled "Serious Property Offenses"). Therefore, in the work that follows, "Serious Juvenile Crime" is defined as the "Violent" and "Serious Property" offenses committed by individuals who are below 18 years of age.

FBI Uniform Crime Reports' Arrest and Clearance Data

It is a common exercise to compare the number of juveniles and adults arrested for serious crime and to conclude from this comparison the relative contribution of juveniles to the nation's serious crime problem. While juvenile arrest statistics reflect the number of juveniles who come in contact with law enforcement, they are a poor measure of the contribution of juveniles to the nation's total crime problem, for they are a count of persons arrested and not crimes committed. Juveniles tend to commit crime in groups more often than adults and are, in general, more easily apprehended. Therefore, to compare the arrest figures of juveniles and adults, and to interpret the comparison as a measure of the proportion of serious crime committed by each group, tends to overestimate the juvenile contribution to serious crime.

Each year a large number of serious crimes are reported to law enforcement agencies. Some of these crimes are "cleared" by arrest. A reported crime is cleared by arrest when a law enforcement agency has identified the offender and has sufficient evidence to charge the individual and take the individual into custody. Each year the FBI reports the percentage of crimes cleared in cities that were cleared by the arrest of a juvenile. Obviously, clearance statistics are a much better measure of the juvenile contribution to the seri-

ous crime problem than are arrest statistics. Clearance statistics are based on a count of crimes and not on a count of persons arrested; consequently, a portion of the bias in arrest figures is overcome even though that bias caused by the fact that juveniles are more easily apprehended is still present.

Violent Juvenile Crime

Between 1964 and 1982 juveniles were responsible for about one in every ten violent crimes cleared (see Figure 1) and involved in two of every ten violent crime arrests. This difference can be explained by the fact that juveniles tend to commit crimes in groups. Both clearance and arrest data indicate that the relative responsibility of juveniles for the nation's violent crime problem has not changed since the mid-1960s. However, the volume of violent crime committed by juveniles has increased; between 1964 and 1982 the number of juvenile violent crime arrests increased by 160%. But during the same period the number of adult arrests increased by 180%. Therefore, the growth in the volume of violent crime in this country between 1964 and 1982 should not be characterized as a growth in juvenile violence alone. The responsibility for the growth in the volume of crime is shared proportionately by juveniles and adults.

Serious Juvenile Property Crime

The portion of the nation's serious property crime problems attributed to juveniles has decreased dramatically since the mid-1960s. In 1964, 43% of all serious property crimes cleared were cleared by the arrest of juveniles, compared to only 24% of the total in 1982 (see Figure 2). From 1964 through 1982, while the number of juvenile serious property crime arrests increased by 40%, the number of adult arrests increased by 220%. Consequently, juvenile arrests made up a much larger proportion of all serious property crime arrests in 1964 than they did in 1982. In 1964, 55% of all persons arrested for a serious property crime were juveniles, compared to only 34% in 1982. Therefore, the growth in the number of serious property crimes between 1964 and 1982 can largely be attributed to a growth in the number of serious property crimes committed by adults.

Figure 1
Violent Crimes
Proportion Cleared: 1964-1982

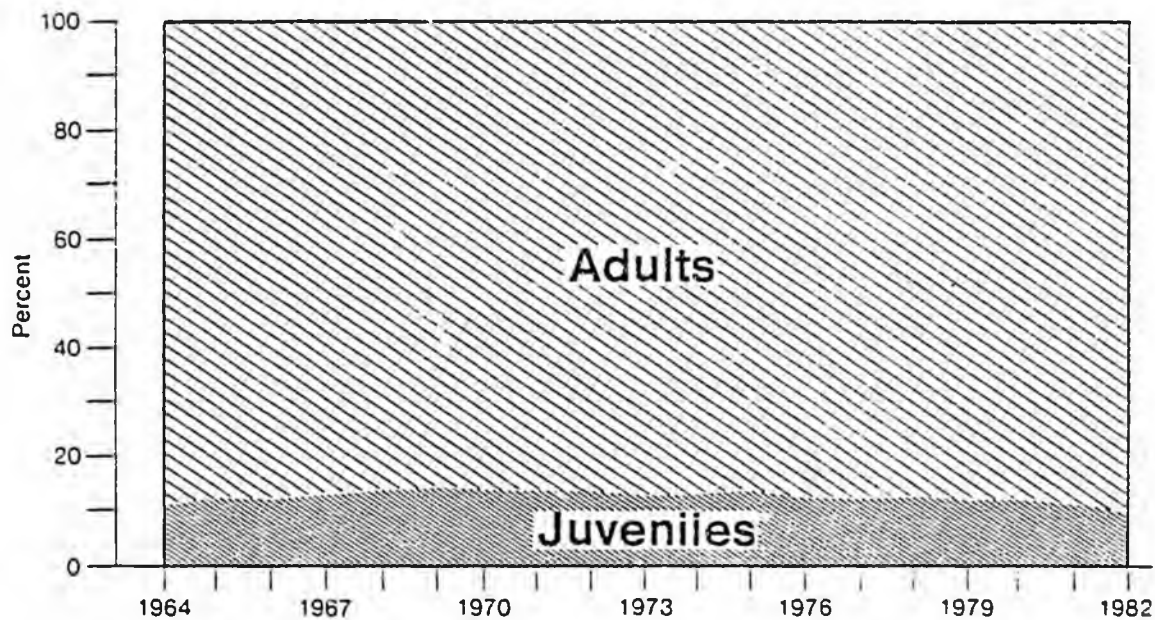
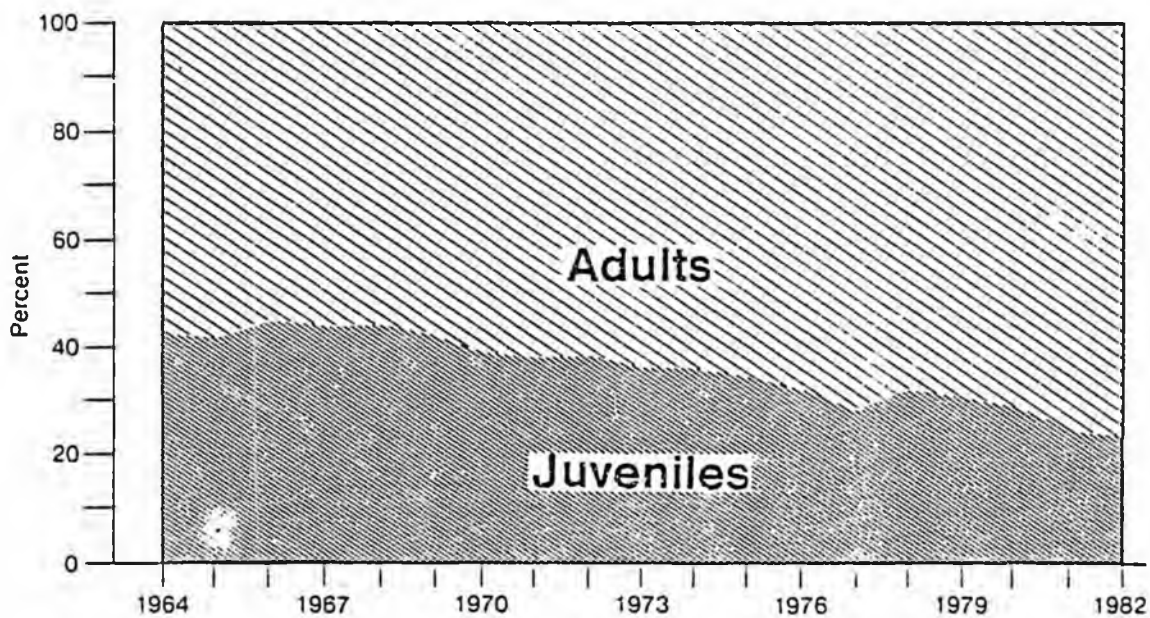


Figure 2
Serious Property Crimes
Proportion Cleared: 1964-1982



Serious Juvenile Offender Characteristics

The Council's National Center for Juvenile Justice, through the support of the Office of Juvenile Justice and Delinquency Prevention, U.S. Department of Justice, has established the National Juvenile Court Data Archive, which stores all available data on the juvenile courts' handling of youth referred for a delinquent or status offense. From this archive, 275,000 automated delinquency case records describing the activities of the juvenile courts in seven states (Alabama, California, Florida, Iowa, Kansas, Nebraska and Pennsylvania) in 1980 were analyzed and the results were used to develop the following information on serious juvenile offenders referred to juvenile courts.

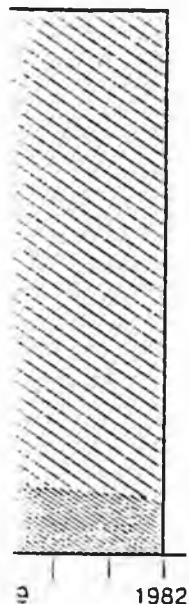
In this sample, seven percent of all delinquency referrals were charged with a violent offense and another 46 percent with a serious property crime. Therefore, over half of all the delinquency cases processed by these juvenile courts involved a youth charged with a serious crime. Who were the serious offenders? Eight of every ten individuals referred for a violent or serious property offense were male. Forty-three percent of all youths charged with a violent offense, and 53% charged with a serious property offense, were 15 years of age or younger. Fifty-six per-

cent of all youths charged with a violent offense, and 45% charged with a serious property offense, had at least one previous referral to juvenile court.

Metropolitan Courts

There were substantial differences between the character of juvenile court caseloads of metropolitan and nonmetropolitan areas in this seven state sample. Metropolitan courts, due to their larger populations, had much larger caseloads than courts in nonmetropolitan areas. However, even after controlling for differences in the number of juveniles in the general population, metropolitan juvenile courts had twice the rate of violent crime cases and a 16% higher rate of serious property crime cases than did the nonmetropolitan courts in the sample. In addition, compared to nonmetropolitan courts, a greater percentage of serious crime referrals to metropolitan courts involved a juvenile with a prior court history. Therefore, metropolitan areas not only had a greater proportion of their youth population involved in serious crime, but these youth were also more likely to be recidivists.

Metropolitan juvenile courts are faced with a greater serious crime problem than nonmetropolitan courts, and funding programs must be sensitive to this increased burden and responsibility.



Each of the following thirty-eight recommendations was approved by the members of the National Council of Juvenile and Family Court Judges on July 12, 1984, at their Forty-Seventh Annual Conference in Colorado Springs, Colorado.

I DISPOSITION POLICIES

Serious Juvenile Offenders Should Be Held Accountable By the Courts

The primary focus of the juvenile court for the disposition of serious, chronic or violent juvenile offenders should be accountability. Dispositions of such offenders should be proportionate to the injury done and the culpability of the juvenile and to the prior record of adjudication, if any.

The National Council of Juvenile and Family Court Judges recognizes that the principal purpose of the juvenile justice court system is to protect the public. For chronic offenders, violent offenders and juveniles who commit serious crimes, the public is best protected by holding them accountable, restricting their liberty as necessary and imposing consequences proportionate to the injuries done.

Individualized Treatment Should Be Considered for Every Juvenile

The needs of all serious, chronic or violent juvenile offenders are not the same. While many require secure placement, decisions regarding levels of security and intensity of treatment should be tailored to meet the offender's individual needs while being sensitive to concerns for public safety.

Since no two children have the same personality, strengths and weaknesses, nor the same family supports and pressures, their dispositions must be individualized. While the severity of the present and prior offenses are critical in determining an appropriate response, the needs, circumstances and problems of the individual offender can vary enormously and dictate flexibility in intervention. Given this variation, responses can range from placement in secure, institutional facilities to relatively open, community-based programs.

Rehabilitation Should Be a Primary Goal of the Juvenile Court

To the extent public safety will permit, the primary goal of the juvenile court should be rehabilitation, but with consideration for general deterrence, general prevention and the strengthening of social institutions such as families, schools and community organizations.

Historically, the juvenile courts have adopted the principle that the public is best protected and the children best helped by focusing on the future and preventing new offenses by rehabilitating the individual delinquent, rather than focusing on the past by punishing an offense which is over and done. Rehabilitation has been remarkably successful for most juvenile offenders. It has not been successful for the small number of chronic and serious offenders. For them, strict accountability appears necessary.

Social Investigations Should Be Used for Individualized Treatment

A thorough diagnostic assessment should be undertaken for all adjudicated serious, chronic or violent juvenile offenders and a treatment and placement plan submitted to assist the court at the dispositional hearing.

Recognizing that jurisdiction over actual facility placement varies from state to state, the location of the diagnostic assessment (juvenile court vs. juvenile corrections agency) is intentionally unspecified in the original recommendation. The recommendation focuses on strengthening the process of determining where to place the serious juvenile offender regardless of which juvenile justice system component has authority to make that determination, but stresses the conviction of the judges that placement decisions should be judicial decisions.

II CAUSES AND PREVENTION

Families and Schools Should Be Strengthened to Reduce Delinquency

There exists strong evidence that the prevention of serious delinquency by the family, by the school, by friends and by socially organized communities is often more effective than that provided by the law.

When social institutions are strong, communities well organized, parents and schools competent and caring, there is a very small serious delinquency problem. The deterrence provided by the juvenile justice system in such communities is an important backup, and should be supported and strengthened by the court. However, when these institutions are weak and provide little or no prevention, serious questions can be raised about whether the court can have a substantial effect.

Close Liaison Should Be Maintained Between the Courts and the Schools

There should be a close and continuing relationship between the juvenile court and school authorities in every community.

The court, the school and the police should cooperate in developing and implementing policies to deal with the problems of delinquency. There is a pressing need to examine the relationships between student abilities, inclinations and performance, classroom curricula, school attendance and delinquency.

The Impact of School Problems on Delinquency Should Be Researched

Research is necessary to assist in the formulation of court and community policy as to truancy enforcement, compulsory school

laws, crimes in the schools, under-education and frustrated learning experiences.

We need to know how curriculum tracking or its absence in elementary and secondary schools affects delinquency. We need to know which truants should be compelled back to school and which should be encouraged in vocational directions. And, we need to know how to recruit and retain highly skilled and motivated teachers to inner city schools. Included in the needed research is a program of study designed to determine why some schools or school administrators are successful in keeping truancy and serious delinquency low while others are not.

Business and Labor Should Provide Jobs and Job Training for Juveniles

Juvenile court judges should enlist the aid of business and labor to provide more youth employment and training opportunities.

The plight of many inner-city communities is aggravated by high unemployment, poor schools and ineffective social institutions. Jobs, like the school and family, can be an important socializing force in the community. When a youth can be committed to a job and the advancement a job provides, then that youth will be less likely to engage in serious delinquency. A partnership created between schools, businesses and the government to develop projects to tie schooling and employment together may offer the best hope. Because of their involvement in the youth problem, and because of their special knowledge of the hardships posed by excessive levels of youth unemployment, juvenile court judges have a special role to play in fostering these partnerships. By calling for juvenile court judges to be more active in enlisting the aid of business and labor,

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this recommendation is in no way intended to diminish the responsibility of federal, state and local governmental agencies in providing youth employment and training.

The Causes of Delinquency Should Be Studied In Depth

Adequate funds should be made available at the national level to provide for both short and long-term research into the causes and prevention of delinquency. The quality and utility of the research to improve the functioning of the juvenile justice system should

be enhanced by closer interaction between research investigators, judges, lawyers, probation officers and treatment staff.

Dissemination of such research should be in a manner which makes the results accessible to persons working within the system. Long-term research on the causes and prevention of delinquency is critical if there is to be hope that in the future we will be closer to the solutions necessary for the reduction of delinquency. The results of previous long-term delinquency research demonstrate that such hope is not ill-founded. Criminology is a young science: one that needs and deserves support.

III | GUIDELINES

Guidelines Should Be Developed to Reduce Disparities

Guidelines incorporating all decisional factors should be adopted as a means of reducing dispositional disparity for serious, chronic or violent offenders. The guidelines should be focused primarily on accountability, fitting the severity of the disposition to the severity of the present and past offenses.

Guidelines which specify the criteria to be used in sentencing serious juvenile offenders, and which distinguish between them and the remainder of the delinquent population, can provide consistency with individualization.

Guidelines must be flexible, subject to continuous review and revision, to accommodate changing public and professional views of the legitimate social role of punishment in the sentencing of serious offenders.

Provide Judicial Discretion for Individualized Treatment

Provision should be made in any guidelines for the judge to be able to depart from the presumptive disposition upon setting forth in writing the specific aggravating and mitigating factors found to justify such departure.

Guidelines for dispositions for the serious juvenile offender are urged. Often, full discretion tends toward greater inconsistencies. But, legislatively-imposed mandatory sentencing schemes, enacted to promote equity of sentences, tend to be both too extreme and too limited in scope. That is, disproportionately severe penalties are mandated or the necessary exercise of judicial discretion is drastically restricted, and other sources of disparities in decisionmaking are

ignored. The essential feature of any guideline system must be to preserve the discretion of the judge to depart from the guidelines' prescriptions if the judge feels that the interests of justice or equity will be better served.

Guidelines should include controls on plea bargaining so that a new disparity does not arise by shifting discretion from the judges to the lawyers.

A System-Wide Commission Should Devise the Guidelines

The guidelines for each state should be drawn, researched and, from time to time, modified by a commission of that state consisting of representatives of all sectors of the juvenile justice system.

The guidelines should be developed, refined and continuously monitored by a commission which should: (a) be comprised of a representative group of juvenile justice policy-makers and practitioners, as well as citizen participants; (b) have the authority to develop and promulgate policy statements which will guide decision-makers in sentencing serious, chronic or violent juvenile offenders; and (c) have a staff of researchers and analysts sufficiently funded and authorized to conduct assessments of the impact of the guidelines on a continuing basis, and to work with the commission to draft revisions as needed. There should be a commitment on the part of the legislative and executive branches to provide the range of resources necessary to implement these guidelines.

The recommendation adopted does not specify by or under what authority (legislatively-authorized or otherwise) such guidelines would be developed. Such structure is intended to be left to the individual states.

IV | TRANSFER TO THE ADULT CRIMINAL COURT

Offenders Unamenable to Juvenile Treatment Should Be Transferred

The juvenile court and juvenile justice system are in the best position to respond effectively to the problem of serious juvenile crime, however, there are juveniles for whom the resources and processes available to the juvenile court will serve neither to rehabilitate the juvenile, nor to provide a suitable sanction for the offense, nor to adequately protect the public. Such juveniles should be tried and, if convicted, sentenced in the adult criminal court.

Transfer of juveniles to the adult criminal courts — also termed “waiver,” “certification,” “reference,” and “remand” — should be based upon the inability of the juvenile justice system to protect the public. The inability may be because juvenile court jurisdiction (which is based on the child’s age) will run out too soon. It may be because the juvenile court does not have a disposition which is commensurate with the seriousness of the offense. It may be because the juvenile court does not have access to a secure facility. The number of children transferred to the criminal courts can be reduced by extending the age when juvenile court jurisdiction expires and by providing the juvenile courts with a greater range of resources, including secure facilities.

The Juvenile Court Should Make the Transfer Decision

The decision to waive a juvenile from the juvenile court to the adult criminal court should be made by the judge of the juvenile court under guidelines developed to protect the constitutional rights of the juvenile and the safety of the public.

The decision to transfer is made in most states by the juvenile court after a full due process hearing where the public’s rights and the juvenile’s rights are carefully protected and with assurance that the juvenile was probably involved in the offense before the right to juvenile proceedings is lost. In some states, however, the decision is made without a hearing by the prosecutor, who may be under political pressures. In some states, transfer is based simply on offense, regardless of whether the juvenile court has the facility to better protect the public. In some states, serious charges are filed in the adult court which then decides whether to transfer the child to the juvenile court. It should be recognized that juvenile courts and their professional staff are most experienced in analyzing juveniles, that they are best acquainted with what they can and cannot do and that they have demonstrated ability to provide fair and knowledgeable transfer proceedings.

To provide not only consistency in transfer decisions, but also to insure that they are made with full knowledge of the resources and facilities available to both the juvenile and criminal courts, guidelines should be prepared by a coordinated effort of the two courts, based on local resources, facilities and circumstances.

A New Transfer Decision Should Be Required for Subsequent Offenses

For subsequent charges, previously transferred juveniles should be subject to juvenile court jurisdiction and its decision as to whether to transfer again.

Children should not be denied future access to juvenile court jurisdiction solely on the grounds of prior transfer which resulted in acquittal. Also, automatic transfer fails to recognize that prior adult procedures may have effectively reduced such juveniles’ threat to the public safety.

V | CONFIDENTIALITY

Open Hearings

Fact finding hearings involving juveniles charged with criminal law violations and hearings for transfer to an adult criminal court should generally be open to the public while dispositional hearings should generally be closed. In a given case the court should exercise discretion to open or close the hearing to the public.

Our tradition of open government was the primary rationale advanced in support of this recommendation. Promotion of the state's interest in rehabilitation of juveniles and protection of innocent family members from adverse publicity were other issues considered. However, when a child is involved in a serious crime, the public, the victims and the police have a right to know how the juvenile court manages the trial where guilt or innocence is determined unless, in a rare case, the publicity will demonstrably cause more harm than good. Public safety overrides the reasons for confidentiality. Except in a rare case, however, public safety does not require the public to be present at the disposition hearing where all of the intimate details of the family will be discussed in order to determine the best means of helping the child and protecting the public.

Police Should Be Informed of Court Actions in Their Cases

Juvenile courts should provide a law enforcement agency with the legal charge and disposition of juveniles referred by such agency for criminal law violations.

It is important for reasons of efficiency and the administration of justice, as well as fairness to individuals who may have their cases acquitted or dismissed, that police be provided with accurate court information. Law enforcement agencies should have such information so they can main-

tain accurate records in cases where the individual becomes involved in subsequent criminal law violations, either as a juvenile or an adult.

Juvenile Records Should Be Provided to Adult Courts When Sentencing

Once a person has been convicted of a crime in the adult criminal court, the legal record of any findings of guilt of charges of a criminal law violation in juvenile court should be made available to the adult criminal court upon its request.

When an adult has been convicted of a crime, the criminal court judge, for sentencing purposes, needs to know if the individual has a prior record in the juvenile court equivalent to a finding of guilt on a criminal law violation.

Legal Records of Juveniles Should Be Open to Those Who Need to Know

Legal records of juveniles adjudicated for criminal law violations should be open to the child, the parents, the child's attorney, the guardian ad litem, the prosecutor and, at the discretion of the judge, to any other person having a legitimate interest. "Legal" records would not include social histories, medical and psychological reports, educational records or a transcript of the dispositional hearings.

Traditionally, hearings and records of juvenile courts have been deemed confidential and have been unavailable, often even to the parents and the press, in order to protect children from the punishment of publicity. For children abused and neglected by their parents, for children being adopted, for immature children involved in petty offenses, the justification for confidentiality is sound. For children who can be rehabilitated without danger to the public, the

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reasoning is sound particularly where publicity will interfere with the rehabilitation. Where publicity will bring shame and abuse to brothers and sisters, grandparents and relatives without adding any useful information to the public or any better provision for its safety, confidentiality is merciful. When public safety is involved, those responsible for protecting the public must have access to the legal records of any juvenile charges and juvenile court dispositions, but even in these cases they have no need for access to the social records which contain the activities, marital problems, likes and dislikes, psychological evaluations or intelligence quotients of the various members of the child's family. The police need to know which children have violated the law and

what the court has done with them; they do not need to know the family's problems.

The Effects of Expunging Juvenile Records Should Be Researched

A study should be authorized to review the practice of sealing and expunging juvenile records to determine the impact on the administration of juvenile and criminal justice.

The effects of the variations in statutes and practices from state to state in expunging, sealing and destroying records upon the administration of justice, is largely unknown, as is the extent to which it is a benefit or detriment to the juveniles.

VI TREATMENT CONSIDERATIONS

Programs in the Community Should Provide Adequate Public Protection

Community-based programs for serious, chronic or violent juvenile offenders should provide protection for the public and staff. Such security can best be achieved through limiting numbers of juvenile offenders, adequate staffing and program content.

Issues of safety and security as they apply to the physical welfare of the community-at-large, program staff and the offender are important. Clearly, concerns for community protection, client control and supervision and program security are important to any discussion of community-based correctional programs for this difficult offender population. Contrary to the usual perception that proper levels of security can only be maintained in secure institutional settings, community-based programs are, in fact, able to exert intensive control and supervision and capable of transmitting to offenders a very clear sense that serious consequences follow from both criminal transgression and continued inappropriate social behavior. Rather than relying upon mechanical and physical constraints to maintain the required level of security, these programs utilize social, psychological and behavioral methods to achieve that goal. Security is accomplished through intensive use of staff numerous enough to work closely with offenders. Control is facilitated by keeping offenders busy at all times. In nonresidential programs, supervision requires intensive tracking of clients while they are away from the program facility.

Programs Should Provide Assistance to Strengthen Families

No social policy or prevention program concerning delinquency should be adopted before careful attention is paid to the consequences of such a policy or program on families.

Perhaps the greatest influence the court can have in its interventions is to be sensitive to the family causes of delinquency. But the general educative function of the court — the ability to influence other community institutions — is formidable. One duty of the juvenile court is to inform the community of the implications of weak families on the serious delinquency problem. Because of its special knowledge and interest in the problem, the juvenile court should be a leader in the fight to improve knowledge of effective parenting and to seek ways to deliver this knowledge to the community.

Programs Should Provide Progress Reports and Family Involvement

Strategies which should be incorporated into a treatment plan for serious, chronic or violent juveniles include:

- a. Frequent progress reports advising the juvenile of standing, achievements, deficiencies and expectations.*
- b. Involvement of the family with an analysis of the family's problems and assistance with these.*
- c. Academic education and social, vocational and employability training and assistance.*

All states should implement a "monitoring process" in order to assure residential placements provide the services called for under law and to assure the safety and rights of the public and the juveniles. The concept and process of accomplishing each of the above strategies should be clearly defined within each jurisdiction.

Re-Entry into the Community Should Be Phased

Juvenile delinquents will eventually be returned to the community without court controls. Thus, reintegration into the community

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should be supervised with intensive and adequate aftercare. When secure care is necessary, attention should be directed toward the gradual re-entry of youths into the community through a staging process utilizing half-way houses, group homes, day treatment and other appropriate aftercare programs.

Far too often serious juvenile offenders are returned to the community "cold turkey," straight from secure placement without adequate resources and efforts for gradual reintegration into community living. Evaluation data suggests that failure to assist youths in this reintegration process often cause those gains made in residential placement to "wash out" upon the youth's return to the community. Serious offenders should move from secure care through a "staging process" with different levels of residential and community involvement prior to termination of aftercare.

Methods of Treating Serious Offenders Should Be Further Researched

Research and evaluation on the treatment of serious, chronic or violent juvenile offenders should be continued with emphasis on rehabilitation, accountability and public safety.

The only way significant improvements in treatment can occur is by implementing and systematically evaluating innovative programs. Following the lead of recent research efforts funded by the Office of Juvenile Justice and Delinquency Prevention in the U.S. Department of Justice, future studies should: develop programs which link theory and practice; utilize experimental models whenever possible; and examine what variations in treatment work best with which types of youth and in what settings.

VII | SPECIFIC PROGRAMS

Secure Facilities Should Be Provided for High-Risk Juveniles

For that group of high-risk delinquents who cannot be treated outside a closed setting, it is preferable to use small, secure treatment units.

It is crucial that the court's disposition for the chronically violent be in secure placement which will allow time to conduct extensive diagnostic evaluations, and allow behavior to be stabilized and brought under control. High-risk offenders can best be treated and supervised in facilities housing only a small number. Larger, secure facilities have a tendency to display mass handling techniques with a level of impersonality and necessary regimentation. They display a greater reliance on mechanical forms of security. They promote "underground" and informal subcultures. They possess little discharge planning. They lack adequate after-care services. They create impersonal, dehumanizing environments and possibilities for physical abuse and violence by other juveniles or staff.

Substance Abuse Programs Should Be Provided for Juveniles

Substance abuse treatment should be made a part of the dispositional plan for those serious, chronic or violent juvenile offenders whose criminal conduct is determined to be related to substance abuse. Juvenile and family courts must exercise leadership in the development of local community policies and programs to prevent and treat drug, alcohol and other substance abuse by juveniles.

Research literature strongly suggests a close

connection between substance and alcohol abuse and serious delinquency. Although the precise mechanisms are unclear, the juvenile court sees the relationship with a frightening regularity. There is a pressing need for the judiciary to make these facts widely known and to actively work with other community leaders to seek ways to prevent and treat such abuse. There is need for statutory authority whereby the courts can require serious, chronic or violent juvenile offenders whose criminal conduct is clearly related to drug or alcohol abuse to submit to treatment. Too often in the past, the court has been able only to refer these offenders on a voluntary basis. Mandatory treatment for alcohol and substance abuse is necessary, with a concerted effort to coordinate both the judiciary and treatment providers to ensure appropriate services.

Mental Treatment Facilities Should Be Designed for Juveniles

Separate and secure facilities should be provided for serious, chronic or violent juveniles who are mentally ill or emotionally disturbed.

One of the most glaring deficiencies in the juvenile justice system is providing the care and treatment of serious, chronic or violent juvenile offenders who have been evaluated and diagnosed as being in need of mental health services. All such youth should receive appropriate care and services as the responsibility of the mental health system, which must be provided with necessary resources. These services should be made available to the juvenile correctional system by both private service providers and government community mental health services. Most of the serious, chronic or violent juvenile offenders requiring in-patient care need mental health services beyond the capabilities of juvenile correc-

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tion departments. Also, the level of security needed is beyond that currently provided by children's mental health facilities.

All Programs Should Be Studied for Adverse Impact on Families

Existing policies and prevention programs should be researched to determine which of them have adverse consequences for families.

Society is rapidly moving away from the traditional family structure in which children are reared in two-parent homes and in which the mother does not work outside the home. Other

forces are causing equally important changes in the family. The dramatically rising proportion of children who are born to unmarried women causes major changes in the supervision and role models given children. These social shifts imply dramatic changes in the supervision and socialization of children. We do not fully understand the implications of these changes for serious delinquency, let alone how to affect them, or whether it would be desirable to affect them. There is need for careful research into the consequences of these changes in the family for delinquency. We need to be better informed of the potential consequences of our policy choices — particularly when one might be increased delinquency.

VIII STATUS OF THE COURT

Courts for Children Should Have the Stature of General Trial Courts

Courts exercising jurisdiction in juvenile and family matters should be equivalent in rank and stature to courts of general jurisdiction.

The juvenile and family courts have huge daily responsibilities protecting the public, intervening in family disputes, rehabilitating juveniles and setting an example in the community. These courts should have the stature among the judiciary and the public if they are to acquire adequate resources and mechanisms to support their immense responsibilities. The undeniable importance of the work of the juvenile and family courts should be reflected in their rank, stature and available resources.

Judges Should Have Long-Term Assignment to This Complex Court

Judges should be selected on the basis of their professed interest in juvenile and family matters with an assignment for a substantial number of years to insure adequate training, adequate experience and adequate control of the court.

The work of these courts must be better understood for society to afford it the status inherent in its responsibilities of intervening in the lives of children and their families.

To be effective, a judge requires special education and experience over a substantial number of

years, thus assignment to these responsibilities should be based upon proposed interest in, ability for and commitment to the special responsibilities involved.

Judges Should Lead in Developing Community Resources for Children

Juvenile and family court judges must act as advocates and catalysts in the development and allocation of resources.

Judges should actively seek opportunities to explain the goals, plans and problems of the court. They should develop a close and continuing relationship with schools, law enforcement agencies and business and labor organizations in the community. They should develop court-citizen committees to advise the court. They should seek out and utilize community resources to develop citizen-court volunteer programs appropriate to the needs of youth under their jurisdiction.

Research Should Have the Participation of Judges

Juvenile and family court judges must have an active role in the development of relevant research involving the juvenile justice system and should advise on an individual basis concerning conclusions drawn and applicability.

Research is necessary, but the practical experience and knowledge of judges who will be expected to use the product is necessary if the research is to be useful.

IX | RESOURCES

On-Going Training Should Be Provided for the Professional Staff

Staff are the most important resource of the court; therefore, activities which promote professional development of court and juvenile justice system personnel are critical to maintaining quality programs and services and should be supported.

The staff of a juvenile court and its attendant services are the key to successful program implementation. Professional development activities which improve the quality of staff are of great importance. Judges can and should be instrumental in insuring adequate staff development regardless of whether staff report directly to the court or to an administrative agency.

Courts Should Have a Broad Range of Dispositional Resources

Probation is an essential resource of juvenile justice. Juvenile courts should act to strengthen the probation function through implementation of case classification procedures, restitution, constructive sanctions, service brokerage and other probation innovations.

Probation is the primary service around which all other juvenile justice interventions are built, but it is too often taken for granted and too seldom reviewed for possible improvements. In some courts it has operated in a manner unchanged over the past thirty years, even though research has demonstrated program innovations which can modify and improve the effectiveness and efficiency of probation services.

Judges Should Ensure the Efficient Use of Existing Resources

Resources to deal with serious crime in our nation's largest cities have never been available in adequate supply to ensure an effective and efficient response. While advocating for additional necessary resources, the juvenile court should also ensure that existing resources derive maximum utility from current levels of financial support.

Juvenile courts must examine their current practices in order to better justify and substantiate

the need for additional resources. While necessary resources have never been available in the past, courts could do a better job of using those resources which currently exist. The court should secure additional funds to better accomplish its goals and assure that existing funds are being most effectively utilized.

Technical Assistance Should Be Provided for Court Operation

The juvenile court and juvenile justice system are in need of assistance to implement their resources in an efficient and effective manner. Technical assistance to the juvenile justice system should be available from federal, state and local governments and from private sector sources. It should address current operating problems of the juvenile justice system and should be based upon the needs determined by that system.

Technical assistance which addresses the operating concerns of the court could be extremely valuable in maximizing existing levels of resources. As such, a relatively small expenditure made to provide technical assistance could result in substantial savings. In order for such assistance to be valuable, however, it should be based on the perceived needs of the local court, rather than on the desire of the provider. Past technical assistance efforts have had limited utility because they have not heeded this point.

Training in Juvenile and Family Law Should Be Provided

Appropriate curricula should be further developed, implemented and continued in the National Council of Juvenile and Family Court Judges, the nation's schools of law and other disciplines for career development of judges and other juvenile justice practitioners.

The training programs of the National Council, currently reaching several thousand judges, lawyers, probation officers, court administrators and treatment staff in both the Reno headquarters and in most of the fifty states, should be expanded and participants provided with sophisticated research, professional textbooks and awarded degree credits.

TERMS OF IMPRISONMENT AND AUTHORIZED FINES IN REVISED CRIMINAL CODE

	FIRST FELONY CONVICTION	SECOND FELONY CONVICTION	THIRD FELONY CONVICTION
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"A" Felony	0-20	5-[10]-20	7 1/2-[15]-20
	3-[6]*-20		
"B" Felony	0-10	0-[4]-10	3-[6]-10
"C" Felony	0-5	0-[2]-5	0-[3]-5

MAXIMUM FINES - PERSONS

Murder or kidnapping - \$75,000
 A, B, or C Felony - \$50,000
 A misdemeanor - \$ 5,000
 B misdemeanor - \$ 1,000
 Violation - \$ 300

MAXIMUM FINES - ORGANIZATIONS

All offenses - \$100,000 or
 3 X pecuniary gain
 - whichever is greater

KEY

Number in bracket is presumptive sentence.
 Number to left is lowest mitigated
 sentence. Number to right is highest
 aggravated sentence.

* Six year presumptive term applies if first
 A felony conviction, other than manslaughter,
 and defendant used or possessed a firearm
 during the offense or caused serious physical
 injury.

MAXIMUM TERMS OF IMPRISONMENT
 FOR MISDEMEANORS

A misdemeanor - 1 year
 B misdemeanor - 90 days

CLASSIFICATION OF OFFENSES IN REVISED CRIMINAL CODE

UNCLASSIFIED FELONIES

Murder in the First Degree

AS 11.41.100

20-99 years

Murder in the Second Degree

AS 11.41.110

5-99 years

Kidnaping

AS 11.41.300

5-99 years

Sexual Assault I

CLASSIFIED FELONIES

2-2

A	B	C
Attempted Murder or Kidnaping AS 11.31.100(d) (1)	Attempted A felony AS 11.31.100(d) (2)	Attempted B felony AS 11.31.100(d) (3)
Solicitation of Murder or Kidnaping AS 11.31.110(c) (1)	Solicitation of A felony AS 11.31.110(c) (2)	Solicitation of B felony AS 11.31.110(c) (3)
Manslaughter AS 11.41.120	Assault II AS 11.41.210	Criminally Negligent Homicide AS 11.41.230
Assault I AS 11.41.200	Sexual Assault II AS 11.41.420	Custodial Interference I AS 11.41.320
Sexual Assault I AS 11.41.410 <i>Sexual Abuse of a Minor</i>	Unlawful Exploitation of a Minor AS 11.41.455	Sexual Assault III AS 11.41.430

CLASSIFIED FELONIES

A	B	C
Robbery I AS 11.41.500	Robbery II AS 11.41.510	Sexual Abuse of a Minor AS 11.41.440
Arson I AS 11.46.400	Extortion AS 11.41.520	Incest AS 11.41.450
Escape I AS 11.56.300	Theft I AS 11.46.120	Coercion AS 11.41.530
Criminal Possession of Explosives with Intent to Commit Murder or Kidnapping AS 11.61.240(b) (1)	Issuing a Bad Check, \$25,000 or more AS 11.46.280(d) (1)	Theft II AS 11.46.130
	Burglary I AS 11.46.300	Concealment of Merchandise, \$500 or more AS 11.46.220(c) (1)
	Arson II AS 11.46.410	Removal of Identification Marks, \$500 or more AS 11.46.260(b) (1)
	Criminal Mischief I AS 11.46.480	Unlawful Possession (of Altered Property,, \$500 or more AS 11.46.270(b) (1)
	Forgery I AS 11.46.500	Issuing a Bad Check, \$500 or more AS 11.46.280(d) (2)
	Scheme to Defraud AS 11.46.600	Fraudulent Use of a Credit Card, \$500 or more AS 11.46.285(b) (1)
	Defrauding Creditors, \$25,000 or more AS 11.46.730(c) (1)	

CLASSIFIED FELONIES

R

Bribery
AS 11.56.100

Receiving a Bribe
AS 11.56.110

Perjury
AS 11.56.200

Escape II
AS 11.56.310

Interference with
Official Proceedings
AS 11.56.510

Receiving a Bribe by a
Witness or Juror
AS 11.56.520

Criminal Possession of
Explosives with Intent
to Commit A felony
AS 11.61.240(b)(2)

Promoting Prostitution I
AS 11.66.110

C

Obtaining a Credit Card by
Fraudulent Means
AS 11.46.290(a)(1),(2)

Burglary II
AS 11.46.310

Criminal Mischief II
AS 11.46.482

Forgery II
AS 11.46.505

Criminal Possession of Forgery
Device
AS 11.46.520

Criminal Simulation \$500 or
more
AS 11.46.530(b)(1)

Offering a False Instrument
for Recording
AS 11.46.550

Falsifying Business Records
AS 11.46.630

Commercial Bribe Receiving
AS 11.46.660

Commercial Bribery
AS 11.46.670

CLASSIFIED FELONIES

C

Defrauding Creditors, \$500
- \$25,000
AS 11.46.730(c)(2)

Endangering Welfare of Minor
AS 11.51.100

Perjury by Inconsistent State-
ments
AS 11.56.230

Escape III
AS 11.56.320

Permitting an Escape
AS 11.56.370

Promoting Contraband I
AS 11.56.375

Jury Tampering
AS 11.56.590

Misconduct by a Juror
AS 11.56.600

Tampering with Physical Evidence
AS 11.56.610

Hindering Prosecution I
AS 11.56.770

Terroristic Threatening
AS 11.56.810

2-5

CLASSIFIED FELONIES

C

Riot

AS 11.61.100

Misconduct Involving Weapons I

AS 11.61.200

Criminal Possession of Explosives with Intent to Commit

B Felony

AS 11.61.240(b)(3)

Unlawful Furnishings of Explosives

AS 11.61.250

Promoting Prostitution II

AS 11.66.120

Promoting Gambling I

AS 11.66.210

Possession of Gambling Records I

AS 11.66.230

CLASSIFICATION OF OFFENSES IN REVISED CRIMINAL CODE

MISDEMEANORS AND VIOLATIONS

A	B	VIOLATIONS
Attempted C Felony AS 11.31.100(d) (4)	Attempted A or B misdemeanor AS 11.31.100(d) (5)	Littering AS 11.46.488
Solicitation of C Felony AS 11.31.110(c) (4)	Solicitation of A or B misdemeanor AS 11.31.110(c) (5)	Failure to Permit Visitation with a Minor AS 11.51.125
Assault III AS 11.41.230	Theft IV AS 11.46.150	Refusing to Assist Peace Officer or Judicial Officer AS 11.56.720
Reckless Endangerment AS 11.41.250	Concealment of Merchandise, less than \$50 AS 11.46.220(c) (3)	Gambling- First Offense (Second offense & each subsequent offense is Class B misdemeanor) AS 11.66.200
Custodial Interference AS 11.41.330	Removal of Identification Marks less than \$50 AS 11.46.260(b) (3)	Selling or Giving Tobacco to a Minor AS 11.76.100
Theft III AS 11.46.140	Unlawful Possession (of Altered Property), less than \$50 AS 11.46.270(b) (3)	
Concealment of Merchandise, \$50-\$500 AS 11.46.220(c) (2)	Issuing a Bad Check, less than \$50 AS 11.46.280(d) (4)	
Removal of Identification Marks \$50 - \$500 AS 11.46.260(b) (2)	Fraudulent Use of a Credit Card, less than \$50 AS 11.46.285(b) (3)	
Unlawful Possession (of Altered Property), \$50 -\$500 (AS 11.46.270(b) (2)		

MISDEMEANORS

A	B
Issuing a Bad Check, \$50-\$500 AS 11.46.280(d) (3)	Criminal Trespass II AS 11.46.330
Fraudulent Use of Credit Card, \$50 - \$500 AS 11.46.285(b) (2)	Criminal Mischief IV AS 11.46.486
Obtaining a Credit Card by Fraudulent Means AS 11.46.290(a) (3)	Criminal Simulation, less than \$50 AS 11.46.530(b) (3)
Criminal Trespass I AS 11.46.320	Unlawful Evasion II AS 11.56.350
Criminally Negligent Burning AS 11.46.430	Hindering Prosecution II AS 11.56.780
Failure to Control or Report a Dangerous Fire AS 11.46.450	Impersonating a Public Servant AS 11.56.830
Criminal Mischief III AS 11.46.484	Disorderly Conduct AS 11.61.110 (10 day maximum)
Forgery III AS 11.46.510	Harrassment AS 11.61.120
Criminal Simulation, \$50- \$500 AS 11.46.530(b) (2)	Obstruction of Highways AS 11.61.150
Obtaining a Signature by Deception AS 11.46.540	Misconduct involving Weapons III AS 11.61.220

2-8

MISDEMEANORS

A

B

Criminal Impersonation
AS 11.46.570

Misapplication of Property
AS 11.46.620

Deceptive Business Practices
AS 11.46.710

Misrepresentation of Use of
a Propelled Vehicle
AS 11.46.720

Defrauding Creditors, \$500
or less
AS 11.46.730

Criminal Nonsupport
AS 11.51.120

Contributing to the Delin-
quency of a Minor
AS 11.51.130

Unlawful Marrying
AS 11.51.140

Receiving Unlawful Gratuities
AS 11.56.120

Unsworn Falsification
AS 11.56.210

Criminal Possession of
Explosives with Intent
to Commit A or B Mis-
demeanor
AS 11.61.240(b) (5)

Prostitution
AS 11.66.100

MISDEMEANORS

A

Escape IV

AS 11.56.330

Unlawful Evasion I

AS 11.56.340

Promoting Contraband II

AS 11.56.380

Tampering with a Witness

AS 11.56.540

Simulating Legal Process

AS 11.56.620

Resisting or interfering
with Arrest

AS 11.56.700

Compounding

AS 11.56.790

Making a False Report

AS 11.56.800

Tampering with Public
Records

AS 11.56.820

Official Misconduct

AS 11.56.850

Misuse of Confidential
Information

AS 11.56.860

2-10

2-10

MISDEMEANORS

A

Misconduct Involving a
Corpse

AS 11.61.139

Cruelty to Animals

AS 11.61.149

Misconduct Involving Weapons II

AS 11.61.219

Possession of Burglary Tools

AS 11.61.239

Criminal Possession of Ex-
plosives with Intent to
Commit C Felony

AS 11.61.240 (E) (4)

Promoting Prostitution III

AS 11.66.130

Promoting Gambling II

AS 11.66.220

Possession of Gambling
Records II

AS 11.66.240

Possession of Gambling
Device

AS 11.66.260

Interference with Consti-
tutional Rights

AS 11.76.110

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPT. OF HEALTH AND SOCIAL SERVICES

POUCH H-05
JUNEAU, ALASKA 99811
PHONE: (907) 465-3170

DIVISION OF FAMILY AND YOUTH SERVICES

November 21, 1984

The Honorable Patrick Rodey
Alaska State Senate
2335 Lord Baranof
Anchorage, AK 99503

Dear Senator Rodey:

This is in response to your letters to John Pugh and me suggesting a task force review of the Children's Code in order to better address issues of child abuse and neglect. Your interest and concern are very much appreciated. A review of the Children's Code by our staff indicates that it provides adequate mechanisms to address child abuse and neglect except for a few specifically identified problem areas. The Division of Family & Youth Services is currently working with the Department of Law on legislative proposals to remedy the specific problems identified in the Children's Code and related statutes. These proposals will, I believe, promote adequate review of the weak areas in the code without the need for a full task force.

Topics that we anticipate will be included in the child protection legislative package are as follows:

- 1) Negligent endangerment of a minor. This section would make it a crime to endanger through criminal negligence a child entrusted to a person's care.
- 2) Private Adoption studies. This section would relieve from the Department of Health and Social Services the burden of conducting home studies for the court in private adoption situations unless the child is a "hard to place child" or the parents are unable to pay the costs of a private study.
- 3) Emergency Custody. This would amend the emergency custody statute to allow more realistic standards and conform with the interpretations of existing statute held by courts throughout the State. It would provide for the filing of petitions on the next business day following the assumption of emergency custody.

- 4) **Sexual Abuse Definition.** This would define the term sexual abuse for use in child in need of aid proceedings under AS 47.10. It will help avoid legal challenges to the existing law (AS 47.10.010 (a) (2) (D)) asserting the vagueness of the statute by clarifying what conduct is forbidden.
- 5) **Use of Reports for Prosecution Purposes.** A series of changes would permit prosecutors to use information obtained from reports of child abuse investigations filed pursuant to AS 47.17 in prosecuting perpetrators of offenses against children.
- 6) **Enjoining a Dangerous Person From Contact With Children.** This provision would permit the attorney general to bring actions to restrict from contact with children persons who have neglected, sexually or physically abused children, or who present a danger to children.
- 7) **Criminal History.** This provision would authorize the Department of Health and Social Services to check the criminal record of persons who are responsible for the care of children or who regularly come in contact with children in State licensed facilities.
- 8) **License Violations.** A proposed provision would increase penalties for violations of state licensing statutes and regulations by making such violations class B misdemeanors. It would also provide statutory authority for regulations to create a system of civil enforcement of licensing statutes and regulations.
- 9) **Statute of Limitations.** This provision would eliminate the five year limitation on prosecution of sexual offenses committed against children since many child victims may have been incapable of reporting within that period.
- 10) **Curfew.** This provision would eliminate conflicts in existing law and enable communities to better enforce curfews for children.

While no final decision has been made on introduction of the above items, substantial work has been done and additional sections are being drafted by the Criminal Division of the Department of Law. It is my hope that you will give careful consideration to these proposals when they are introduced.

While some statutory changes are needed to assist the Division in carrying out its child protective function, the real problems we face are not shortcomings in our statutory basis for intervention. Instead the primary limitation on our ability to protect children is the lack of adequate resources. We simply do not have sufficient staff to perform our statutory mandates. The mandates are adequate. The resources

Honorable Patrick Roday

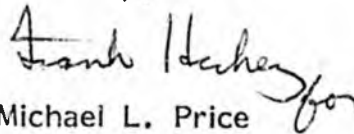
-3-

November 21, 1984

are not. Enclosed for your information and use is a copy of a report to Governor Bill Sheffield on child abuse and neglect in Alaska. This report summarizes the problem of insufficient resources. If you have questions about material in the report or related issues I will be happy to provide additional information.

Thank you for your concern. I look forward to discussing these issues with you during the session.

Sincerely,

A handwritten signature in cursive script that reads "Michael L. Price". The signature is written in dark ink and is positioned to the right of the typed name.

Michael L. Price
Director

MLP:PJO:paj

Enclosure

CHILD ABUSE AND NEGLECT IN ALASKA

A REPORT TO
THE HONORABLE BILL SHEFFIELD
GOVERNOR
STATE OF ALASKA

Revised September 18, 1984

John R. Pugh
Commissioner
Department of Health
and Social Services

Michael L. Price
Director
Division of Family
and Youth Services

DFYS: ALASKA'S PRIMARY AGENCY TO PROTECT CHILDREN

The Division of Family and Youth Services (DFYS) is the primary state agency which provides a range of social services designed to prevent or remedy child abuse and neglect. The state mandate to provide child protective services is found in AS 47.10 Delinquent Minors and Children in Need of Aid, AS 47.17 Child Protection, and AS 47.35 Private Institutions.

In state fiscal year 1985, the division was appropriated \$53 million and 453 positions. Of this total, \$21 million was appropriated for 183 child protection social workers, licensing staff, and clerical staff located in five regional and 36 field offices. The balance of the budget is appropriated for adult protective services, youth services, and a continuum of purchased services for children, youth, and adults.

CHILD ABUSE AND NEGLECT IN ALASKA: A GROWING CONCERN

The problem of child abuse and neglect has become a matter of increasing concern in Alaska as it has throughout the United States. There is a heightened public awareness of the problem exemplified by substantial attention in the news media, increased constituent interest, and inquiries of legislators concerning child related issues. Perhaps the most significant indicator of the public concern with the problem of child abuse and neglect has been the significant increase in reports of harm to children and a demand for intervention and services to protect children and strengthen families.

A major issue is the ability of the Division of Family and Youth Services to respond to the increased need for services.

LEVEL OF RESPONSE TO CHILD ABUSE AND NEGLECT: AN ANALYSIS

Although the population of children at risk of harm from neglect and abuse has increased, the effect of this increase is overshadowed by the significant increases in the reports of abuse and neglect, the number of children served, and overall DFYS caseloads. DFYS staffing levels, on the other hand, have not kept pace with the increased need and demand for services, resulting in a decrease in the level of services the agency has been able to provide. There is now a gap between the agency's ability to respond and the level of response expected by the public and the Legislature. The agency's ability to perform its mandated services at acceptable levels is becoming questionable. Increased demands for mandated services have resulted in competing priorities for the agency's limited resources. The extent of the problem and the difficulty experienced by the agency in responding at desirable levels are clearly illustrated in the following information.

I. Growth in At Risk Population

During the six year period from FY 78 to FY 83 the population of Alaska grew by approximately 15% from an estimated 411,600 to 472,419. The number of children at risk of harm from abuse and neglect (those ages 0 to 18 years of age) is estimated to have increased at the same rate as the overall population (15%) from 133,000 in FY 78 to 153,000 in FY 83. (See Appendix B, chart 1, magenta border - At Risk Child Population in Alaska.)

II. Growth in Need for Protective Social Services

In striking contrast to the population growth, DFYS caseloads (total number of persons being served) in both child protection and adult protection services increased by 173% during the six year period FY 78 to FY 83. During this same period there was a 122% increase in the number of children receiving protective services and a 363% increase in the number of adults receiving protective services. (See Appendix B, chart 2, blue border - Ak. Div. of Family and Youth Services Clients Served.)

Of particular importance is the 219% increase in reports of child abuse and neglect during the same six year period (Appendix B, chart 3, red border). During this period there was a 272% increase in reports of sexual abuse of children and a 579% increase in the number of such reports that were substantiated (Appendix B, chart 4, purple border). These are particularly significant since the nature of alleged abuse requires an intensive investigation, and formal court action is more frequently required in order to achieve adequate protection for the children.

The growth in the need for response by DFYS to reduce risk of harm to persons who must reside outside their own homes is reflected by an increase in the number of licensed facilities providing care such as child day care centers and homes, foster homes, and residential facilities serving both children and adults (Appendix B, chart 5, green border). During the period from January 1980 to August 1984, there has been a 70% increase in the number of licensed facilities. This reflects additional responsibility of DFYS to license adult facilities, increased demand for day care facility licensing, and an increased utilization of family foster homes. Increases to the state day care assistance program have significant effects on the demand for licensed day care facilities since the state requires assistance be utilized to provide care for children in licensed facilities. This acts as an incentive for facilities to be licensed.

III. Agency Resources

Despite the increasing demand for protective services provided by DFYS, the service resources - social work staff, community licensing specialists, and clerical support staff - have not been increased propor-

tionately (Appendix B, chart 6, gold border). Although overall DFYS caseload has increased 173% since FY 78, there was only an 18% increase in social work staff during that period. While the number of licensed facilities increased by 70% from January, 1980 to the present, licensing staff increased only 23% during the same period. Support staff in regional and field offices increased only 6% during the period FY 78 through FY 83. Lack of adequate support staff has placed an increasing burden on professional staff who must perform clerical functions, decreasing time available for them to perform the direct client services. This problem was cited in a recent Division of Legislative Audit Special Report on the Division of Family and Youth Services Emergency Custody Procedures.

IV. Level of Response

As is illustrated in Appendix B, chart 7 (brown border), in 21 of 36 field offices the average number of cases served by DFYS social work staff exceeds the maximum caseload standard of 50 (this figure represents the maximum number of cases for social workers to provide minimally acceptable services.) In seven of these offices this maximum number is exceeded by 100% or more. Chart 8 in Appendix B (indigo border) illustrates the number of social work staff needed to bring caseloads in various Division of Family and Youth Services offices down to the maximum standard.

A comparison of work load standards for licensing workers with existing DFYS staff responsibilities indicates some workers exceed the recommended standard by more than 100%. As a result it has been necessary to convert three social work positions to perform licensing and to add licensing responsibilities to other already overburdened caseworkers.

DFYS staff levels have resulted in continually decreasing levels of service to clients and inability of the agency to perform other than mandated or crisis services. Decreasing service levels and increasing expectations by the public and legislators have led to greater numbers of complaints to legislators, the Ombudsman, and to increasing litigation. As the need and demand for services increase, and the level of public expectation has increased without commensurate increases in staff resources, there has been an increasingly high rate of staff turnover, errors of judgement, and an inability to implement appropriate agency policies and procedures on a uniform basis. Increasing complaints, increased agency liability and litigation, and increased legislative oversight through legislative audits are to be expected (three special audits by the Division of Legislative Audit have been conducted in the past one and one-half years).

V. Agency Strategy

DFYS' strategy for responding to client needs is based on its analysis of the continuum of services provided to clients and its existing allocation of resources along that continuum. Services may be categorized

or located on a continuum based on several indices. Such indices are the cost of service per client, restrictiveness of the services to the client, the severity of the client problem appropriately served by the service, the number of clients expected to be served, and the amount budgeted to provide the service.

Under a desirable scheme for resource allocation, client needs would be identified and met at the earliest possible time, in the least restrictive setting, and at the lowest cost. Under a desirable configuration for resource allocation, the greatest amount of resources would be allocated to provide services to prevent client problems or provide early intervention to the client in his or her own home (see Appendix B, chart 9, black border). This would reduce the severity of the problem and eliminate the need for more restrictive and expensive types of services. As smaller numbers of clients are served in more restrictive settings, the cost per client increases disproportionately.

As social services agencies become overburdened, their ability to maintain the desirable configuration for resource allocation diminishes. The agency's ability to provide critical prevention, and early intervention decreases as staff time must be focused on crisis response. DFYS' actual resource allocations for FY 83, unfortunately, do not follow the desired configuration (see chart 10, raspberry border). Instead, a large proportion of resources are devoted to providing service to a very few clients in restrictive settings. The agency goal has been to move toward an allocation of resources more closely resembling the desired configuration. DFYS has taken a number of steps to achieve this. An example is the increased use of family foster care and decreasing the reliance on residential care for children in need of out-of-home protective services.

RECOMMENDED ADMINISTRATION RESPONSE

The Division of Family and Youth Services is mandated through its various statutory requirements to be a comprehensive social service agency providing a full range of services to strengthen families and promote the individual well-being of children. However, the agency has not had adequate resources to accomplish its mandate. Most critically the agency is presently understaffed to a degree which limits services to a level little greater than crisis response, and may be inadequate to achieve minimally acceptable protection of children.

An immediate response is needed to eliminate this crisis circumstance and both raise the level of service to clients and reduce the liability of the state. This would require funding of additional staff positions to provide necessary social services and perform required licensing functions. It would also include administrative support staff. The minimum number of staff necessary to increase the agency's ability to provide services is illustrated in the accompanying Appendix A. Briefly, this

would require 35 positions, including 15 full time social workers, 5 full time community care licensing specialists, and 15 field support staff distributed throughout the state in areas experiencing the most critical need.

Long term solutions to the problems currently being faced will initially require additional resources in prevention and early intervention services and an altering of the configuration for allocation of resources. This change in resource allocation will necessarily be gradual but will eventually result in reduced need for more expensive and restrictive client services and, perhaps, reductions in overall resources required to meet client needs.

APPENDIX A

Recommended Staff Augmentation
by Location

SUMMARY OF REQUEST - 35 POSITIONS

Social Workers - 15 Full-Time Positions

Community Care Licensing
Specialists - 5 Full-Time Positions

Administrative and
Clerical Support - 15 Positions
11 Full-Time Positions
8 Part-Time Positions

Southcentral Region - 17 Positions

Anchorage Service Unit

1 Social Worker IV
1 Social Worker III
2 Social Worker I's
2 Community Care Licensing Specialist I's
2 Clerk Typist III's

Kenai

2 Social Worker III's

Homer

1 Social Worker III
1 Clerk Typist III

Field Office Clerical Support

3 Clerk Typist III's
.5 Valdez
.5 Copper Center
.5 Unalaska
.5 Wasilla
.5 Cordova
.5 Dillingham

Regional Office

1 Administrative Assistant II
1 Accounting Clerk III

Northern Region - 11.5 Positions

Fairbanks Service Unit

2 Social Worker III's
2 Community Care Licensing Specialist I's
2 Social Services Associate III's
1 Clerk Typist III

Delta

.5 Clerk Typist III

Galena

1 Social Worker III

Northern Region (continued)

Barrow

1 Clerk Typist III

Regional Office

1 Administrative Assistant III
1 Accounting Clerk II

Southeastern Region - 6.5 Positions

Juneau Service Unit

1 Social Worker IV
1 Social Worker III

Ketchikan Service Unit

1 Social Worker III
1 Community Care Licensing Specialist I
1 Clerk Typist III

Craig

.5 Clerk Typist III

Regional Office

1 Administrative Assistant I

APPENDIX B

AT RISK CHILD POPULATION IN ALASKA 0 TO 18

POPULATION

200,000

15% Increase

153,536

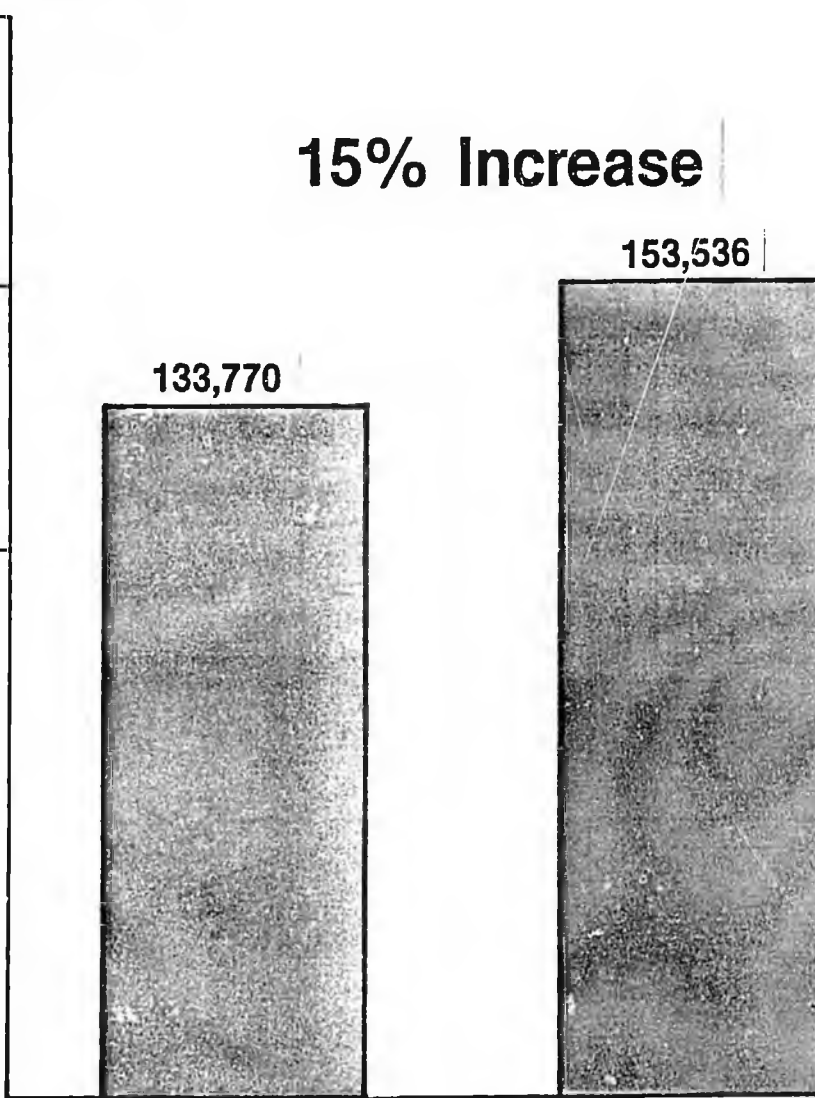
133,770

100,000

FY78

FY83

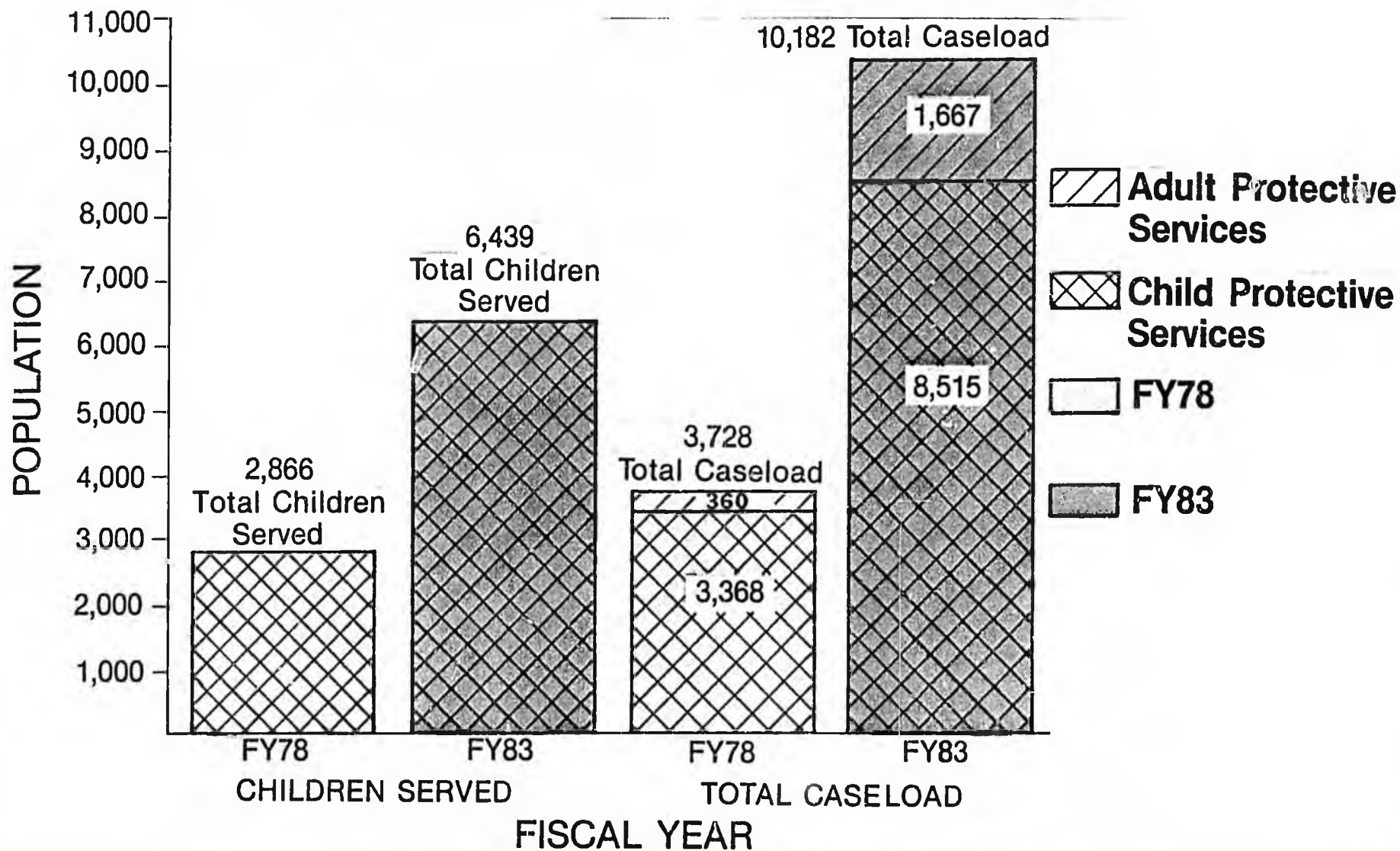
FISCAL YEAR



AK. DIV. OF FAMILY AND YOUTH SERVICES CLIENTS SERVED

122% Increase

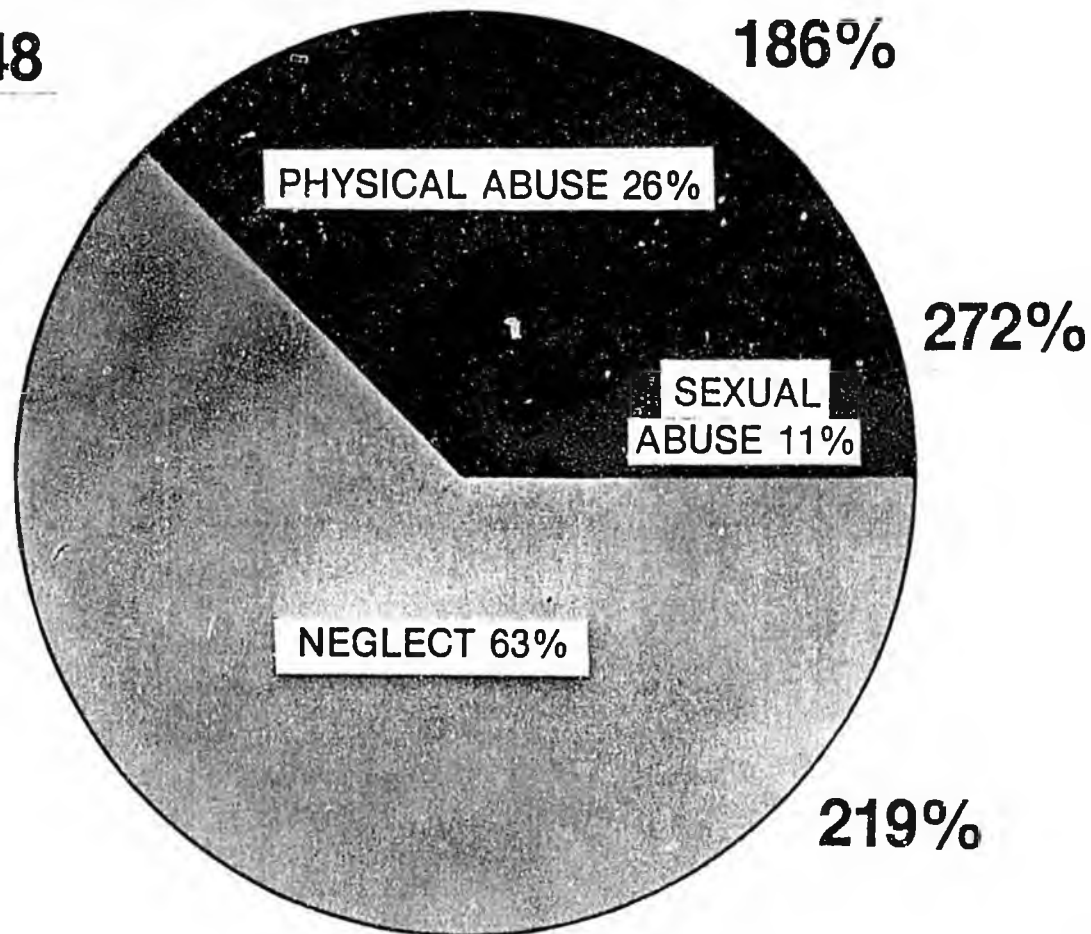
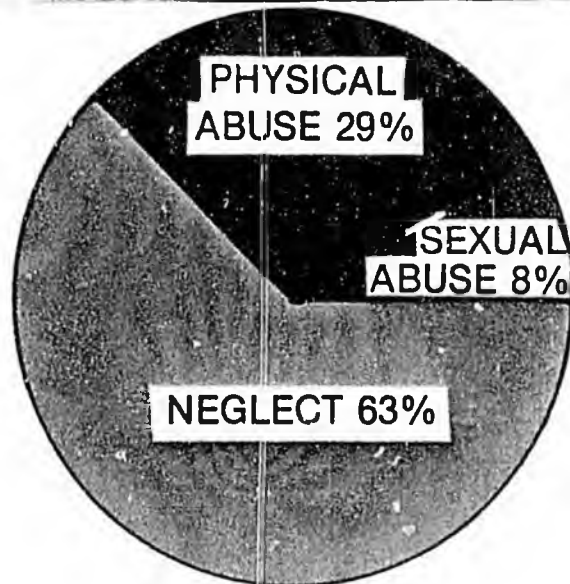
173% Increase



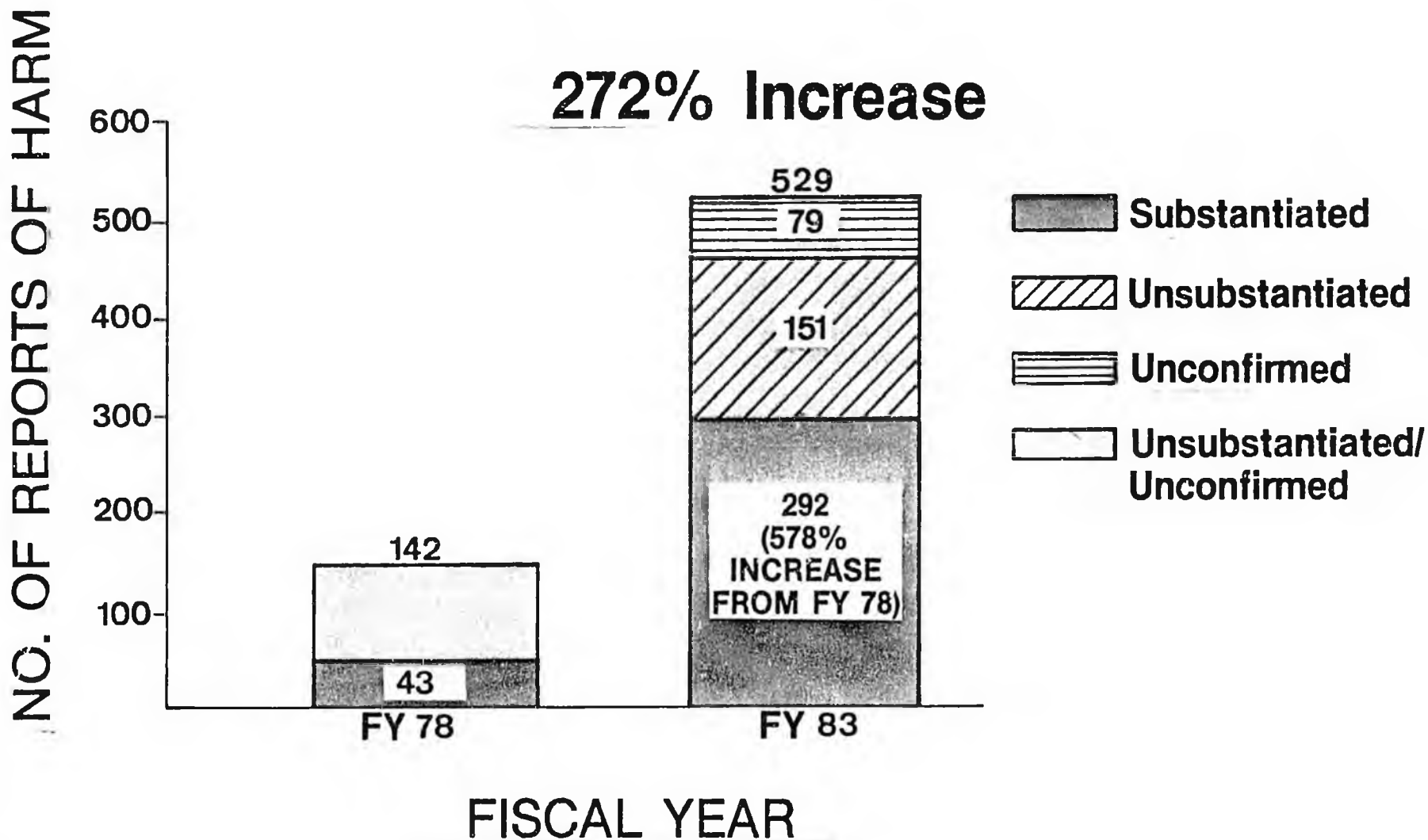
REPORTS OF CHILD ABUSE AND NEGLECT IN ALASKA

FY83 Total Reports: 5,574

FY78 Total Reports: 1,748



REPORTS OF CHILD SEXUAL ABUSE IN ALASKA



LICENSED FACILITIES IN ALASKA

January 1980

1,039 Facilities

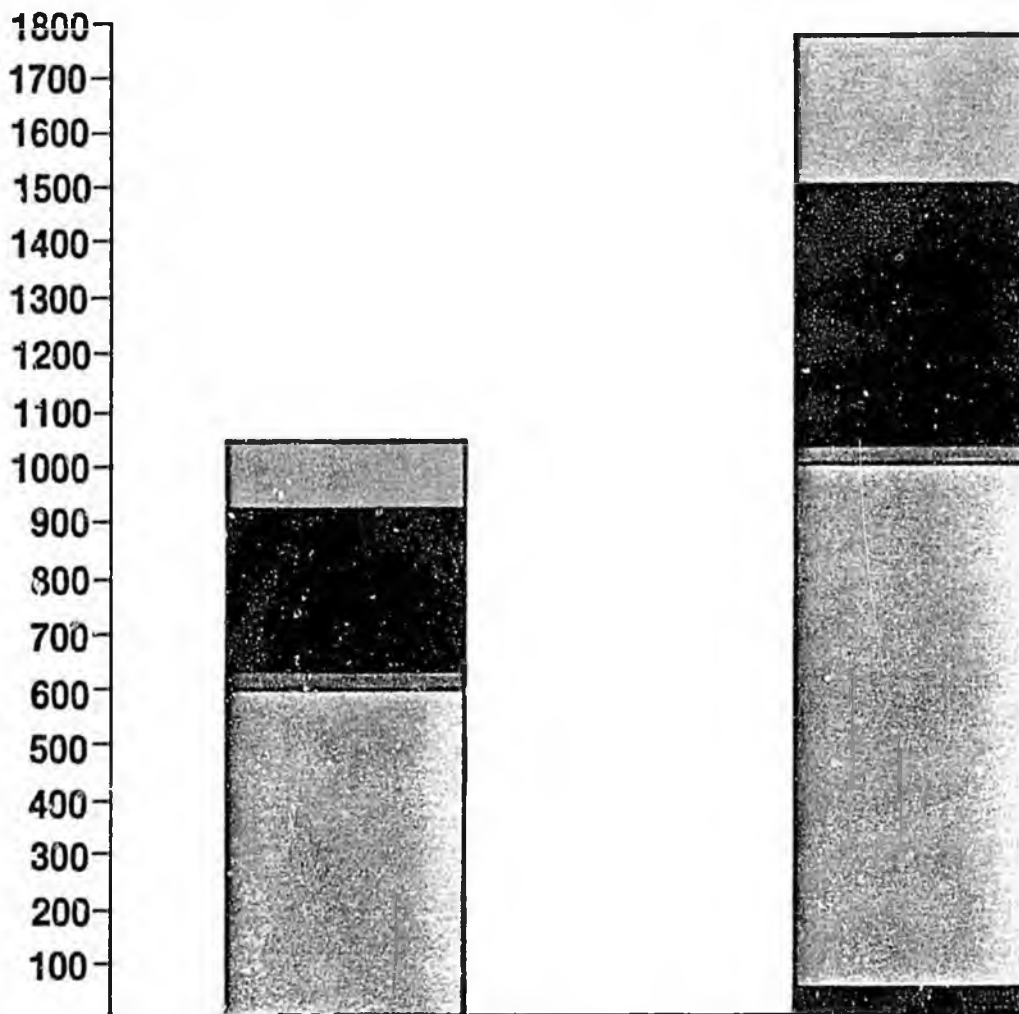
7,043 Capacity




August 1984

1,755 Facilities = 70% Increase

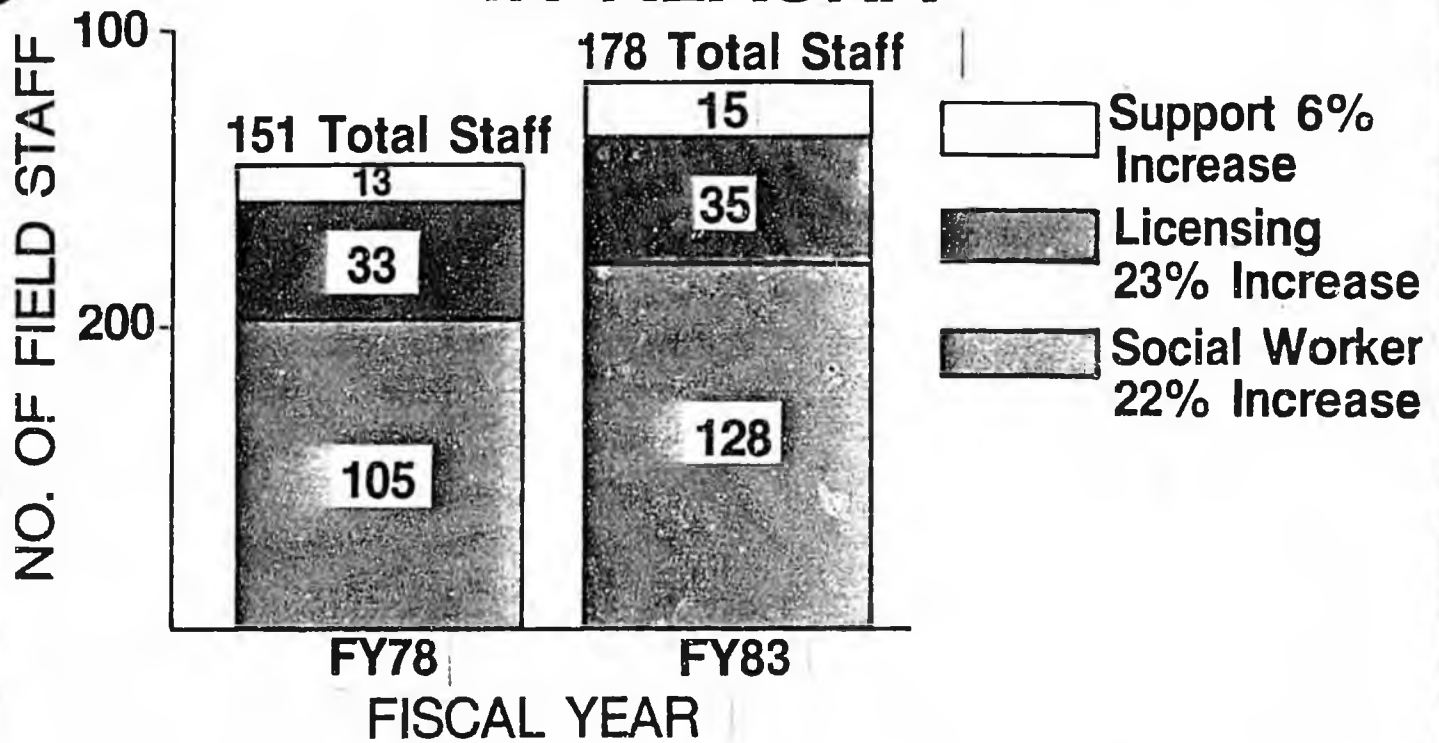
12,617 Capacity = 79% Increase

Increase

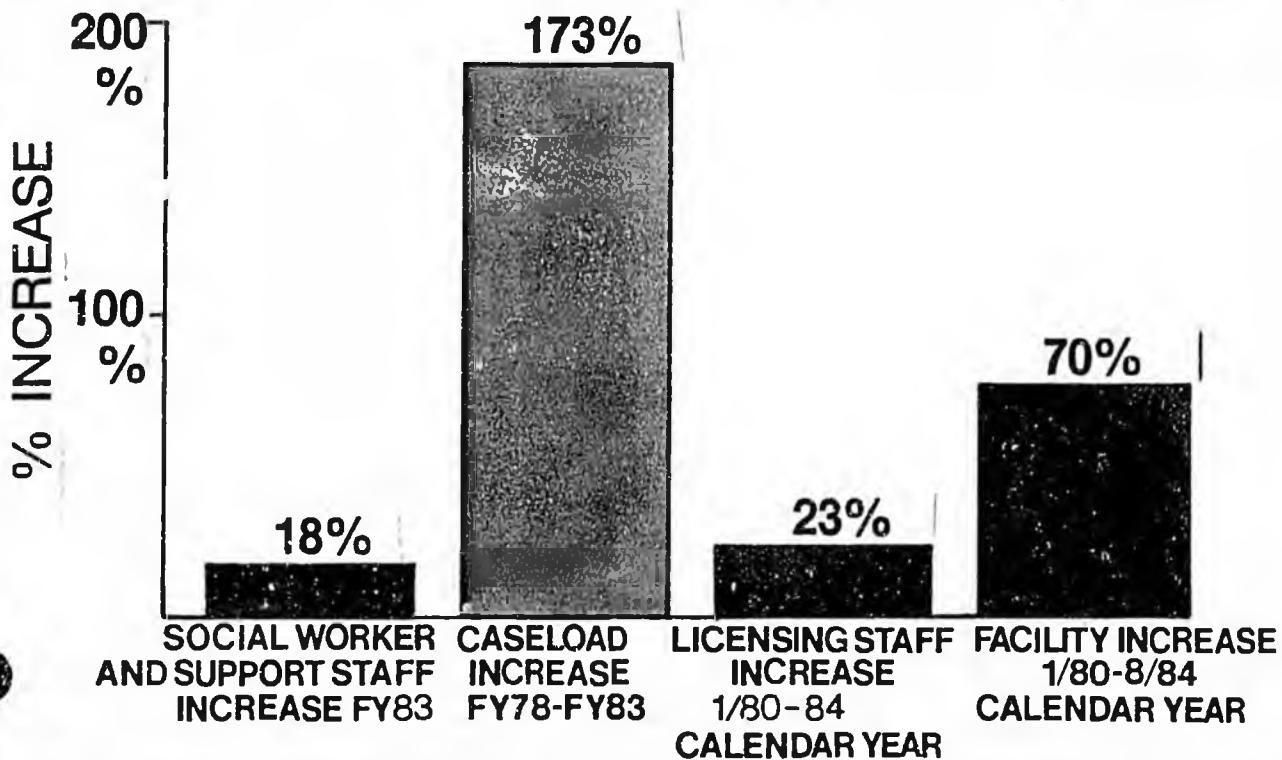


-  Child Care Centers
-  Family Child Care Homes
-  Residential Child Care Facilities
-  Child Foster Homes
-  Adult Residential Care Facilities
-  Adult Foster Homes

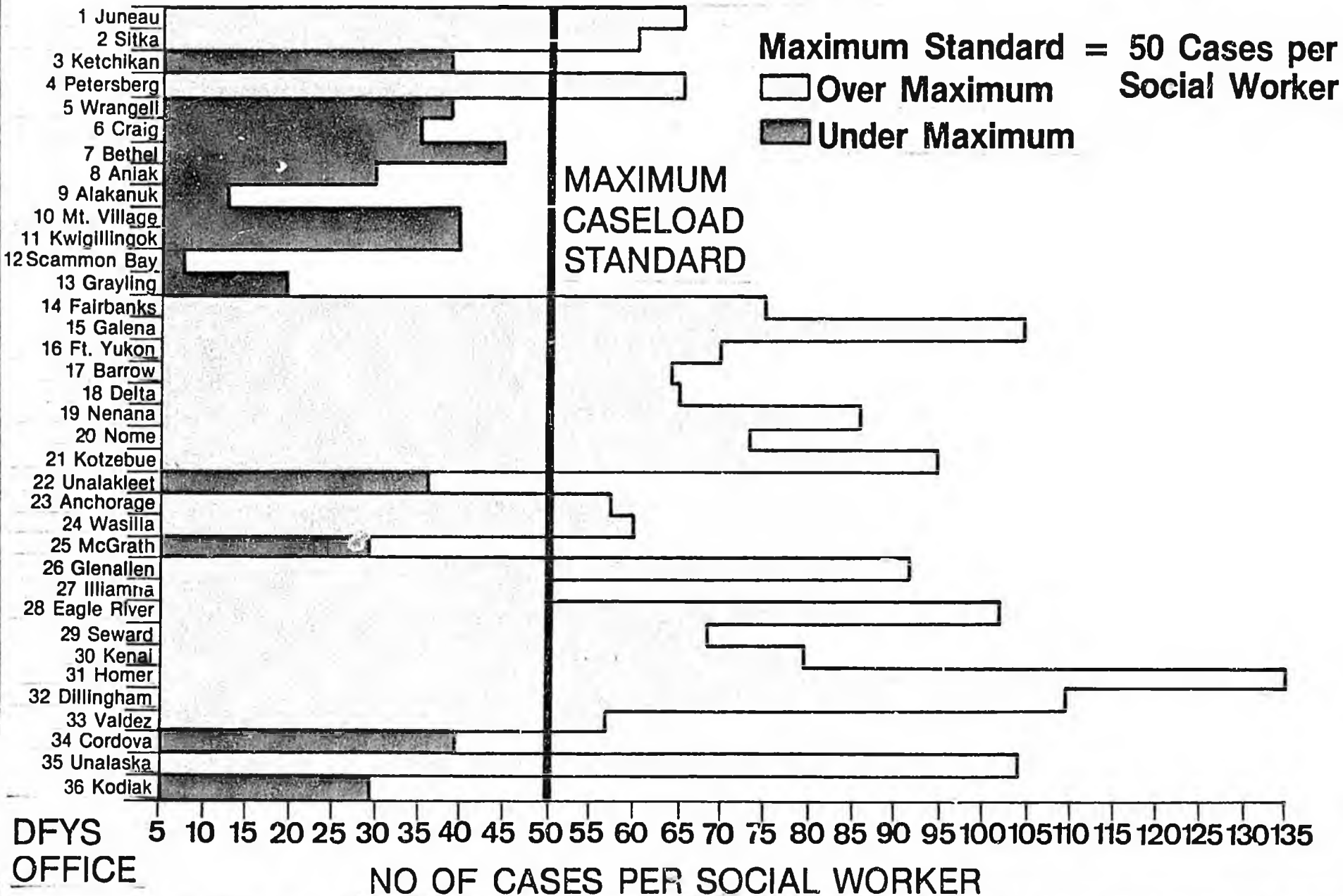
DFYS FIELD STAFF RESOURCES IN ALASKA



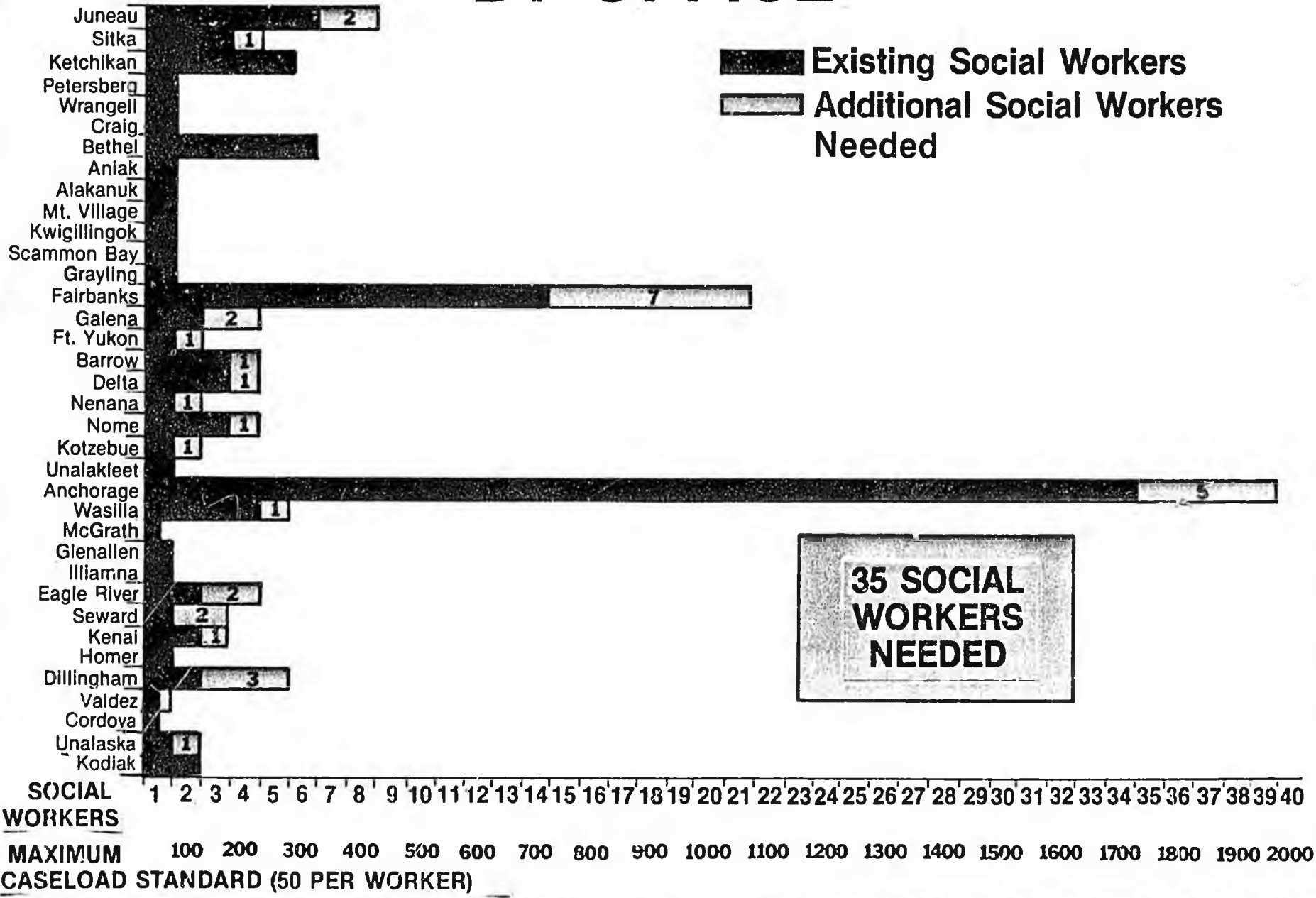
DFYS FIELD STAFF COMPARED TO CASELOAD INCREASES IN ALASKA



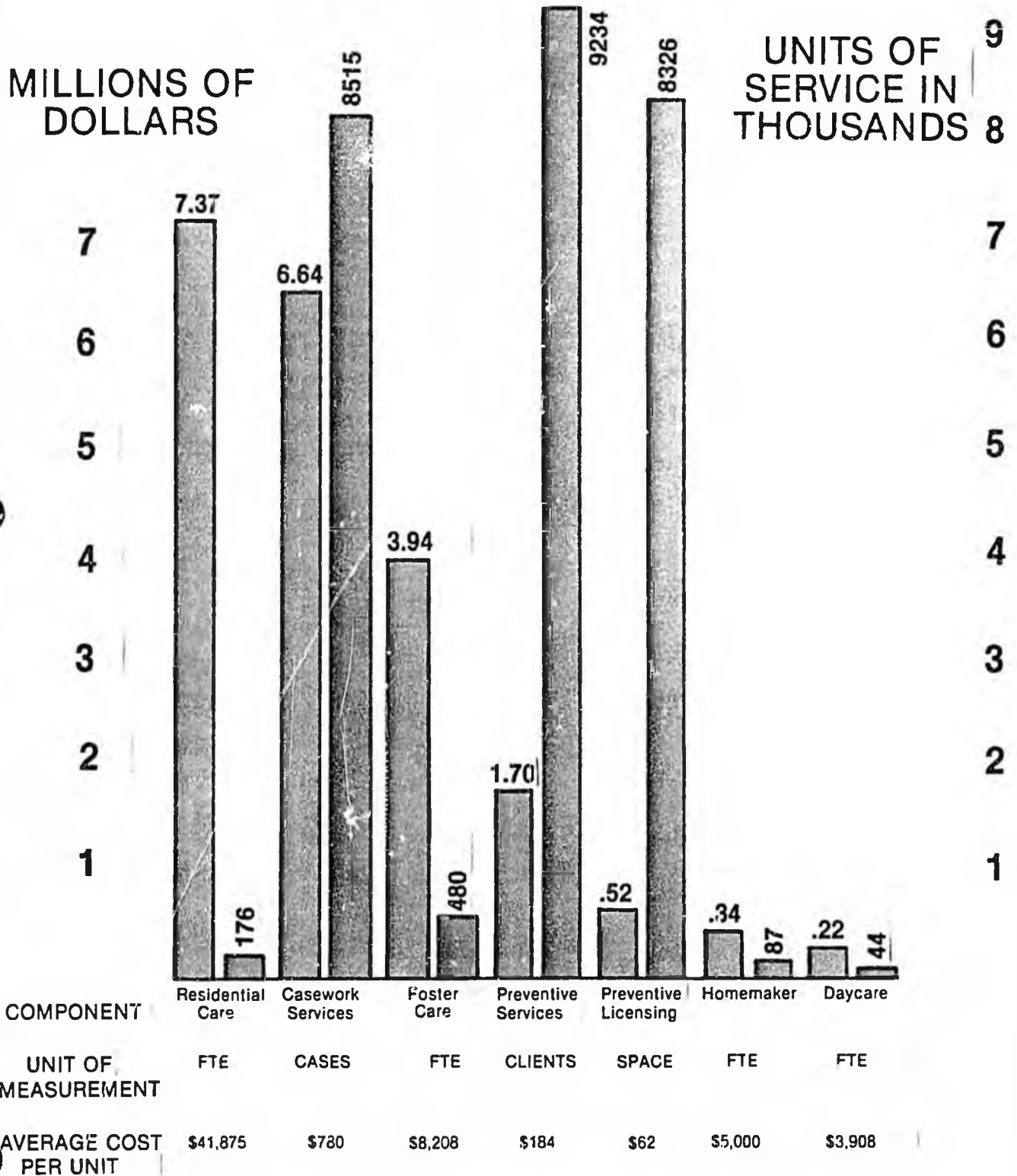
AVERAGE SOCIAL WORKER CASELOAD BY OFFICE



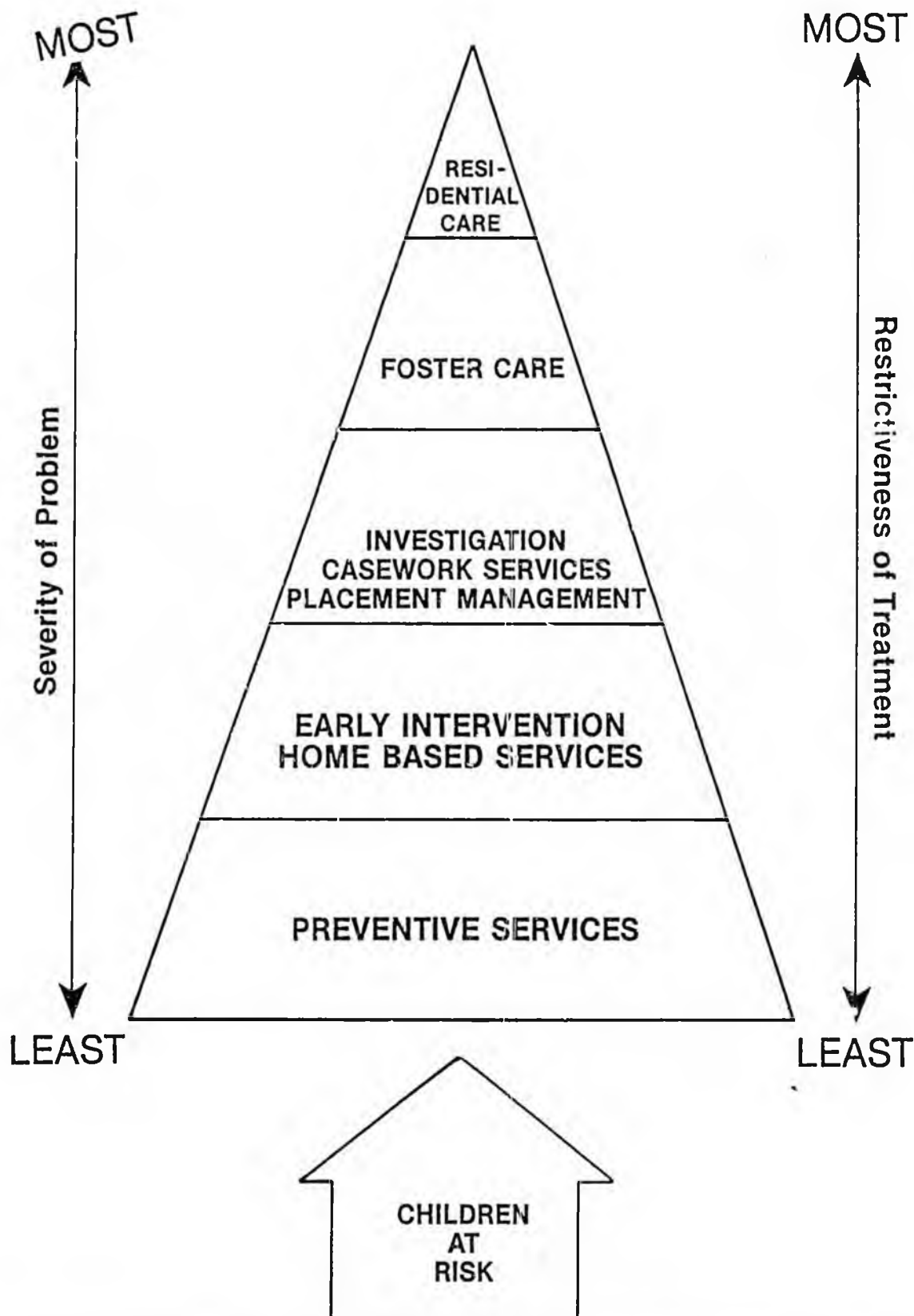
NEEDED SOCIAL WORKERS BY OFFICE



ACTUAL RESOURCE ALLOCATION — FY83 (\$20,728,900)



SERVICE CONTINUUM



465-3500 Marsha Hubbard
Special Assistant for Health & Social Services
Office of the Governor
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Juneau, Alaska 99811

264-6549 Patrick Burke-Reinhart
Staff MOA Commission on Youth
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Anchorage, Alaska 99502

BILL WOOD CHAIR
563 4444

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Department of Public Safety
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269-5644 Col Michael Kolivosky
Director
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264-4125 SGT Bob Foster
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283-7879 Chief Richard Ross
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Sect'y/Treasurer
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Jim Orr
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3211 Providence Drive
Anchorage, Alaska 99508

333-9561 Dr Stephen Daeschner
Asst. Superintendent for Instruction
Anchorage School District
POUCH 6614
Anchorage, Alaska 99502

JUDGE KLEINFUR
PROFESSOR OF SOCIAL WORK
UAA
3211 PROVIDENCE DR.
08

1/10/85

Summary

PMR sent letter requesting suggestions for changes to Juvenile Code. Kevin Bruce had done this for him several years ago. They had recieved several practical ideas for legislation.

Letter was sent to list attached to file folder.

Responses are enclosed. Generally, they refer to the work being done on crimes against children not to handling of delinquents.

drop list of agencies involved
write letter

HIST: July 75 formed Children's Code Task Force [joint by Council & Office of the
Fall 76 final report
Sept 77 med recommendations adopted
(per Richard's ideas, w/ Howard's input)

Emergency task force currently stuck
what are they
juvenile justice & delinquency
advisory committee
exp. by 8/85

PHSS account

protecting family unit

duration of

To 1000 or 1500
of
rate of
costs
total cost

1/10/84
1/10/84
1/10/84

1/10/84
1/10/84
1/10/84

"In an ideal world"

11/2/84 - letter sent
what is Howard doing

LIST - Juveniles
FILL-IN - Juveniles

REQUEST STATUS

Justice: JUVENILE FINGERPRINTING

NAME
PHONE
ADDRESS

PMR

REQUEST DATE
REQUEST:

STATUS:

264-4389

BRIAN PORTER
Chief of Police
211 W 7th
99501

not to be used
LADOTTE

3rd District, Anchorage, Alaska 99501
B. Porter, Chief of Police, 264-4389

561-1158

Holli Ploog
701 W 58th
99502

AK Police Chiefs Assn.
Eric Ross, Pres
Red Smith, Secy/Treas

AK Peace Officers Assn
ANC Police DEPT ASSO.
EMPLOYERS

Pres. Anderson 561-1171

TROOPERS

DoA

279-7541

Dana Fabre
Public Defender
900 W. 5th Ave SUITE 200
01

is "whole pt of your old system" which is not that broad
inappropriate

274-1684

BRANT MAGEE
Public Advocate
941 W 4th 3rd Floor
01

DEPT OF LAW

465-3428 DAN HICKEY
Chief PROSECUTOR
POUCH KC

465-3600 ELIZABETH SHAW
ASST. A.G.
POUCH K

277-8622 VIC KRUMM
D.A.
1031 W 4th Ave Suite 520

Robert BUNDY
Chief Asst. D.A.

CRT SYSTEM

264-0422 JAY WARNER
JUVENILE CRT INTAKE OFFICER
3031K St 215 Rm (01)
In ad of Intake

informant protocol
plus vid/court

Wm HITCHCOCK Stang
Asst. JUVENILE CRT MASTER
3031K (01)

CRT SYSTEM

264-0545 RIC BARRIER
Dir. of Operations
3031K Street (01)

letter to him regarding policy

264-0406 SUPERIOR COURT
MARK ROWLAND
PRESIDING JUDGE

AL SZAL 264-0415
ARBA CRT ADMR

DHSS

274-4671 DAVE ARNOLD
Youth Services Adm.
437 E ST

274-1457
274-1458

279-0516 Richard Illies
Youth Services
400 GAMBELL

Presider Office
Ray Myers
95 St
301

274-6541 SHEILA GARDIS
ALASKA YOUTH ADVOCATES
600 CORDOVA 01