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BUSINESS AS USUAL: JUVENILE JUSTICE DURING THE 1980s

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INTRODUCTION¹

The juvenile justice system during the 1980s failed to live up to the goals it set for itself during the 1960s and 1970s. The U.S. Congress, Presidential commissions and numerous standard-setting bodies determined during the 1970s that the most effective means of protecting the public safety and reducing the impact of juvenile crime would involve prevention and community-based intervention, with minimal institutionalization. The overwhelming consensus was to reserve training schools and other secure facilities for chronic or violent offenders. Very young and less serious offenders were to be supervised in non-institutional and community-based programs.

Despite this consensus, national rates of juvenile incarceration remained virtually unchanged during the past decade. By the end of the 1980s, in fact, many states used incarceration more and often for less serious offenders. The glaring problems of gang violence, drug abuse, and automatic weapons captured the headlines, yet the nation as a whole was not experiencing a juvenile crime wave. The inner-cities became more isolated and more neglected during the 1980s, and a

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1. Some of the data utilized in this article were made available by the Inter-university Consortium for Political and Social Research. Data for the Juvenile Detention and Correctional Facility Census, 1977, 1982-83 and 1986-87, were originally collected by the United States Department of Justice, Bureau of Justice Statistics and Office of Juvenile Justice and Delinquency Prevention. Neither the collector of the original data nor the Consortium bear any responsibility for the analysis or interpretations presented here.

highly organized criminal subculture emerged in response to the lucrative cocaine market. In many jurisdictions, the urgency of these problems was used to justify the abandonment of community-based corrections programs. The political will to provide prevention and early treatment seemed to erode.

PLANS FOR REFORM

The origins of American practices in youth detention and corrections can be traced to the "houses of refuge" of the mid-1800s and the child saver movement which emerged in the U.S. toward the end of the nineteenth century.² Public outrage over the incarceration of young people in adult jails and prisons gave rise to the belief that juveniles should be placed in separate institutions that emphasize rehabilitation and reform.³ The houses of refuge, forerunners of contemporary juvenile training schools, "promised judges, juries, police, and disgusted or overwhelmed parents an alternative to committing children to local jails or prisons."⁴ Pre-adjudication detention centers were developed much later, following the birth of the juvenile court. Many of these centers served dependent and neglected children as well as those accused of crimes.

These juvenile institutions largely escaped public scrutiny until the 1960s and 1970s when class action lawsuits began to reveal abusive practices and intolerable conditions of confinement in training schools.⁵ Influential books further documented the plight of children in these facilities.⁶ A five-year examination of the juvenile justice system by the United States Senate Judiciary Subcommittee to investigate Juvenile Delinquency resulted in the enactment of the landmark Juvenile Justice and Delinquency Prevention Act of 1974.⁷ A number of

2. See generally Fox, *Juvenile Justice Reform: An Historical Perspective*, 22 STAN. L. REV. 1187, 1188-1221 (1970).

3. See S. SCHLOSSMAN, *LOVE AND THE AMERICAN DELINQUENT* 57-62 (1977).

4. *Id.* at 24.

5. See, e.g., *Harris v. Bell*, 402 F. Supp. 469 (W.D. Mo. 1975); *Inmates of Boys' Training School v. Affleck*, 346 F. Supp. 1354 (D.R.I. 1972); *Lollis v. New York State Dept. of Soc. Services*, 322 F. Supp. 473 (S.D.N.Y. 1970); *Morales v. Turman*, 383 F. Supp. 53 (E.D. Tex. 1974); *Nelson v. Heyne*, 355 F. Supp. 451 (N.D. Ind. 1972) *aff'd*, 491 F.2d 352 (7th Cir. 1974), *cert. denied*, 417 U.S. 976 (1974); *Pena v. New York State Department of Social Services*, 322 F. Supp. 473 (S.D.N.Y. 1970).

6. K. WOODEN, *WEEPING IN THE PLAYTIME OF OTHERS: AMERICA'S INCARCERATED CHILDREN* (1976); H. JAMES, *CHILDREN IN TROUBLE: A NATIONAL SCANDAL* (1970).

7. Juvenile Justice and Delinquency Prevention Act of 1974, Pub. L.

presidentially-appointed commissions and national professional standard-setting organizations also issued reports and promulgated various sets of standards designed to upgrade the juvenile justice system.

The impact of these developments was felt throughout the juvenile justice system. One outcome was a major reconceptualization of the role and purpose of pre- and post-adjudication incarceration of juveniles. A consensus of professional opinion emerged that pre-adjudication detention should be reserved for youths who (1) present a clear and substantial threat to the community, or (2) would likely abscond or fail to appear in court if released on their own recognizance or under some form of community-based supervision. Standards published in 1980 by the National Advisory Committee for Juvenile Justice and Delinquency Prevention (NACJJD) recommended that:

Juveniles subject to the jurisdiction of the family court over delinquency should not be detained in a secure facility unless:

- a. They are fugitives from another jurisdiction;
- b. They request protection in writing in circumstances that present an immediate threat of serious physical injury;
- c. They are charged with murder in the first or second degree;
- d. They are charged with a serious property crime or a crime of violence other than first or second degree murder which if committed by an adult would be a felony, and
 - i. They are already detained or on conditional release in connection with another delinquency proceeding;
 - ii. They have a demonstrable recent record of willful failures to appear at family court proceedings;
 - iii. They have a demonstrable recent record of violent conduct resulting in physical injury to others; or
 - iv. They have (a) demonstrable recent record of adjudications for serious property offenses; and
 - v. There is no less restrictive alternative that will reduce risk of flight, or of serious harm

to property or to the physical safety of the juvenile or others.⁸

A consensus also held that training schools should be reserved for serious violent and chronic juvenile offenders. The Juvenile Justice and Delinquency Prevention Act of 1974, for example, provided fiscal incentives for states to deinstitutionalize status offenders (runaways, school truants, youths in conflict with their parents, etc.),⁹ to eliminate the jailing of juveniles in adult facilities,¹⁰ and to develop community-based alternatives for non-violent and non-chronic delinquent youths,¹¹ as defined by the statute.¹² The authors of the Act recognized that training schools were an important part of the continuum of services in youth corrections, but they believed that these institutions should be used for the incarceration of violent and chronic juvenile law violators.¹³

The juvenile justice standards promulgated by the Institute for Judicial Administration/American Bar Association recommended that "[i]n choosing among statutorily permissible options, the court should employ the least restrictive category and duration of disposition that is appropriate to the seriousness of the offense, as modified by the degree of culpability indicated by the circumstances of the particular case, and by the age and prior record of the juvenile."¹⁴ These standards stated a clear preference to maintain a juvenile at home whenever possible. "Removal from home is the most severe disposition authorized for adjudicated juveniles. As such, it should be reserved for the most serious or repetitive offenses, and rarely, if ever, used for younger juveniles."¹⁵

The IJA/ABA standards also encouraged state and local youth corrections agencies to develop alternatives to institutions that could be used as dispositional options by the juvenile courts.¹⁶ In a similar vein, the NACJJD standards recommended that training schools be used as a dispositional "last

8. NATIONAL ADVISORY COMMITTEE FOR JUVENILE JUSTICE AND DELINQUENCY PREVENTION, STANDARDS 297 (1980) [hereinafter STANDARDS].

9. See 42 U.S.C. § 5633(a)(12)(A).

10. *Id.* § 5633(a)(14).

11. *Id.* § 5633(a)(12)(B).

12. *Id.* § 5603(1).

13. *Ford Administration Stifles Juvenile Justice Program: Hearings Before the Subcommittee to Investigate Juvenile Delinquency of the Senate Committee on the Judiciary*, 94th Cong., 1st Sess. 1, 4 (1975).

14. INSTITUTE OF JUDICIAL ADMINISTRATION & AMERICAN BAR ASSOCIATION, STANDARDS RELATING TO DISPOSITIONS 34 (1980).

15. *Id.* at 62.

16. INSTITUTE OF JUDICIAL ADMINISTRATION & AMERICAN BAR

resort."¹⁷ These standards encouraged courts to select the "least restrictive" dispositional option "consistent with the seriousness of the offense, the juvenile's role in that offense, and the juvenile's age and prior record."¹⁸

In 1973, the National Advisory Commission on Criminal Justice Standards and Goals issued a report recommending that states adopt youth correctional policies similar to those then being implemented in Massachusetts.¹⁹ Massachusetts restricts the use of secure institutional treatment to cases in which a youth needs to be confined for purposes of public protection and cannot be managed in a less secure setting without compromising public safety.²⁰

By the late 1970s, it seemed that a major shift in juvenile justice policy was in the offing. There was growing support for removing non-chronic and non-violent juveniles from detention centers and training schools by expanding the diversity and availability of community-based options. Increasing numbers of state administrators and policymakers were becoming aware of the need for a range of sanctions and services in youth corrections. From all indications, the 1980s promised to be a decade of reform in juvenile justice.

THE JUVENILE JUSTICE ENVIRONMENT OF THE 1980s

The best available evidence now suggests that there was little change during the 1980s in the nation's youth detention and correctional policies. In fact, some states actually regressed, becoming more punitive and more institutionally oriented. In part, this mirrored developments in adult corrections and criminal justice as a whole: both the prison population and the incarceration rate reached all-time highs during the 1980s.²¹ According to the Bureau of Justice Statistics, the number of Americans under some type of correctional supervision increased by 30% between 1983 and 1986.²² The Bureau

ASSOCIATION, STANDARDS RELATING TO CORRECTIONS ADMINISTRATION 159 (1980).

17. STANDARDS, *supra* note 8, at 377 (1980).

18. *Id.* at 297.

19. NAT'L ADVISORY COMMISSION ON CRIMINAL JUSTICE STANDARDS AND GOALS, A NATIONAL STRATEGY TO REDUCE CRIME (1973).

20. See generally B. KRISBERG, J. AUSTIN & P. STEELE, UNLOCKING JUVENILE CORRECTIONS: EVALUATING THE MASSACHUSETTS DIVISION OF YOUTH SERVICES (1989).

21. BUREAU OF JUSTICE STATISTICS, REPORT TO THE NATION ON CRIME AND JUSTICE 104 (2d ed. 1988).

22. N.Y. Times, Dec. 15, 1987, at A21, col. 4.

of the Census reported that the number of corrections employees at local, state and federal levels grew by 10% in 1987 alone, making corrections the fastest growing sector of government employment.²³

It is disturbing to find that the juvenile system followed the direction set by adult corrections. Juvenile justice policy during the 1980s became more concerned with social control and punishment than with its historic mission of prevention and rehabilitation. Besieged by political pressure to do something about juvenile crime, elected public officials responded by enacting more punitive measures. In many jurisdictions, they adopted the cynical, throw-away-the-key attitude that sometimes characterizes the adult correctional system. As is frequently the case with criminal justice issues, rising public attention to juvenile crime resulted in actions which were highly visible though not necessarily effective.

Policymakers in every level of government know that it is popular to call for a "tough" response to crime. Unless the political environment allows public officials to say otherwise, being tough is inevitably translated as increased reliance upon incarceration, longer sentences, and prosecuting more juveniles in the adult criminal courts. Even though popular perceptions of rising juvenile crime rates have been contradicted frequently by official statistics which show stable, or even declining rates,²⁴ and despite the fact that juvenile incarceration rates seem to vary more by political boundaries than by the incidence of crime,²⁵ the juvenile justice system inevitably responds to outside pressure by increasing the use of incarceration.

Elected officials who advocate tougher sentencing laws and more punitive approaches toward juvenile law violators often believe they are responding to the demands of the public, particularly their own constituents. Surveys, however, indicate that the public has a distorted picture of the juvenile crime problem. A national public opinion survey conducted in 1982 revealed that 87% of the respondents believed that serious juvenile crime was increasing at an alarming rate.²⁶ Yet

23. *Government Workers at Record 17 Million*, L.A. Times, Apr. 21, 1989, at 2, col. 4.

24. See generally Galvin & Polk, *Juvenile Justice: Time for New Direction?*, 29 CRIME & DELINQ. 325 (1983); Cook & Laub, *The (Surprising) Stability of Youth Crime Rates*, 2 J. QUANTITATIVE CRIMINOLOGY 265 (1986).

25. See generally Krisberg, Litsky & Schwartz, *Youth in Confinement: Justice by Geography*, 21 J. RES. CRIME & DELINQ. 153 (1984).

26. I. SCHWARTZ, (IN)JUSTICE FOR JUVENILES 26 (1989).

national arrest rates for Part I offenses by juveniles were relatively stable between 1975 and 1987.²⁷ A recent California survey found that more than 80% of adults in that state believed that the rate of juvenile crime had been increasing during the 1980s.²⁸ In reality, the total juvenile arrest rate had fallen by 8.1% between 1981 and 1986, while the rate for violent felonies fell 21.4%.²⁹

The results from the California survey are particularly interesting because they raise questions about whether the actions of politicians really reflect the thinking of the electorate. The California respondents expressed "a strong preference for sentencing juveniles to specialized treatment and counseling programs in lieu of incarceration in state correctional facilities, even for repeat serious offenders."³⁰ They expressed only moderate support for spending tax dollars to relieve overcrowding in California's youth correction facilities and "strong support for the proposition that juvenile offenders should be separated from adults in confinement, and for a juvenile sentencing scheme different from that of adults."³¹

There remains among the public a general consensus that juvenile offenders should be treated specially by the criminal justice system. We are still likely to attribute juvenile crime to frustrated economic opportunity and unemployment; we expect the juvenile court to rehabilitate rather than simply to punish; and we expect minor offenses to be handled outside of the juvenile justice system—preferably by community agencies.³² The strain between these long-held values and the popularity of hard-line, get-tough rhetoric produces acute demands upon the agencies comprising the juvenile justice system. Juvenile courts are derided for being too lenient on juvenile offenders, but simultaneously criticized for exacerbating the problems of troubled youths by breaking up families and placing young offenders in correctional institutions that do not "correct."

27. *Id.* at 31; STEKETEE, WILLIS & SCHWARTZ, *JUVENILE JUSTICE TRENDS: 1977-1987* 17 (1989).

28. Steinhart, *California Opinion Poll: Public Attitudes on Youth Crime*, NAT'L COUNCIL ON CRIME & DELINQ. FOCUS, Dec. 1988, at 7.

29. *Id.* at 6-7.

30. *Id.* at 2.

31. *Id.* at 1.

32. Galvin & Polk, *supra* note 24, at 330.

JUVENILE CORRECTIONS AND DETENTION

Apparently in response to these pressures, many states increased their rates of juvenile institutionalization during the 1980s; others at least maintained their rates of confinement. In very few states, however, did significant changes or reform result from the federal policies, class action lawsuits, and tightened professional standards of the 1970s and early 1980s. Table 1, for example, indicates that national rates of admissions to detention centers were slightly higher in 1986 than in 1977. According to these data from the federal government's Juvenile Detention and Correctional Facility Census,³³ the total admission rate to public detention centers declined from 1,681 admissions per 100,000 eligible youth population in 1977, to 1,488 per 100,000 in 1982. At the time of most recent available census (1986-87), the rate had climbed back to nearly 1,800 admissions per 100,000.

In addition, there was a large increase in the rates of *commitment* to these facilities. Although not designed or recommended for the housing of committed youths, admissions of committed juveniles to detention centers increased from 16 to 96 per 100,000 between 1977 and 1986—a surge of 600%. Such an increase underscores the growing concern that detention facilities are used inappropriately by the courts as a dispositional option for adjudicated juveniles.³⁴

Table 2 demonstrates that training school admission rates were also relatively unchanged between 1977 and 1986. As was the case with detention centers, the total rate of admissions to training schools declined from 227 to 205 per 100,000 between 1977 and 1982, but grew to 236 by 1986. This table shows that admissions for female juveniles increased much less between 1982 and 1986. Male admissions, on the other hand, climbed by 17% during that period—from 345 to 403 per 100,000 eligible youth population. The rates for commitment

33. U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention, Juvenile Detention and Correctional Facility Census, 1977 and 1982-83 [computer files]. ICPSR ed. Ann Arbor, Michigan: Inter-university Consortium for Political and Social Research [producer and distributor]. U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention, Juvenile Detention and Correctional Facility Census, 1986-87: Public Facilities [computer file]. Washington, D.C.: U.S. Department of Commerce, Bureau of the Census, 1988 [producer]. Ann Arbor, Michigan: Inter-university Consortium for Political and Social Research, 1988 [distributor].

34. See generally Schwartz, Fishman, Hatfield, Krisberg & Eisikovits, *Juvenile Detention: The Hidden Closets Revisited*, 4 JUST. Q. 219 (1987).

TABLE 1
U.S. PUBLIC DETENTION CENTERS ADMISSIONS AND
RATES PER 100,000 ELIGIBLE YOUTHS BY
STATUS 1977, 1982 AND 1986

	1977		1982		1986	
	#	Rate per 100,000	#	Rate per 100,000	#	Rate per 100,000
Committed Youths						
Males	3,806	26	16,940	120	21,039	159
Females	998	7	3,444	25	3,844	30
Total	4,804	16	20,384	74	24,883	96
Detained Youths						
Males	371,694	2,502	308,457	2,190	353,411	2,664
Females	112,738	790	81,717	604	89,329	702
Total	484,432	1,663	390,174	1,414	442,740	1,703
All Youths						
Males	375,728	2,530	325,461	2,311	374,461	2,823
Females	113,966	798	85,227	630	93,207	732
Total	489,694	1,681	410,688	1,488	467,668	1,799

Notes:

1. Rates are based on the numbers of youths aged 10 through the age of maximum original juvenile court jurisdiction for each state and the District of Columbia.

2. Committed status youths are those placed following adjudication. Detained youths are pending adjudication or awaiting formal court disposition or placement.

Voluntary status admissions (self-admits or referrals through agencies other than the juvenile court) are included in the "all youths" lines above.

Sources: Juvenile Detention and Correctional Facility Census, 1977, 1982-83 and 1986-87. U.S. Bureau of the Census, Current Population Reports, Series P-25, published and unpublished data.

admissions only (*i.e.*, excluding detainees) were essentially stable.

A substantial proportion of the juveniles confined in detention centers and training schools were minor and petty law violators and, to a lesser extent, status offenders. Table 3 shows the number of juveniles confined in public detention centers on the day of the most recently published facility census (February 2, 1987), as well as the offenses charged against these youths. This table reveals that only 41% of the detained youths were accused of committing a Part I offense (either violent or property). Approximately 6% of the youths had been detained for a status offense, while more than half were charged with less serious Part II crimes such as shoplifting, drug offenses, vandalism and receiving stolen property. The data also reveal significant differences by gender. Just 22% of detained females were accused of a Part I offense.

TABLE 2
U.S. PUBLIC TRAINING SCHOOLS ADMISSIONS AND
RATES PER 100,000 ELIGIBLE YOUTHS BY
STATUS 1977, 1982 AND 1986

	1977		1982		1986	
	#	Rate per 100,000	#	Rate per 100,000	#	Rate per 100,000
Committed Youths						
Males	48,903	329	41,888	297	43,988	332
Females	7,417	52	6,448	48	6,091	48
Total	56,320	193	48,336	175	50,079	193
Detained Youths						
Males	7,494	50	6,746	48	9,478	71
Females	2,201	15	1,481	11	1,842	14
Total	9,695	33	8,227	30	11,320	44
All Youths						
Males	56,427	380	48,639	345	53,466	403
Females	9,671	68	7,929	59	7,933	62
Total	66,098	227	56,568	205	61,399	236

Notes:

1. Rates are based on the numbers of youths aged 10 through the age of maximum original juvenile court jurisdiction for each state and the District of Columbia.

2. Committed status youths are those placed following adjudication. Detained youths are pending adjudication or awaiting formal court disposition or placement.

Voluntary status admissions (self-admits or referrals through agencies other than the juvenile court) are included in the "all youths" lines above.

Sources: Juvenile Detention and Correctional Facility Census, 1977, 1982-83 and 1986-87. U.S. Bureau of the Census, Current Population Reports, Series P-25, published and unpublished data.

Table 4 depicts the offenses charged against youths who were confined in public training schools at the time of the most recent census. Slightly more than half (53.6%) of these juveniles were accused of serious offenses. One-fifth had been adjudicated for a Part I violent crime, while one-third were charged with a serious property offense such as burglary or auto theft. Again, there were significant differences by gender, with two-thirds of the females being incarcerated for less serious (non-Part I) crimes.

Table 5 provides the percentage in each state of confined youths that committed a Part I offense. As reported by administrators in the 1986-87 census, these percentages vary substantially from state to state. State public training school facilities in Wisconsin, Washington, New Hampshire, and Pennsylvania reported that more than 70% of their youth populations had been charged with Part I offenses. In other states, however, the proportion of Part I offenders can be quite low, suggesting that

TABLE 3
U.S. PUBLIC DETENTION CENTERS ONE DAY COUNTS
BY OFFENSE AND GENDER 1987

	MALES		FEMALES		TOTAL	
	#	%	#	%	#	%
Part I: Violent	1,691	13.5%	116	4.9%	1,807	12.1%
Part I: Property	3,959	31.6%	409	17.4%	4,368	29.3%
Part II	6,474	51.6%	1,415	60.0%	7,889	53.0%
Status	416	3.3%	417	17.7%	833	5.6%
Totals	12,540	100.0%	2,357	100.0%	14,897	100.0%

Notes:

1. Respondent administrators were asked to indicate the number of committed and detained juvenile and status offenders on the census date February 2, 1987. They were directed to report the most serious offense if records reflect several offenses.

2. Offense categories are collapsed here as presented in the Survey:

Part I Violent: Murder, non-negligent manslaughter, forcible rape, robbery, and aggravated assault.

Part I Property: Burglary, arson, larceny-theft, motor vehicle theft.

Part II: All offenses not Part I or Status.

Status: Offense which "would not be considered a crime if committed by an adult"
 Source: Juvenile Detention and Correctional Facility Census, 1986-87.

many non-serious offenders were being confined in correctional institutions. For example, Maine, Montana, North and South Dakota, Virginia and Kentucky all reported that 30% or less of the youths confined in their training schools committed serious, Part I offenses.³⁵

State Studies

The federally-administered Juvenile Detention and Correctional Facility Census, which provided most of the data presented above, is a useful and internally consistent source of data on the national juvenile corrections population. It is especially valuable as a device for tracking changes in the rates of facility admissions and periodic one-day counts. It cannot, however, be taken as a completely reliable measure of the severity of offenses charged against the incarcerated juvenile population.

35. These tables describe only those youths for whom offenses were reported. Vermont did not have a public training school; Wyoming had a large number of cases in which no offense was reported. Overall, offenses were reported for more than 95% of youths present in public training schools on the census date.

TABLE 4
U.S. PUBLIC TRAINING SCHOOLS ONE DAY COUNTS
BY OFFENSE AND GENDER 1987

	MALES		FEMALES		TOTAL	
	#	%	#	%	#	%
Part I: Violent	4,850	21.1%	354	12.8%	5,204	20.2%
Part I: Property	8,044	35.0%	565	20.5%	8,609	33.4%
Part II	9,857	42.8%	1,538	55.8%	11,395	44.2%
Status	260	1.1%	300	10.9%	560	2.2%
Totals	23,011	100.0%	2,757	100.0%	25,768	100.0%

Notes:

1. Respondent administrators were asked to indicate the numbers and types of committed and detained juvenile and status offenders on the census date February 2, 1987. They were directed to report the most serious offense if records reflect several offenses.

2. Offense categories are collapsed here as presented in the Survey:

Part I Violent: Murder, non-negligent manslaughter, forcible rape, robbery, and aggravated assault.

Part I Property: Burglary, arson, larceny-theft, motor vehicle theft.

Part II: All offenses not Part I or Status.

Status: Offense which "would not be considered a crime if committed by an adult"
 Source: Juvenile Detention and Correctional Facility Census, 1986-87.

The Census, which is better known as the Children in Custody series, relies upon questionnaires filled out by administrators. Each administrator answers a number of questions about the youths being held in his or her facility. The questionnaire asks the administrators to report the most serious offenses charged against the youths who were in custody on the census date. The youths' case records or legal files are not reviewed in detail by anyone outside of the facilities. The most accurate characterization of the offenses committed by incarcerated juveniles would require reviews of the documents typically found in delinquency case records.

Recently, a number of states conducted risk assessment studies that offer an additional source of information about juvenile corrections populations. Independent researchers examined institutional case records in the states and evaluated the recentness, severity, and frequency of delinquent behavior among incarcerated juvenile offenders. Through these studies, the offender population of each juvenile correctional system was segmented into relatively low-risk and relatively high-risk groups so that policymakers and youth correction officials could make informed decisions about how the system's limited

resources were being allocated. These studies confirmed that a relatively large proportion of the juveniles confined in state training schools are not serious or chronic offenders. Furthermore, the studies suggest that the Facility Census may actually underestimate the extent to which non-serious offenders are incarcerated in training schools.

TABLE 5
U.S. PUBLIC DETENTION CENTERS AND TRAINING
SCHOOLS PERCENT JUVENILES
INCARCERATED FOR PART I
OFFENSES BY STATE AND TOTAL 1987

	% Detention Center Population Incarcerated for Part I Offense	% Training School Population Incarcerated for Part I Offense
Alabama	46.9%	43.4%
Alaska	36.1%	47.4%
Arizona	26.2%	61.1%
Arkansas	73.3%	63.9%
California	41.0%	45.9%
Colorado	41.3%	68.6%
Connecticut	60.0%	48.9%
Delaware	68.2%	36.8%
D.C.	20.6%	45.1%
Florida	45.6%	53.4%
Georgia	47.9%	54.1%
Hawaii	15.7%	66.7%
Idaho	62.5%	69.4%
Illinois	44.0%	58.2%
Indiana	27.9%	43.5%
Iowa	66.7%	39.0%
Kansas	47.3%	59.3%
Kentucky	39.0%	30.4%
Louisiana	55.1%	67.4%
Maine	0.0%	23.8%
Maryland	32.2%	41.4%
Massachusetts	57.8%	53.3%
Michigan	44.9%	66.4%
Minnesota	36.2%	46.9%
Mississippi	42.9%	63.9%
Missouri	37.5%	38.9%
Montana	0.0%	25.1%
Nebraska	27.9%	34.8%
Nevada	17.1%	34.2%
New Hampshire	64.3%	73.7%
New Jersey	46.2%	58.1%
New Mexico	21.8%	51.0%
New York	44.7%	68.4%
North Carolina	43.7%	41.5%
North Dakota	25.0%	23.1%

Table 5 (Continued)

	% Detention Center Population Incarcerated for Part I Offense	% Training School Population Incarcerated for Part I Offense
Ohio	29.8%	61.1%
Oklahoma	48.8%	68.0%
Oregon	18.1%	65.6%
Pennsylvania	57.0%	70.1%
Rhode Island	0.0%	64.6%
South Carolina	66.7%	46.0%
South Dakota	15.2%	27.4%
Tennessee	49.3%	52.1%
Texas	49.1%	60.7%
Utah	12.6%	60.4%
Vermont	93.3%	0.0%
Virginia	43.3%	27.4%
Washington	53.0%	71.5%
West Virginia	66.7%	60.4%
Wisconsin	15.6%	84.7%
Wyoming	0.0%	2.2%
TOTAL U.S.	41.5%	53.6%

Notes:

1. Respondent administrators were asked to indicate the number of committed and detained juvenile and status offenders on the census date February 2, 1987. Respondents indicate the most serious offense if record of several offenses.

2. These data reflect only those youth for whom offenses were reported. For detention centers there were 202 females (or 7.9% of total females), 1,047 males (or 7.7% of total males) and 1,249 total juveniles (or 7.7% of total juveniles) for whom offenses were not reported.

For training schools there were 202 females (or 6.8% of total females), 1,064 males (or 4.4% of total males) and 1,266 total juveniles (or 4.7% of total juveniles) for whom offenses were not reported.

3. Part I offenses include both Part I Property (burglary, arson, larceny-theft, and motor vehicle theft) and Part I Violent (murder, non-negligent manslaughter, forcible rape, robbery and aggravated assault).

Source: Juvenile Detention and Correctional Facility Census, 1986-87.

For example, a study of the Alabama youth correction system revealed that nearly three-quarters (74%) of the state's juvenile inmates were committed for status offenses, violations of probation, misdemeanors, or minor felonies (primarily third degree burglary and second degree theft). Most of the youths committed for minor offenses had only minor prior offenses as well. The researchers who conducted the study estimated that Alabama's juvenile training school population could be reduced by 50 to 55% without a significant risk to the public safety.³⁶ Similar studies in Delaware, Rhode Island, and Mississippi estimated that between 40 and 70% of the juveniles being

36. P. DEMURO & J. BUTTS, AT THE CROSSROADS: A POPULATION PROFILE OF YOUTHS COMMITTED TO THE ALABAMA DEPARTMENT OF YOUTH SERVICES 30 (1989).

held in secure facilities were neither violent nor chronic offenders, and could most likely be managed safely in the community.³⁷

Juveniles in Jails

Despite amendments to the Juvenile Justice Act mandating the removal of youths from adult jails,³⁸ young people still are being held in adult correctional facilities. Censuses and sample surveys of jails throughout the 1980s by the Bureau of Justice Statistics indicated that juveniles were confined in these facilities. The 1983 census found 1,736 youths under 18 being held in adult jails on June 30, 1983, with similar numbers reported for both 1985 and 1986.³⁹ Though the Bureau of Justice Statistics indicates that such numbers must be interpreted with caution as they comprise fewer than 1% of the incarcerated populations on these dates,⁴⁰ it remains true that youths continue to be incarcerated in facilities designed for adults, contrary to federal law.

POLICY FOR THE 1990s

Despite the clear intent of the amended Juvenile Justice and Delinquency Prevention Act of 1974 and the standards and goals advocated by the Institute for Judicial Administration/American Bar Association, and the National Advisory Committee for Juvenile Justice and Delinquency Prevention, there were few changes in the rate of juvenile incarceration during the 1980s. Some youths were still being held in adult jails, and relatively minor and non-serious offenders were being placed in secure facilities, including a number of status offenders. It was apparent by the end of the decade that the reforms envisioned by federal policymakers had not materialized. Yet, innovative policymakers and juvenile justice professionals in some states were beginning to re-emphasize community-based youth corrections. Prompted at least in part by revenue constraints and

37. See P. DEMURO & B. KRISBERG, ADJUDICATED YOUTH IN DELAWARE WHO NEED SECURE CARE 13 (1987); P. DEMURO & J. BUTTS, REPORT TO THE JUVENILE JUSTICE TASK FORCE: RHODE ISLAND'S JUVENILE JUSTICE SYSTEM—MORE OF THE SAME . . . OR AN OPPORTUNITY FOR REFORM? 4 (1988); J. BUTTS & P. DEMURO, POPULATION PROFILE AND RISK ASSESSMENT STUDY: MISSISSIPPI DEPARTMENT OF YOUTH SERVICES 19 (1989).

38. Juvenile Justice Amendments of 1980, Pub. L. No. 96-509, 94 Stat. 2750, (codified as amended at 42 U.S.C. § 5633(a)(14)).

39. BUREAU OF JUSTICE STATISTICS, DEPARTMENT OF JUSTICE, CORRECTIONAL POPULATIONS IN THE UNITED STATES 6 (1989).

40. *Id.*

class action lawsuits,⁴¹ several states had reduced their training school populations and were exploring new correctional approaches that rely on community supervision while reserving secure placement for chronic and violent youthful offenders.⁴²

Massachusetts and Utah, for example, are widely recognized for their reliance on community-based programs and limited use of confinement for committed youths. Relatively few juveniles in these two states are prosecuted in the adult criminal courts and sentenced to adult prisons. Their youth corrections systems have been studied by the National Council on Crime and Delinquency (NCCD). Recently, NCCD concluded that "Utah's policy of community-based corrections did not worsen public safety."⁴³ The NCCD researchers observed that "the imposition of appropriate community-based controls on highly active serious and chronic juvenile offenders is consistent with public protection goals."⁴⁴ The study also noted that managing these youthful offenders in the community had saved Utah taxpayers more than \$30 million in capital costs and approximately \$10 million annually in operating expenditures.⁴⁵

NCCD's evaluation of the youth corrections system in Massachusetts found that youths placed in the custody of the state committed far fewer offenses after leaving state care and that "there was a slight tendency over time to commit less serious crimes."⁴⁶ The NCCD study also compared the recidivism rates of youths in the Massachusetts system with those in the states of Pennsylvania, Utah, Florida, Texas, Illinois, Wisconsin, and California. The results showed that the youths in the Massachusetts system "had equivalent, and in some instances lower recidivism rates than youths from [the] other states."⁴⁷ Citing Utah's experience with community-based corrections, the NCCD researchers believed that expanding the use of secure confinement in Massachusetts would involve large pub-

41. See cases cited *supra* note 5.

42. See generally Blackmore, Brown & Krisberg, *Juvenile Justice Reform: The Bellwether States* (1988); Butts, *Youth Corrections in Maryland: The Dawning of a New Era*, in *YOUTH CORRECTION REFORM: THE MARYLAND AND FLORIDA EXPERIENCE* (Ctr. for the Study of Youth Policy ed. 1988).

43. NATIONAL COUNCIL ON CRIME AND DELINQUENCY, *THE IMPACT OF JUVENILE COURT INTERVENTION* 147 (1987).

44. *Id.*

45. *Id.* at 134-36.

46. B. KRISBERG, J. AUSTIN & P. STEELE, *supra* note 20, at 18.

47. *Id.* at 25.

lic expenditures, but "would not produce a noticeable reduction in youth crime."⁴⁸

A recent study in Wayne County (Detroit), Michigan tested the effectiveness of intensive community-based supervision programs as an alternative to commitment. The study had a randomized design and followed more than 500 cases over a four-year period. The results showed that the recidivism of youths placed in the intensive probation programs was no worse than that of youths committed to the state and usually placed in public and private training schools.⁴⁹ Moreover, the intensive probation programs cost about one-third as much as commitment and incarceration. The study estimated that the State of Michigan saved nearly \$9 million in placement costs by using community programs instead of commitment.

Policymakers and juvenile justice officials who equate being "tough" with good policy would thus be well advised to re-evaluate their juvenile crime control practices. Institutional confinement is but one resource in the battle to control juvenile crime, and should be focused on serious and violent offenders in order to permit adequate financing of quality community-based programs. This strategy, which has been implemented successfully in Massachusetts, Utah, and Maryland,⁵⁰ is neither new nor radical. It is the sound, cost-effective approach called for throughout the 1970s but never consistently implemented before being abandoned in favor of "getting tough."

CRITICAL ISSUES

The need for reforms in youth detention and correctional practices will be studied and debated by researchers, juvenile justice professionals, and policymakers in the years ahead. Those involved in shaping the policies of the next decade should consider a number of important issues in planning for the future.

48. *Id.* at 33.

49. See Barton & Butts, *Viable Options: Intensive Supervision Programs for Juvenile Delinquents*, 36 *CRIME & DELINQ.* 238, 244 (1990).

50. See generally Loughran, *Juvenile Corrections: The Massachusetts Experience*, in *REINVESTING YOUTH CORRECTIONS RESOURCES: A TALE OF THREE STATES* 7 (1987); Van Vleet, Rutherford & Schwartz, *Reinvesting Youth Corrections Resources in Utah*, in *id.* at 23; Butts, *supra* note 42; Matheson, *Political Leadership in Juvenile Justice Reform*, in *YOUTH CORRECTIONS AND THE QUIET REVOLUTION* 7 (n.d.); Bangerter, *Youth Corrections in Utah: A Commitment to Excellence*, in *id.* at 17.

Race

The U.S. is becoming an increasingly diverse nation, with many cultures and ethnicities. This is especially true among young people. Minorities have been disproportionately incarcerated for many years. Although blacks comprise approximately 15% of the population, they account for 38% of youths in public juvenile correctional facilities.⁵¹ In 1982, the incarceration rate in public juvenile correctional facilities was four times greater for black male juveniles than for white males, while black females were incarcerated at over twice the rate of white females in similar public facilities.⁵² Addressing the disproportionate rate of minority incarceration in the juvenile justice system may first require comprehensive social and economic reforms, but this issue should hold center stage in the future.

Gender

Researchers during the 1970s documented the long-standing differential treatment of girls by the juvenile justice system.⁵³ Their research indicated that girls were more likely to be incarcerated for a less serious offense than their male counterparts, and that they were often confined for longer periods of time than boys who had committed serious offenses. Unfortunately, despite some decline in the rates of female incarceration, the differential treatment of female juveniles continues to be a problem. Girls are still being confined for less serious offenses than are boys, and programs designed especially for female offenders are rare. Juvenile justice professionals and elected public officials need to make this issue a top priority and design programs that will reduce the rate of incarceration among girls.

Public Opinion

The distorted picture the public has about the juvenile crime problem is particularly troublesome. It is difficult to

51. See Krisberg, Schwartz, Fishman, Eisikovits, & Guttman, *The Incarceration of Minority Youth*, 33 CRIME & DELINQ. 173, 179 (1987).

52. *Id.* at 184-85.

53. See, e.g., Kratcoski, *Differential Treatment of Delinquent Boys and Girls in Juvenile Court*, 53 CHILD WELFARE 16 (1972); Satti, *Juvenile Law: How it Penalizes Females*, in THE FEMALE OFFENDER 67 (L. Crites ed. 1976); Schlossman & Wallach, *The Crime of Precocious Sexuality: Female Juvenile Delinquency in the Progressive Era*, 48 HARV. ED. REV. 65 (1978); Chesney-Lind, *Judicial Paternalism and the Female Status Offender: Training Women to Know Their Place*, 23 CRIME & DELINQ. 121 (1977).

imagine how rational juvenile crime control policies can be developed and maintained when most citizens are ill-informed on the issue and elected officials blatantly exploit this. Every effort must be made to inform and educate the public about the nature and scope of the juvenile crime problem so that sound decisions can be made. The experiences of the 1988 presidential campaign should serve as a stern reminder of the social friction surrounding correctional policy and the extent to which ignorance and fear have been allowed to affect public debate.⁵⁴

The Federal Role

There is no escaping the need for federal leadership in juvenile justice policy. In the future, federal administrators should take the lead in acquainting state and local governments with the most effective and innovative juvenile justice practices. New energy should be focused on developing the non-institutional alternatives called for in the Juvenile Justice and Delinquency Prevention Act of 1974 and its amendments. In addition, federal leaders should be spearheading a national effort to prevent crime, not merely punish the small proportion of offenders who are actually caught and convicted. The U.S. Congress declared in 1974 that it would provide the necessary resources, leadership and coordination to "develop and implement effective methods of preventing and reducing juvenile delinquency, including methods with a special focus on maintaining and strengthening the family unit so that juveniles may be retained in their homes."⁵⁵ Community-based prevention is fundamental to alleviating the problems of delinquency and its common antecedents: family disruption, school failure and drug abuse. Now, as fifteen years ago, effective community-based prevention should be a national priority.

CONCLUSION

A number of forward-thinking state and local governments have shown that, given the availability of well-designed and well-managed programs, many juvenile offenders can be maintained in the community without jeopardizing the public safety. Yet, most of the nation has continued to believe that juvenile crime is worsening and that an increasingly punitive and expensive juvenile corrections system is the best solution to the crime problem. This approach is wasteful at best and socially

54. See generally, e.g., *Campaign Focus on Furloughs Prompts Review of Programs*, 19 CRIM. JUST. NEWSL. 1 (Dec. 1, 1988).

55. 42 U.S.C. § 5602(b) (1988).

destructive at worst. Juvenile justice policy must be redirected during the 1990s toward a more effective and efficient use of scarce resources. The 1980s proved to be a decade of stagnation; the next ten years must be a decade of progress.