

MAINE STATE LEGISLATURE

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PROPOSED REFINEMENTS OF
GOALS, OBJECTIVES, AND MEASURES
FOR MAINE'S JUVENILE JUSTICE PROGRAM

Prepared for:

State of Maine
Commission to Revise
Statutes Relating to
Juveniles

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GOAL 1:

To assure that statutory provisions, administrative procedures, and informal practices relating to juvenile offenders¹ conform to constitutional requirements of substantive and procedural due process.

COMMENT: Compliance with constitutional standards is mandatory. It is possible that some may argue that federal court holdings and interpretations should be "bent" in the interests of public safety (see Goal 2). Other people might assert that the interests of the child (see Goal 3) can justify departures from constitutional standards. Recognizing the possible conflicts between this goal and the two stated below, the Commission has indicated that compliance with constitutional standards is the first priority goal. Recommendations proposed to improve public safety or to advance childrens' well-being must conform to constitutional standards.

OBJECTIVES: Assure that requirements for a speedy (expeditious) trial are met by Maine's juvenile justice proceedings.

MEASURES:

- Current time from arrest to detention hearing.

1. The "right to treatment" as it has developed with regard to juvenile offenders will be examined.

- Current time from arrest to trial (hearing).
- Time lapsed during trial or hearing continuances.

RECOMMENDATIONS: Describe changes in law or procedures that would bring elapsed time within constitutionally implied limits.

- Constitutional standard would imply that elapsed and/or continuance time should not exceed _____.

Devise, standardized procedures?

OBJECTIVE: Assure that constitutional requirements that juveniles be treated in a specialized manner are met by Maine's statutes and procedures governing arrest, pretrial, trial/hearing, and detention.

MEASURES:

- Citation to and analysis of requirements for separate treatment of juveniles.
- Analysis of content of Maine law re. specialized treatment.
- Description of actual practices -- examination of Court calendars and/or use of separate court rooms.
- Availability of continuing education for judges, lawyers and other professionals who deal with juveniles. ²

- (Statistical evidence) -- Number of juveniles housed with adults in local jails.

RECOMMENDATIONS: Description of changes that would treat juveniles and adults separately at each stage of the process. ³

OBJECTIVE: Assure that hearings on petitions in delinquency meet constitutional standards of due process for juveniles.

MEASURES:

- Describe procedural standards mandated in constitutional case law.
- Describe procedures used in selected courts in Maine; compare to constitutional standards.

RECOMMENDATIONS: Describe changes (in statute or in administrative practice) that would bring Maine's procedure into conformance with constitutional standards. ⁴

OBJECTIVE: Assure that procedures followed in appeals of juvenile cases to Superior Court are constitutional.

MEASURES:

- How many appeals of juvenile cases are there, and of these, how many result in trials de novo.

- What holding procedures are available and used pending appeal?

RECOMMENDATIONS: Proposals would be designed to bring appeals practice into conformance with constitutional standards, and, perhaps, reduce the proportion of trials de novo.⁵

NOTE THAT REVISED GOAL 1 SUBSUMES ALL THE "JUVENILE COURT" GOALS (i.e., 8-11 of the March 15 memorandum) ARTICULATED BY THE COMMISSION.

GOAL 2:

To protect the public from acts committed by juveniles against persons and/or property.

COMMENT: Maine has recognized the state's obligation to "react to criminal behavior as would a responsible parent" (M.R.S.A. Section 2501 (1959) Subsection IV). That the juvenile justice system includes minors who have committed crimes that "only children can commit" (status offenders) does not disguise the fact that many other children have committed serious and violent acts and may be considered dangerous. A "responsible" parent (who is civilly and, in some instances, criminally, liable for the acts of a dependent minor) would, no doubt, attempt to protect other people and their property from the actions of his or her child, probably using physical restraint when required.

Accordingly, protection of public safety, within the limits of the constitution, is the second priority goal

5. Commission Goal 11. See March 15 memorandum, p. 2

of Maine's juvenile justice system. Proposals advanced in the interest of a minor's well being (see Goal 3 below) must first consider public safety. Obviously, this rule should not apply in the case of minors who come under the court's jurisdiction as status offenders, neglected or dependent children.

OBJECTIVE: Prevention -- to reduce the incidence of serious and violent crimes among juveniles.

MEASURES: Current incidence of violent/serious crime among juveniles.

The Children and Youth Services Planning Project has county and state total juvenile arrests for all "Part I" offenses, which include:

- Murder
- Rape
- Robbery
- Aggravated Assault
- Burglary (B&L) - Large %?
- Larceny (grand)
- Motor Vehicle Theft

person v. property

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These figures are broken down between males and females. However, there are no separate figures for each specific crime. Is the commission happy with the aggregate

arrests, computed as a rate per ten thousand population, as an index of serious/violent acts committed by juveniles?

RECOMMENDATIONS: Proposals should be advanced specifically to reduce the rates computed for Part I offenses.⁶ However, inferences about the impact of preventive services on these rates will be highly speculative for the following reasons:

1. There are no good experimental data linking service to changes in rates.
2. Arrest rates are as much an index of police activity as they are a reflection of juvenile crime.
3. Changes in any other "intervening variables" may have as much or more impact on arrest rates.

We have identified and analyzed some of the other factors that impact on Part I offense arrest rates to help the Commission formulate questions and suggestions for further investigation.

OBJECTIVE: Treatment/rehabilitation -- reduce the probability that juveniles having committed serious/violent crimes will become repeat offenders.

6. Perhaps such recommendations will contain Commission Goal 12. See March 15 memorandum p. 2.

MEASURES: Available data is limited to a sample of BTC and SS populations, conducted in the summer of 1975 that showed 50.9% of the residents having one or more prior convictions, regardless of type of offense. It would be desirable to obtain repeater rates for Part I offenses, both for arrests and for juveniles in detention facilities. Another (long range) index of rehabilitation effectiveness would be the proportion of adults convicted for Part I offenses who were also convicted for Part I offenses when they were juveniles.

While the latter information (juvenile records of adult offenders) may be unobtainable since such records are sealed, summer interns could be used to study a sample of juvenile arrests, juveniles housed in county jails, and residents of BTC to develop baseline data.

RECOMMENDATIONS: Proposals for change should be directed at the target population most likely to become repeat (Part I) offenders. Some effort should be made to demonstrate how the implementation of the proposals will affect the baseline rate of repeaters. Periodic follow-up studies or a method of reporting repeater rates is implicit in this analysis.

OBJECTIVE: Direct intervention -- to prevent dangerous juveniles from harming others. [on selves -] c.f. goal #3

MEASURES: How many juveniles have, for lack of secure settings, appropriate treatment, facilities, or space at BTC, been placed on probation or released into parental or guardian custody?⁷ And, how many of these juveniles have subsequently committed violent/serious crimes?

Probably the best way to answer these questions is to study a sample of juveniles arrested for and/or committed to BTC for Part I offenses and to determine the proportion of the sample who had previously been placed on probation or released into parental or guardian custody following the commission of a violent act.

RECOMMENDATIONS: Proposals should address methods of accommodating estimated numbers of dangerous juveniles in secure settings.

GOAL 3:

To reduce the need for juveniles to come under court jurisdiction and to promote the well-being of juveniles who come under court jurisdiction.

7. Commission Goal 13. See March 15 memorandum, p. 2.
8. Commission Goal 3. See March 15 memorandum, p. 1.

COMMENT: This goal implies a two-pronged attack -- one aimed at the causes of delinquency and status offender behavior, the other directed towards the rehabilitation and appropriate guidance of minors adjudicated as offenders.

Every child-serving agency and most other social programs in Maine can probably claim some impact on the "causes" of offenses. To define the boundaries between juvenile justice programs per se and the entire range of related services, we have proposed some specific offense -- related objectives.

In addition, we have suggested some objectives that may reflect the degree to which juvenile offenders are "helped" by the services they receive.

OBJECTIVE: Assure that minors have continuing appropriate education.

MEASURES FOR PREVENTION PROGRAMS:

- School days lost through involvement in court proceedings or detention.⁹
 - School attendance of juvenile offenders on probation, in detention and/or treatment facilities.¹⁰
 - Number of children who drop out of school.¹¹
- Data for the first three (preventive) measures are not

in published Children and Youth Services Planning
9 and 10. Commission Goal 1. See March 15 memorandum, p. 1.
11. Commission Goal 2. See March 15 memorandum, p. 1.

Project material, but might be found in Department of Education records or reports.

Data for the treatment/rehabilitation measures could be collected by interns studying samples of juvenile court cases, jail, and BTC populations.

RECOMMENDATIONS: Preventive proposals should be directed towards reducing truancy rates (since truancy is an "offense") and reducing drop-out rates for all minors. ¹²

Treatment/rehabilitation proposals should include specific mechanisms for avoiding the interruption of education of juveniles involved in court proceedings and for assuring that education programs are delivered to juveniles in jail or detention facilities.

OBJECTIVE: Reduce incidence of drug and alcohol abuse among persons under 18. ¹³

MEASURES: What is an acceptable index of drug or alcohol abuse? Arrest rates are commonly used, but these figures may be biased by local attitudes

12. Commission Goals 4 and 5. See March 15 memorandum, p. 1. NOTE THAT ALL "PREVENTION" GOALS ARTICULATED BY THE COMMISSION (See March 15 memorandum GOALS 1-5) HAVE BEEN SUBSUMED BY THE REFINED GOALS.
13. Commission Goal 14. See March 15 memorandum, p. 2.

(including police attitudes) and the use of informal procedures that stop short of arrest. Other alternatives include numbers of minors suspended or expelled from school for drug/alcohol abuse, numbers seen at hospital emergency, detoxification, or crisis intervention clinics for drug and alcohol-related problems. The Commission should decide which (if any) of these measures might be appropriate. Then we can look for the data, and, if necessary, plan data collection activities.

RECOMMENDATIONS: If any proposals are offered that purport to have an impact on substance abuse, there should be a corresponding estimate of change in the measure or rate selected.¹⁴

OBJECTIVE: Reduce prostitution among minors.¹⁵

MEASURES: What is the current rate of prostitution among minors? Using arrest rates for prostitution involves the same problems as using arrest rates for drug/alcohol abuse.

14. Commission Goal 15. See March 15 memorandum, p. 2.

15. Commission Goal 16. See March 15 memorandum, p. 2.

NOTE THAT ALL "CRIMINAL BEHAVIOR" GOALS ARTICULATED BY THE COMMISSION (See March 15 memorandum, GOALS 12-16) HAVE BEEN SUBSUMED BY THE REFINED GOALS.

RECOMMENDATIONS: If any proposals are offered to affect juvenile prostitution, an estimate should be made of the impact on the juvenile prostitution rate.

OBJECTIVE: To maintain non-dangerous juvenile offenders at home or living in home-like settings in their own communities.

MEASURES: Number of non-dangerous juvenile offender person-days spent

- a. At home of parent or legal guardian;
- b. In foster home;
- c. In jail;
- d. In BTC.

(The point would be to push this distribution of person-days towards the home and foster home end of the continuum.)

Published information (Children and Youth Services Planning Project) does not break out jail and BTC data by type of offense (Part I vs. Part II offenses). Should we assume that Part II offenders are not dangerous? Should we attempt to find other indices of dangerousness?

RECOMMENDATIONS: Proposals for service improvement should show how implementation would result in fewer days of detention spent by non-dangerous juveniles in jails and BTC, more days in community or home facilities.¹⁶

16. Commission Goals 6 and 7. See March 15 memorandum, p. 1. NOTE THAT ALL "NON-CRIMINAL BEHAVIOR" GOALS ARTICULATED BY THE COMMISSION (See March 15 memorandum, GOALS 6-7, p. 1) HAVE BEEN SUBSUMED BY THE REFINED GOALS.