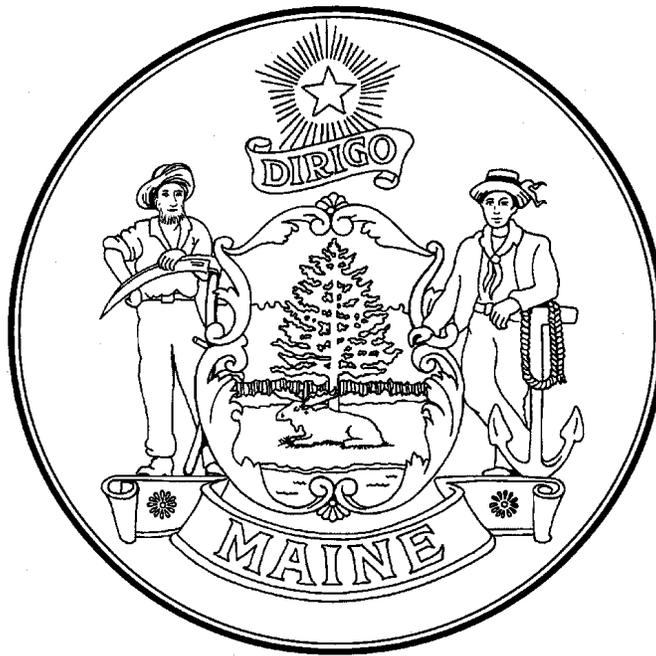


MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

LR
861f
1978



443 Congress Street • Portland, Maine.04101 • 207 • 774-4591

United Way
Inc.

STATUS OF THE NEW JUVENILE CODE
IN CUMBERLAND COUNTY

C

A REPORT BY:
THE UNITED WAY JUVENILE CODE COMMITTEE

November 1978

DEC 21 1978

UNITED WAY JUVENILE CODE COMMITTEE

MEMBERS

Thomas H. Allen, Chairman, Attorney

Rick Biskup, Little Brothers Association

June Fitzpatrick, Community Counseling Center, Family Advocate

Greg Hanscom, Chief of Police, Windham

Chip Hayden, Attorney

Adair Heath, M.D., Director, Children's Psychiatry Division,
Community Mental Health Center

Olivia Rogers, Fair Harbor, Director

Jody Sataloff, Assistant District Attorney, Portland

David Turesky, Attorney

STAFF

Rebecca Warren, Consultant

Michael R. Petit, Director of Social Planning, United Way

Research For This Report

Was Made Possible By A

Grant From The

Maine Criminal Justice Planning and Assistance Agency

JUVENILE JUSTICE IN MAINE:

HAS THE NEW JUVENILE CODE MADE A DIFFERENCE?

SECTION I. INTRODUCTION AND PURPOSE

On July 1, 1975, the Legislature established a Commission to Revise Statutes Relating To Juveniles to develop a more enlightened approach to juvenile justice in Maine. For two years the Commission wrestled with a number of difficult issues, guided in part by the following philosophies:

1. Children and youth at risk should be provided with whatever supportive and rehabilitative services are necessary to ensure their healthy development.
2. Children and youth services must be provided in a way that recognizes the individual differences among people and the essential differences between young people and adults.
3. The liberty of individual children and youth is no less important than that of adults and is therefore to be protected so long as it is consistent with the liberty of others.
4. Children and youth who are accused of criminal behavior should be treated by the justice system in a manner that clearly acknowledges the seriousness of the crime and adequately protects the constitutional rights of the accused.
5. The state is obligated to observe strict parsimony in intervening in the lives of children and youth. The state has the burden of justifying why any given intrusion -- and not a lesser one -- is called for.¹

1. Maine Commission to Revise Statutes Relating To Juveniles, Volume 1, Page 5 (1976).

Three years and many amendments later, the Commission's proposal became law on July 1, 1978. The members of the Legislature adopted as their own the philosophies espoused by the Commission, as the Code's Statement of Purpose, MRSA §3002, clearly indicates:

- A. To secure for each juvenile subject to these provisions such care and guidance, preferably in his own home, as will best serve his welfare and the interests of society;
 - B. To preserve and strengthen family ties whenever possible, including improvement of home environment;
 - C. To remove a juvenile from the custody of his parents only when his welfare and safety or the protection of the public would otherwise be endangered or where necessary to punish a child adjudicated, pursuant to Chapter 507, as having committed a juvenile crime;
 - D. To secure for any juvenile removed from the custody of his parents the necessary treatment, care, guidance and discipline to assist him in becoming a responsible and productive member of society;
 - E. To provide procedures through which the provisions of the law are executed and enforced and which will assure the parties fair hearings at which their rights as citizens are recognized and protected.
2. Construction. To carry out these purposes, the provisions of this Part shall be liberally construed.

The new Juvenile Code represents a significant change in the treatment of young people who come in contact with the law. Its major thrust is to screen out those cases which are more appropriately handled by social service agencies, sending through the court system only the more serious juvenile offenders.

Assisting in the screening process is a new category of Department of Mental Health and Corrections personnel designated as "intake workers". When a law enforcement officer takes a young person into

custody and determines that the youth should be detained prior to an initial court appearance or that a petition should be filed with the court, the officer must contact an intake worker (§3203). The Legislature and its Code Commission apparently hoped that this two step referral procedure would result in greater rehabilitation of juvenile offenders and more effective use of the court's time by minimizing or eliminating unnecessary and potentially stigmatizing contact with the juvenile court system.

In June 1978, the United Way Social Planning Committee created a nine member sub-committee, the Juvenile Code Committee, to monitor the implementation of the new Juvenile Code in Cumberland County. No other agency or commission in the State had assumed this responsibility. The Social Planning Committee believed that an independent, objective group should perform this monitoring function to ensure that the mandates of the new law would be fully satisfied.

The United Way Juvenile Code Committee is composed of representatives from the social services, the legal profession, and law enforcement. The Committee's monitoring efforts have included (1) interviews with people who deal with children and adolescents affected by the juvenile justice system, (2) observation of various juvenile court hearings and procedures, (3) surveying social service providers in the Portland and Bridgton areas, and (4) compilation of statistics using juvenile court records, Uniform Crime Reporting juvenile arrest data, and information recorded on intake worker forms.

The Juvenile Code Committee attempted to pinpoint problem areas needing an administrative or legislative remedy. The Committee also sought to determine the existing and potential impact of the new Code on social services. Where conclusions would be premature, the Committee has intended to lay a foundation for continued monitoring. To this end, the Code Committee determined eleven project goals, derived in large measure from the Code's major provisions, which it believed deserved close study. They are discussed in Section II below.

This Committee report analyzes data collected between July 1 and September 30, 1978, makes pre- and post- Code comparisons where possible, draws conclusions about implementation of the Code and necessary changes in the law itself or in the way it is being interpreted and administered. Because the Code has only been in effect since July 1, 1978, insufficient data prevented the Code Committee from achieving several of its goals. These goals will require additional research before any firm conclusions can be made.

The Juvenile Code Committee strongly supports Maine's new Juvenile Code. The points raised in this report are intended to improve and strengthen the new juvenile system and should not be interpreted as a criticism or challenge of the fundamental purposes and philosophy of the Code.

Finally, the Committee wishes to express its appreciation to all those who cooperated in providing the information needed to make this report. The Committee was impressed with the genuine concern for the welfare of juveniles demonstrated by all those responsible for implementing the Code.

SECTION II. SUMMARY OF GOALS AND RECOMMENDATIONS

DEPARTMENT OF MENTAL HEALTH AND CORRECTIONS/DEPARTMENT OF HUMAN SERVICES

RESPONSIBILITIES

GOAL #1 DETERMINE THE EXTENT OF DHS AND DMHC DATA COLLECTION AND THE EXTENT OF THEIR COMPLIANCE WITH THE CODE'S MANDATES REGARDING THE DEVELOPMENT OF (1) RULES AND REGULATIONS FOR DISPOSITIONAL REVIEWS, GRIEVANCE HEARINGS, AND INTAKE REFERRALS, AND (2) AN ADMINISTRATIVE PLAN FOR PREVENTION AND REHABILITATION.

FINDINGS

1. The Code requires DMHC and DHS to develop procedures for conducting dispositional reviews. Neither of the Departments has begun to develop these procedures.
2. The Code requires DMHC to establish an appeals procedure for juveniles wishing to challenge a denial of services or forced participation in a particular program. The Department has not yet defined these appeals procedures.
3. The Code requires DMHC to document and prepare an annual prevention and rehabilitation plan by January 1, 1979. The Department has made little progress toward the preparation of this report.
4. Several social service agencies still need defined procedures for accepting referrals from intake workers.
5. DMHC and DHS have developed an informal agreement in District I that intake workers will not refer to DHS runaways who have also committed a juvenile offense. This agreement establishes an artificial barrier for some juveniles who need services.
6. DMHC is developing a confidentiality policy for juvenile records in its custody.

7. DMHC and DHS have agreed to use social security numbers as a method for "tracking" juveniles with whom they come in contact.
8. The Region I DHS office has developed a "case classification schema" to use in assigning priorities to the cases the Department accepts. Juvenile referrals to DHS are generally the lowest priority.
9. The DHS Central Office has apparently made no plans to evaluate the Department's ability to provide the services mandated by the Code.

RECOMMENDATIONS

1. DMHC should determine what data it needs to prepare its annual prevention and rehabilitation plan and should formally request that data from service providers.
2. If DMHC cannot justify its use of social security numbers to track juvenile referrals, the Department should develop another tracking system.
3. DMHC should continue to develop a confidentiality policy for juvenile records in its custody and should offer that policy as a model for other agencies who have not taken similar precautions.
4. DMHC and DHS must develop and adopt the dispositional review procedures required by 34 M RSA §266 and 267 and 15 M RSA §3315.
5. DMHC must develop and adopt the appeals procedures required in 34 M RSA §262.
6. DMHC should work with agencies to develop any necessary agency referral procedures.
7. DHS should seriously assess its ability to respond effectively to the increasing number of juvenile referrals it will experience as a result of the Code. The Department should document its present inadequacies and request an appropriation from the next Legislature that will provide a more satisfactory level of services.

8. An independent organization should be established to continue monitoring the operation of the Code and to serve as an advisory committee to DMHC and the Legislature.

DETENTION

GOAL #2 COMPARE THE NATURE AND EXTENT OF DETENTION PRACTICES BEFORE AND AFTER THE NEW CODE INCLUDING THE AVAILABILITY OF FACILITIES, PROBLEMS WITH DETENTION AND RELEASE CRITERIA, AND POSSIBLE ABUSES OF THE DETENTION SYSTEM.

FINDINGS

1. The Code requires intake workers and judges to detain juveniles in the least restrictive facility. The Committee has learned of at least one case where a juvenile was detained at the County Jail for possession of marijuana.
2. The Code does not authorize a detention for the purpose of conducting a psychological evaluation. However, a number of judges are continuing to order detentions for that purpose.
3. The Code requires a detention review hearing within 48 hours for any juvenile placed in a detention facility. This provision caused some confusion when juveniles were detained and then released before the expiration of the 48-hour period. Some intake workers were petitioning for judicial review even after release. The Juvenile Intake supervisor has issued a memo stating that review is necessary only where the intake worker is requesting continued detention.
4. In many instances where continued detention is being sought, the intake worker has not requested a petition against the juveniles by the time of the hearing. In Portland, judges and intake workers have agreed that a juvenile will be released if an intake worker has not requested a petition within two weeks of the hearing.

5. The detention hearings have created an additional strain on overburdened Portland District Court personnel

RECOMMENDATIONS

1. Title 15 MRSA §3203(4) (C) (2), which permits detention in order to provide physical care to a juvenile who cannot return home, should be repealed.
2. Juvenile court judges should not order detentions at MYC solely for the purpose of conducting psychological evaluations, because the Code does not authorize such orders.
3. If a juvenile is detained at MYC for a reason listed in the Code, and the court wants to order an evaluation, the Court should first secure the consent of the juvenile and parents, after permitting them to seek legal advice from retained or appointed counsel. The MYC staff should give these juveniles priority; the court should not extend a detention period solely for the purpose of completing an evaluation.
4. The Portland District Court should evaluate existing staff and scheduling and request additional funding for staff if necessary.
5. Either the Legislature should amend the Code or DMHC should adopt a statewide administrative policy so that juvenile court judges need only review detention decisions in cases where an intake worker intends to request continued detention.
6. An independent committee should continue to monitor detention practices statewide to ensure that intake workers and judges are detaining juveniles in the least restrictive facility.
7. When the court orders continued detention in cases where the intake worker has not yet requested a petition, the court should require the worker to make a petition decision within five days of the hearing. If no request is forthcoming, the court should review its detention order.

8. DMHC should evaluate the need for alternative pre-hearing shelters statewide.

ROLE OF THE INTAKE WORKER

GOAL #3 COMPARE THE ACTUAL ROLE OF THE INTAKE WORKER WITH THE ROLE INTENDED AND STATUTORILY MANDATED BY THE LEGISLATURE; REVIEW THE MANNER IN WHICH INFORMAL ADJUSTMENTS OPERATE.

FINDINGS

1. The degree to which intake workers are able to provide direct services to juveniles will depend on the size of their caseloads and the availability of community resources.
2. The Code requires that intake workers conduct a preliminary investigation of all cases referred to them, except those excluded by the Code. The District I Intake Supervisor has issued a memo requiring intake workers to waive a preliminary investigation and request a petition if the case falls within any of seven different categories, only two of which are authorized by the Code.
3. The Code requires law enforcement officials who have taken a juvenile into interim care to refer that juvenile to an intake worker. However, many law enforcement officials are making direct referrals to DHS.
4. Juveniles generally have no legal responsibility at the informal adjustment stage.
5. Intake workers have wide discretion in determining which cases are appropriate for informal adjustment and what conditions are appropriate.
6. A juvenile apparently has no right under the Code to appeal specific conditions of informal adjustment or an intake worker's decision to terminate an informal adjustment agreement.

7. Juvenile arrest data for July and August of 1977 and 1978 indicates that law enforcement officials are handling approximately the same number of cases "within the department", both pre- and post- Code.

RECOMMENDATIONS

1. A new Uniform Crime Reporting dispositional category should be created and designated: "Referred to intake worker (Disposition #6)".
2. The Legislature should amend 15 M.R.S.A. §3501(5) to permit law enforcement officials to refer interim care cases either to an intake worker or to DHS. Where an officer makes a direct referral to DHS, the Code should require that officer to file a report with the appropriate local intake worker.
3. Intake workers should conduct a preliminary investigation in all cases referred to them except those specifically exempted by the Code, in order to ensure that each case is viewed on its own merits.
4. DMHC should develop written criteria for intake workers to use in determining whether informal adjustment is appropriate.
5. An independent committee should monitor the informal adjustment process for one year to determine the need for an administrative procedure permitting juvenile appeals from (1) intake decisions to impose particular conditions of informal adjustment and (2) intake decisions to terminate an informal adjustment agreement and request a petition.
6. DMHC should revise its intake forms to permit the collection of the following data: (1) whether the DA overrules an informal adjustment decision; (2) whether the DA, victim, or police officer requested that an informal adjustment decision be overruled; (3) the outcome of a detention review hearing; (4) whether the intake worker ordered the juvenile's release within 48 hours of an initial decision to detain.

7. DMHC must provide adequate monitoring and supervision of intake worker caseloads to ensure that community resources are being used and that intake workers are not trying to assume too great a direct services role.

DISPOSITIONAL ALTERNATIVES

GOAL #4 COMPARE THE KINDS OF DISPOSITIONAL ALTERNATIVES USED BY JUDGES BEFORE AND AFTER THE NEW CODE.

FINDINGS

1. The Code authorizes "split sentences" but does not permit them to be served at the Youth Center. However, at least one split sentence has been served at MYC.
2. The Code does not allow judges to commit juveniles to MYC for possession of marijuana or alcohol. However, it does allow a commitment to MYC where the possession constitutes a violation of the terms of the juvenile's probation.
3. The programs at MYC are currently geared to juveniles serving indeterminate sentences, although a judge may commit a juvenile to MYC for a specific term shorter than the term usually served by juveniles committed to MYC for an indefinite period.
4. An extensive restitution program has been developed for the Portland area which could serve as a model for similar projects around the state.

RECOMMENDATIONS

1. The use of split sentences should be monitored to ensure that none are being served at MYC.
2. Dispositions ordered for drug and alcohol possession offenses should be monitored to ensure that no judges are sentencing these offenders to MYC or another secure facility, except where the offense constitutes a violation of probation.

3. The Court Administrator should amend the mittimus forms to enable and require judges to provide more information to MYC officials about the kind of program envisioned for a particular juvenile.
4. The juvenile court judges should assist DMHC in documenting the kinds of programs and facilities necessary for effective dispositions.
5. DMHC should develop a plan for an alternative program to handle juveniles whom the court would otherwise commit to MYC for determinate (short-term) sentences.
6. The Legislature should take appropriate action to resolve the apparent conflict between 15 MRSA §3310 and 3312.
7. Judges should increasingly consider restitution as an effective dispositional alternative, and order it where appropriate.
8. DMHC should develop restitution projects statewide using the Program For Adolescent Responsibility in Portland as a model.

SOCIAL SERVICES

GOAL #5 DETERMINE THE EXTENT OF SOCIAL SERVICES AVAILABLE TO MEET THE NEEDS OF JUVENILE REFERRALS UNDER THE CODE, THE IMPACT OF THE CODE ON THE ABILITY OF SERVICE PROVIDERS TO MEET THOSE NEEDS, AND THE KINDS OF NEW PROGRAMS THAT SHOULD BE IMPLEMENTED TO MEET THE CODE'S MANDATES.

FINDINGS

1. Many social service agencies do not maintain records that can provide meaningful referral statistics. Some agencies do not keep any organized referral records.
2. Intake workers apparently have not made many referrals to the various community service agencies.

3. Several of the agencies in the Portland area have long lists of people waiting to enter their programs.
4. A shortage of foster homes, group homes, and semi-independent living arrangements for teenagers, especially females, currently exists. Additional jobs and placement services for juveniles are also needed.

RECOMMENDATIONS

1. DMHC should suggest minimum standards for agency record-keeping.
2. DMHC should require intake workers to assist in documenting juvenile service needs. The Department should also request similar assistance from the courts.
3. The Legislature should request data from DHS documenting the need for additional caseworkers and shelter facilities, especially for teenage referrals. The Legislature should approve increased funding to enable DHS to meet immediately the service needs of all juvenile referrals.
4. DMHC should annually review and update the resource information provided to intake workers to ensure that the workers have complete and accurate knowledge of the community resources available, their capabilities, their eligibility requirements, and their referral procedures.
5. DMHC should encourage intake worker referrals to the Portland Program For Adolescent Responsibility and The Portland Youth Opportunities Office.
6. DMHC should work with agencies to develop and secure funding for additional youth employment programs, alternative living arrangements for teenagers, and an alternative to MYC for juveniles serving determinate sentences.
7. The Legislature should amend the Code to require that the services required by the Code be funded at a realistic level, rather than merely "within the limits of available funding".

COURT ADMINISTRATION

GOAL #6 DETERMINE NECESSARY CHANGES IN THE ADMINISTRATION OF JUVENILE COURT.

FINDINGS

1. Scheduling conflicts in the Portland District Court during the summer left the Juvenile Court without a judge in a number of instances.
2. Two court reporters serve both the District Court criminal cases and the Juvenile Court.
3. The new Code requires the preparation of several additional forms for law enforcement officials to serve. There apparently is a considerable amount of duplication of information among the various forms.
4. The juvenile court judges appoint counsel for most of the juveniles who appear in Juvenile Court.

RECOMMENDATIONS

1. The Court Administrator should modify existing juvenile court forms, after consulting with the various people who use them.
2. The court administrator should review existing personnel to determine whether an additional court reporter and juvenile judge would be justified for Cumberland County.
3. The Court Administrator should evaluate the juvenile court system and take necessary steps to resolve scheduling problems that arise, particularly in the summer.

JUVENILE RIGHTS

GOAL #7 DETERMINE THE EXTENT TO WHICH MANDATED STATUTORY AND CONSTITUTIONAL RIGHTS ARE ACTUALLY BEING AFFORDED JUVENILES AND THE EFFECT ON THE JUVENILE JUSTICE SYSTEM.

FINDINGS

1. The Code requires a verbatim record of all juvenile proceedings. The various courts in Cumberland County are apparently complying with this provision.
2. Attorneys observe the Maine Rules of Evidence to varying degrees in juvenile proceedings.
3. Juvenile court judges in Portland frequently do not inform a juvenile of his/her right to appeal from an order of continued detention.
4. The nature of judicial "findings" varies with each judge.
5. Attorneys for juvenile defendants generally do not appear to have prepared extensively for their clients' hearings. Perhaps the low fee (a flat \$50 per case) has something to do with this.
6. The assistant district attorney for Juvenile Court in Portland often is not present to conduct the State's case in detention hearings and uncontested adjudicatory proceedings.

RECOMMENDATIONS

1. Juvenile judges should supply more complete statements of the findings and reasons supporting a particular detention, adjudicatory, or dispositional order.
2. Judges should advise juveniles of their right to appeal a detention order.
3. Attorneys appointed in juvenile cases should contact their clients earlier and prepare more thoroughly.
4. The Legislature should appropriate additional funding to increase attorney's fees in juvenile cases. The court should consider awarding fees on an hourly basis.
5. Juvenile judges should take a neutral position during juvenile hearings and require the attorney for the State to conduct the State's case.

EDUCATION

GOAL #8 ASCERTAIN THE EXTENT OF FORMAL OR INFORMAL TRAINING ABOUT THE CODE RECEIVED BY THOSE WHO WORK DIRECTLY WITH JUVENILES AND DETERMINE WHETHER ADDITIONAL TRAINING IS NECESSARY.

FINDINGS

1. The intake workers received just one week of formal orientation prior to assuming their duties on July 1, 1978.
2. The only official training regarding the new Code provided to law enforcement officers was a series of one evening seminars around the State conducted by the District Attorneys.
3. No educational tools have been provided to social service agencies, juveniles, judges, or attorneys, except copies of the Code prepared by the Maine Criminal Justice Planning and Assistance Agency. However, these were not widely distributed.

RECOMMENDATIONS

1. DMHC should supply copies of the Code to all agencies that serve juveniles. DMHC representatives should meet with these agencies to discuss their respective roles under the Code.
2. DMHC should assess the current level of intake worker familiarity with community resources and take immediate steps to supplement that knowledge where necessary.
3. The District Attorneys, Attorney General's Office, or MCJPAA should prepare a concise handbook for police officers to carry while on duty.
4. The University of Maine juvenile handbook should be distributed to juveniles and social service agencies.
5. The Attorney General's Office, Pine Tree Legal Assistance or MCJPAA should prepare a concise handbook for juvenile judges and attorneys. The Maine Bar Association should sponsor a seminar on the new Juvenile Code.

BINDOVER

GOAL #9 COMPARE THE EASE WITH WHICH JUVENILE CASES COULD BE BOUND OVER UNDER THE OLD CODE AND THE EASE OF BINDOVER UNDER THE NEW CODE.

FINDINGS 1. Not enough bindover activity has occurred since July 1, 1978 to make any generalizations about the Code's effectiveness in this respect.

RECOMMENDATIONS 1. An independent organization should continue to monitor bindover activities to determine how successful the new provision is and what problems exist.

OPEN HEARINGS

GOAL #10 DETERMINE THE EFFECT OF THE OPEN HEARINGS ON JUVENILES.

FINDINGS 1. Neither the public nor the press has shown any real interest in attending open juvenile hearings or gaining access to records

RECOMMENDATIONS 1. An independent organization should monitor the extent to which the press and public are seeking access to juvenile hearings and records and determine what effects, both adverse and beneficial, have resulted.

2. The court should ensure that members of the public seeking access to those records and hearings required to be open under the Code are granted that access by court personnel.

REHABILITATION

GOAL #11 DETERMINE THE EXTENT OF REHABILITATIVE SUCCESS RESULTING FROM THE NEW INTAKE SYSTEM AND NEW RANGE OF DISPOSITIONAL ALTERNATIVES.

FINDINGS

1. DMHC and DHS are developing a "tracking system" to help measure the rehabilitative success of the new Code.
2. MYC is implementing a "reality therapy program" designed to reduce juvenile recidivism by instilling a greater sense of responsibility on juvenile offenders for their acts and by providing a greater degree of follow-up once the juvenile returns to the community.

RECOMMENDATIONS

1. DMHC should develop a "tracking" system to monitor repeat offenders using records maintained by intake workers, the juvenile courts, and DHS.

CONCLUSION

After three somewhat rocky months of operation, Maine's new Juvenile Code is starting to work as intended. Local police departments are now generally cooperating with juvenile intake workers in making referrals and recommending appropriate dispositions. Intake workers and social service providers are beginning to discuss and understand their respective roles in the pre-adjudication screening process. Moreover, available statistics tend to show that intake workers are having a position impact on both the number and location of pre-adjudication detentions and on the number of cases petitioned to court.

However, the Code Committee has noted in this report a number of incidents practices which violate either the letter or the spirit of the new Code, or which pose serious obstacles to its success. These include arrangements between DMHC and DHS regarding runaway referrals and intake referrals to emergency shelters, a DMHC policy regarding preliminary investigations, DMHC's failure to develop various administrative appeals procedures, the general lack of shelter care facilities available for teenage referrals, and the failure of intake workers to utilize available community resources effectively.

The consensus of those who work with the Juvenile Code on a daily basis is that only after a year we will have a solid understanding of the Code's successes and failures. This report is an attempt to pinpoint current problems in the hope that DMHC can take corrective action before these problems become ingrained in the system. It is also an effort to establish a foundation for continued monitoring of the Code during the coming year.

With this in mind, the Code Committee has recommended that a new independent committee be appointed to conduct continued monitoring. This new committee's primary task would be to ensure the implementation of the recommendations found in this report, as well as to identify any other problems with the Code's operation. Since this report fails to consider the role of local schools in relation to juvenile offenders, the new committee should also address that issue.

The Department of Mental Health and Corrections has not fulfilled all of its obligations under the Code. Its biggest challenge lies ahead - the completion of its first annual prevention and rehabilitation plan. The ultimate success or failure of the Code probably depends upon the Department's success of assessing existing social services and in obtaining funding for the improvement of inadequate or non-existent programs. It is critical that members of the juvenile justice community support the Department in such an effort. The quality and quantity of social services available for juveniles must improve in the near future if the transformation in our methods of handling juvenile offenders designed by the Code Commission and Legislature is ever to become a practical reality.

COPIES OF THE APPENDICES TO THIS REPORT

ARE AVAILABLE FOR REVIEW UPON REQUEST TO THE UNITED WAY

SECTION III. COMPLETE FINDINGS AND RECOMMENDATIONS OF THE JUVENILE CODE COMMITTEE

DEPARTMENT OF MENTAL HEALTH AND CORRECTIONS/DEPARTMENT OF HUMAN SERVICES

RESPONSIBILITIES

GOAL #1 DETERMINE THE EXTENT OF DMHC DATA COLLECTION AND THE EXTENT OF DMHC AND DHS COMPLIANCE WITH THE CODE'S MANDATES REGARDING DEVELOPMENT OF (1) RULES AND REGULATIONS FOR DISPOSITIONAL REVIEWS, GRIEVANCE HEARINGS, AND INTAKE REFERRALS, AND (2) AN ADMINISTRATIVE PLAN FOR PREVENTION AND REHABILITATION.

FINDINGS

A. Responsibilities Delegated Under The Code To The Department of Mental Health and Corrections.

(1) Statutory Responsibilities

The primary responsibility for evaluating existing services to juveniles and for proposing and ensuring the provision of new services to juveniles and their families was assigned to DMHC, "within the limits of available funding". Title 34, section 261 requires the Department to gather information on the kinds of young people who come into contact with the juvenile court system, their present and past service needs, and the extent to which these needs are being met. Section 266(1) of that Title also authorizes the Commissioner of DMHC to request periodic reports from the directors of facilities and programs operated by the Department and from those with which the Department contracts for services. Section 262 mandates that DMHC document and prepare a prevention and rehabilitation plan on an annual basis beginning January 1, 1979. The Code specifically states that in providing services, the Department shall coordinate its efforts with other State, local, public, and voluntary agencies "in order to effectively use

all existing resources to the maximum extent possible" (34MRSA §262(1)(C) and (D)).

Under Section 262(4), the Department must establish procedures allowing a young person and his/her parent(s) to appeal a decision that: (1) denied or excluded them from services to which they may be entitled; (2) prevented a right of choice of specific programs; or (3) forced involuntary participation in a service program.

DMHC must also promulgate rules governing the six-month and twelve-month dispositional reviews that the Code requires for all juveniles committed to its custody. The provision for twelve-month dispositional reviews applies to juveniles committed both before and after July 1, 1978. The six-month review is required not only for programs and facilities operated by the Department, but also those with which it contracts (34 MRSA §266(2) and (3), 34 MRSA §267, and 15 MRSA §3315).

In view of the importance and complexity of these new Juvenile Code mandates, DMHC should have utilized to fuller advantage the one year period that elapsed between enactment of the Code and its effective date. Apparently the Department focused all of its energies during that time on negotiations with the State's personnel office to establish an appropriate classification for juvenile intake workers, as well as on drafting a job description and intake procedures. Admittedly, these are important tasks. However, the Department could have also started to develop mandated procedures and to contact agencies about collecting and submitting data.

(2) Prevention and Rehabilitation Plan Progress

Recent conversations with DMHC officials and other research indicate that the Department has not made much progress in developing the annual prevention and rehabilitation plan required by section 262 of Title 34. To determine the extent

of DMHC's efforts to secure the cooperation of local agencies in preparing this plan, the Code Committee surveyed 25 agencies in the Portland and Bridgton areas. Of the 18 agencies which responded, only four were already providing DMHC with some sort of statistics: (1) Maine Youth Center (Daily Census Report); (2) Cumberland County CETA (final statistics on "Project Thruway"); (3) Fair Harbor; and (4) Little Brothers Association (records of the number and sources of referrals). Approximately six of the service providers who responded do not maintain referral records. There is no uniformity from agency to agency regarding the kind and method of data collection. (See Appendix F, Table I, Agency Questionnaire Responses).

The keystone of the new Code is the recognition that many juveniles can be diverted from delinquent behavior or rehabilitated if the system can provide them with services to fit their individual needs. The purpose of the prevention and rehabilitation plan is to determine what existing services are adequate, what services need improvement, and what services are needed that do not currently exist. Unless DMHC begins making a serious effort to gather information, it will be hard-pressed to document the severe needs of youthful offenders and to develop a meaningful prevention and rehabilitation plan by January 1979. Without a serious plan for the improvement and effective utilization of community resources, the philosophies of the new Code will never become a reality.

(3) Agency Referral Procedures

Lack of adequate procedures for receiving referrals from intake workers apparently continues to pose a problem for at least three agencies. The Portland Program for Adolescent Responsibility (PAR) still needs referral procedures for its pre-adjudication

restitution program; negotiations with DMHC seem to be moving slowly. The emergency shelters, Fair Harbor and Little Brothers, are faced with an awkward situation with regard to referrals from intake workers. Legal counsel for the shelters has interpreted a 1977 statute² as requiring the shelters to obtain the consent of the Department of Human Services before accepting a juvenile referral. Both DMHC and DHS argue that 15 MRSA §3502(2) (A), authorizing intake workers to make "emergency placements" pursuant to departmental procedures, supercedes this consent requirement. DHS has suggested that either an amendment to the 1977 statute or an inter-agency agreement would resolve the dispute satisfactorily.

-
2. "Short-Term Emergency Shelters For Children Act", 22 MRSA §3891-A to 3891-F (Supp., 1977).

§3891-B. Authorization

1. Authorized to provide short-term emergency services. The Department of Human Services is authorized to provide short-term emergency services to any child who is, or appears to be:
 - A. Abused, neglected or otherwise seriously endangered; or
 - B. A runaway from the care and custody of his parents.

The services may be provided directly or through contracts or agreements with agencies.

2. Authorized to give legal consent to receive emergency medical treatment.

The Department is also authorized to give legal consent for the child to receive any emergency medical treatment the child needs while receiving short-term emergency services, if the parents are unavailable to give consent for that treatment. No recovery shall be allowed against any physician or any health care provider upon the grounds that the emergency medical treatment was rendered without the informed consent of the child or the child's parents when the Department gave its consent for the child to receive that emergency medical treatment.

(4) Procedures For Appeals and Dispositional Reviews

DMHC apparently has done very little to develop either the required appeals procedures or the regulations governing six-month and twelve-month dispositional reviews of committed juveniles. These procedures are crucial from both a substantive and a procedural due process standpoint. The Code envisions procedures that: (1) clearly indicate to the juvenile the factors and methods used to decide whether to provide or deny services to him/her; (2) establish a mechanism which enables the juvenile to challenge a decision; and (3) notify the juvenile and his/her family of their right to raise such an appeal.

With regard to dispositional reviews, it is not entirely clear which agencies the Code intended to require to conduct the six month reviews. Nor does the Code expressly state from what date the twelve-month review period is supposed to run for juveniles adjudicated prior to July 1, 1978. However, since 34 MRSA §267 does not require DMHC to develop guidelines for the six-month reviews until January 1979, it is reasonable to conclude that the twelve-month period begins to run on July 1, 1978 for pre- Code adjudications, rather than on the anniversary of those adjudications.

(5) Cooperative Efforts Between DMHC and DHS

Recently, DMHC and DHS worked together to establish a method for tracking referrals from juvenile intake workers to Human Services caseworkers. DMHC will modify its intake forms to provide a space for the juvenile's social security number; DHS apparently already records that information.

2. (Continued)

Underlying the consent issue are several more important considerations. Once DHS grants consent, thereby assuming temporary custody of the juvenile, greater leverage exists for those advocating a thorough protective investigation and provision of services. The Department also assumes some of the liability of injury or damage to an individual or property resulting from the placement.

Historically, DMHC and DHS have not worked cooperatively in providing services to juveniles. The Code offers an opportunity to change this relationship - and in fact requires it. However, while the Code Committee supports the use of a tracking system to ensure the delivery of services to juvenile referrals and to hold the Departments accountable, the Committee has grave reservations about the use of social security numbers. Such a system can be easily "cracked" and confidential information secured by unauthorized persons.

Another arrangement between the two Departments permits the intake "duty worker" to receive after-hour referrals from the police on the DHS 24-hour toll free "hotline". The "duty worker" intake worker assigned to handle referrals for the whole state between 5:00 p.m. and 8:00 a.m. for a given week. Each local intake worker ("area worker") serves in this capacity once every 21 weeks.

(6) Confidentiality Policy

The Department of Mental Health and Corrections has also made an effort to develop and enforce a uniform policy governing confidentiality of juvenile records. The Department has submitted a number of questions to the Attorney General's office toward this end.

B. Responsibilities Held By DHS Under The Code

The following is a discussion of items that have negative implications for the performance of DHS' Code responsibilities and the normal flow of services.

(1) Code Provisions

Under the new Code the police can no longer arrest a juvenile merely for running away from home because the Legislature removed "runaway" from the list of juvenile offenses. This is a major departure from the old law.

The statute now permits (but does not require) a law enforcement officer to take a juvenile into "interim care" if the officer has reasonable grounds to believe that the juvenile is abandoned or endangered or if the juvenile has run away from home. Once the officer decides to take the juvenile into interim care, the officer must then refer the juvenile to an intake worker. The intake worker must then contact DHS in cases where a juvenile either refuses to return home (15 MRSA §3504) or where the parent(s) will not permit the juvenile's return (15 MRSA §3505). The Code requires DHS to perform a needs assessment of the juvenile and the family. In addition, when a parent refuses to allow the child to return home, the Department must decide whether a petition for protective custody is appropriate. Where protective custody is necessary, DHS must provide substitute care placements and other services "within the limits of available funding" (15 MRSA §3508). It must also conduct an annual review of each juvenile committed to its custody (15 MRSA §3315).

(2) DHS/DMHC Agreement

The director of the Region I office of DHS and the Juvenile Intake Supervisor (DMHC) have apparently reached an informal agreement regarding runaways who are suspected of or charged with a juvenile offense. An intake worker cannot refer a youth to DHS until the worker decides that no petition is necessary. Where no offense is involved, and the youth cannot go home, the case is referred immediately to Human Services. The effect of this agreement is an administrative narrowing of the Code's interim care provision.

One question that this agreement raises is whether an intake worker will be pressured into an inappropriate decision about the best

disposition for a juvenile solely because it was the quickest or most effective way to get needed services from DHS. Will an intake worker feel compelled to release or informally adjust a serious offender who is in desperate need of assistance from DHS? For example, an abused and neglected juvenile who runs away and steals a car must be handled by an intake worker and cannot be referred to DHS for services until the juvenile is adjudicated - unless the intake worker decides to release or informally adjust the juvenile instead. This agreement creates an artificial distinction between two classes of runaway juveniles who both may have the same basic problem and needs. It is conducive to territoriality rather than coordination of services and poses a real obstacle to uniform screening by intake workers.

(3) Case Classification Schema

Upon receiving a referral from an intake worker, DHS must conduct an investigation within ten days to determine the presence of abuse or neglect. If abuse or neglect is involved, the Department will accept the case. The speed with which DHS provides services is determined in part by the area from which the referral was made³ and in part by the degree of danger facing the juvenile.

DHS Region I has devised a method for assigning priority to the cases it accepts - the "Region I Protective Case Classification Schema". Although not yet officially accepted policy, most Region I caseworkers are using the schema to determine which cases they must handle promptly and which can wait. The schema's four categories are:

-
3. Caseloads in York and outer-Cumberland counties are lower than in Portland, so services are provided at a faster rate in those areas.

1. Life Threatening or Bodily Injury - indicating that a child's life or body is threatened with physical harm. This direct threat to the child's person clearly implies that the case is extremely serious and demands priority attention.
2. Growth Inhibiting - indicating that a child's welfare is being harmed by the absence of a good, wholesome, nurturing environment. This threat to the child's growth and well-being implies that the case is serious and demands attention, but the magnitude of the threat is not as great as in the first category.
3. Child In "C-2" Status - child who has been in the Department's custody for less than one year; efforts are underway to facilitate return home or complete separation.
4. At Risk - indicating that a child's welfare is likely to be harmed by some stress or crisis in the family if not resolved. This threat to the child's growth and well-being implies that the case is serious, but because the nature of the threat is a judgment about the future of that well-being, the case must wait until we attend to higher priorities.⁴

According to the assistant director of the Region I Office, DHS would probably rank most intake worker referrals in categories two or four, which are the Department's third and fourth priorities, respectively. Therefore, almost all juvenile referrals will be last in line for the Department's services.

4. Drafted by Peter Morgan, Assistant Director, DHS, Region I; issued April 20, 1978.

One very encouraging development is that the Governor and Commissioner of Human Services recently allocated an additional \$250,000 to the Department to fund 28 child protective caseworkers and 15 protective clerical workers statewide. This should decrease the caseloads of protective service caseworkers from 38 to 25 per worker. This should expedite the provision of services to juvenile referrals, at least in cases where delay is not due to lack of shelter facilities or other programs.

(4) At The State Level

The Department of Human Services appears to be making no real effort to meet the procedural mandates of the Code. The protective services consultant from the Central Office of DHS has stated that with the exception of emergency referrals, DHS has no statewide policy on how to handle runaways. Decisions are currently made on a regional basis, although an inter-departmental coordinating team has apparently been created to establish procedures that are intended to achieve greater uniformity. This team has been relatively inactive to date. The consultant has informed the Code Committee that although DHS has a planning capability, so it is doubtful that the Central Office is preparing to conduct an impact evaluation of the Code. Also, neither the Region I assistant director nor the consultant was aware of any procedures that DHS has developed for implementation of the annual dispositional reviews mandated by the Code (15 MRS §3315).

RECOMMENDATIONS The Juvenile Code Committee recommends the following:

1. DMHC SHOULD DETERMINE WHAT DATA IT NEEDS TO PREPARE ITS ANNUAL PREVENTION AND REHABILITATION PLAN AND SHOULD FORMALLY REQUEST THAT DATA FROM SERVICE PROVIDERS.

DMHS should pinpoint those agencies that are not presently maintaining referral data and request them to do so. DMHC should provide technical assistance

Some of these reviews must occur upon expiration of six months, which is quickly approaching for those juveniles adjudicated during July 1978. DMHC and DHS should develop review procedures that clearly indicate how they will divide whether to modify a disposition. (See related discussion in Recommendation #4.) The Department should provide an opportunity for public comment before adopting any procedure.

5. DMHC MUST DEVELOP AND ADOPT THE APPEALS PROCEDURES REQUIRED IN 34 MRSa §262.

In light of the Code's emphasis on diverting juveniles away from the court system, the timely adoption of an administrative appeals procedure is as important as that for an appeal from a judicial order. At both levels, the juvenile's service needs and freedom of movement are similarly affected. At the administrative level, however, juveniles and their families usually have no legal counsel. Thus if the Department tells a juvenile that services are unavailable or that he/she does not qualify, the average juvenile probably would not pursue the matter any further. DMHC should give high priority to the development of decision-making standards and appeals procedures, allow public input into their content, and require that all affected juveniles and their parents receive notice of their right to appeal.

6. DMHC MUST WORK WITH AGENCIES TO DEVELOP ANY NECESSARY AGENCY REFERRAL PROCEDURES..

DMHC must demonstrate a greater spirit of cooperation toward agencies which request assistance in developing specific procedures to handle referrals from intake workers. While this is not an important concern for some agencies, to others it is so critical that they may withhold services to juveniles until the task is accomplished. DMHC should ascertain which agencies require referral agreements and then work quickly to satisfy their requirements. In particular, DMHC, DHS and the shelters should work together to propose a legislative solution to the consent issue.

7. DHS SHOULD SERIOUSLY ASSESS ITS ABILITY TO RESPOND EFFECTIVELY TO THE INCREASING NUMBER OF JUVENILE REFERRALS IT WILL EXPERIENCE AS A RESULT OF THE CODE. THE DEPARTMENT SHOULD DOCUMENT ITS PRESENT INADEQUACIES AND REQUEST AN APPROPRIATION FROM THE NEXT LEGISLATURE THAT WILL PROVIDE A MORE SATISFACTORY LEVEL OF SERVICES.

As a result of the Code, an increasing number of juvenile referrals, particularly teenagers, will be called to the attention of DHS. Under present conditions of inadequate funding and insufficient resources, the Department must treat these referrals as a low priority. Often this means great delay before a juvenile receives needed services. DHS must prepare and present a strong case to the Legislature in order to obtain the funding necessary to successfully implement the new Juvenile Code. DHS should be able to accept referrals of all juveniles in need of its services. DHS should not be allowed to exclude juvenile referrals solely because the juvenile is charged with a juvenile offense.

8. AN INDEPENDENT ORGANIZATION SHOULD BE ESTABLISHED TO CONTINUE MONITORING THE OPERATION OF THE CODE AND TO SERVE AS AN ADVISORY COMMITTEE TO DMHC AND THE LEGISLATURE.

The Governor should appoint a special committee to monitor the Code's operation and to advise DMHC and the Legislature on a continuing basis. Committee membership should include a representative from DMHC, DHS, the Office of the Court Administrator, the Sheriff's Department, Maine Police Chiefs Association, Maine Civil Liberties Union, Pine Tree Legal Assistance, the Maine Legislature, the District Attorney's office, a defense attorney, public schools, Maine Youth Center, and at least five local agencies serving youth, such as Maine Children's Coalition, Youth-In-Action, Program For Adolescent Responsibility, Fair Harbor or Little Brothers Association, Boys' Club, Community

Health Services Children's Unit. The Committee should include representatives from across the state.

The Committee should retain a consultant to assist with necessary research, possibly using MCJPAA funding. It should meet on a regular basis, and should structure its monitoring activities around the goals listed in this Juvenile Code Committee report, as well as any additional goals the new Committee might devise. The work of this new Committee should continue for at least a year in order to secure sufficient data on which to base firm conclusions about the Code's success or failure.

DETENTION

GOAL #2 COMPARE THE NATURE AND EXTENT OF DETENTION PRACTICES BEFORE AND AFTER THE NEW CODE, INCLUDING THE AVAILABILITY OF FACILITIES, PROBLEMS WITH DETENTION AND RELEASE CRITERIA, AND POSSIBLE ABUSES OF THE DETENTION SYSTEM.

FINDINGS

1. Pre-Code Practices

Prior to July 1, 1978, Maine Youth Center served as the State's primary hold-for-court facility. A youth could be held there involuntarily either because release on bail was deemed inappropriate, or because a judge ordered a diagnosis and evaluation of the juvenile pending an adjudicatory hearing and disposition. A law enforcement officer could directly request a detention at Maine Youth Center, provided the officer obtained a "hold order" from a juvenile court judge validating the detention on the next business day of court. This raised questions about the appropriate use of detention. For example, practically speaking, the police could detain young people arrested in the Bridgton area up to five days without court approval since that District Court only convenes once a week.⁵

5. United Way Substitute Care Task Force, Children and Families At Risk In Cumberland County, Page 50, (1976).

Under the old statute, county jails were also inappropriately used for pre-adjudication detentions. Status offenders as well as non-status offenders were held in those secure facilities. So, too, were virtually all female juvenile detainees, until the opening of Fair Harbor Emergency Shelter in August 1974. With the closing of York County Jail in 1975, all adult and juvenile offenders from that county were transported to Cumberland County, increasing the burden on the County Jail. As a result, the County Sheriff established a policy of accepting juvenile detainees only when (1) MYC was full, (2) a juvenile was extremely assaultive or dangerous, or (3) the court ordered detention at the jail. The result was a shifting of some juvenile detainees to the Youth Center. However, many juveniles of both sexes continued to be held at county jails unnecessarily or inappropriately.

TABLE II-A

CUMBERLAND COUNTY JAIL DETENTION STATISTICS

	1973	1974	1975	1976	1977	FY (July & August) 1978
TOTAL #						
OF JUVENILES DETAINED	Approx. 20 per month	Approx. 22 per month	Approx. 5 per month	Unavailable	Unavailable	Approximately 14 per month

Statistics available from the Youth Center for fiscal year 1977 indicate that nearly 600 juveniles were temporarily held at the Maine Youth Center pending court appearances. The Youth Center conducted approximately 353 psychological evaluations during that same period. It is uncertain how many of these evaluations

were ordered by a judge while the juvenile was being held for court.⁶ (See Table II-C).

2. Code Provisions

In adopting 15 MRSA §3203 of the Maine Juvenile Code, the Legislature intended that arrested juveniles be detained only for very specific reasons and only for a maximum of 48 hours, unless the court ordered continued detention following a hearing. Where a police officer refers a juvenile to an intake worker for petition for detention pending an initial court appearance, the language of the Code suggests that the intake worker should release the juvenile whenever possible, either unconditionally, or upon the least burdensome of the following conditions (either alone or in combination) necessary to ensure the juvenile's appearance in court (15 MRSA §3203(4)(B)):

1. The juvenile promises to appear for subsequent proceedings;
2. The parents or guardian provide a written promise to produce the juvenile for court;
3. Placement of the juvenile into the care of a responsible person or organization;
4. Prescribed conditions, reasonably related to securing the juvenile's presence in court, restricting the juvenile's activities, associations, residence or travel; or
5. Any other conditions reasonably related to securing the juvenile's presence in court.

6. United Way Juvenile Code Committee questionnaire completed and returned by Richard Wyse, Superintendent, Maine Youth Center, September 1978.

Where an intake worker decides that he/she must detain a juvenile, the worker may order detention only for one of the following reasons (15 MRSA §3203(4) (C)):

1. To ensure the juvenile's presence at subsequent proceedings;
2. To provide physical care for a juvenile who has no parent or other suitable person willing and able to supervise and care for him/her;
3. To prevent the juvenile from harming or intimidating a witness or interrupting court proceedings;
4. To prevent the juvenile from inflicting bodily harm on others;
5. To protect the juvenile from an immediate threat of bodily harm.

In ordering detention, the intake worker must select the least restrictive residential setting that will adequately serve the purpose. Where the intake worker detains the youth in a secure adult facility, the facility must have an approved section for juveniles and an adequate staff that can supervise the youth's activities at all times and prevent regular contact between the juvenile and adult inmates or detainees. (15 MRSA §3203(7)).

Within 48 hours of a juvenile's placement in a detention facility, the intake worker must petition the court for review of that decision. The court must order release of the juvenile unless it finds, by a preponderance of the evidence, that detention is still necessary for one of the reasons enumerated above (15 MRSA §3203(5)). It is important for the judge to bear in mind the Code's "least restrictive facility" requirement when reviewing or ordering detention.

3. Detention Statistics

The purpose of the increased formality of detention procedures is to eliminate some of the abuses of the past and ensure greater statewide uniformity in dealing with young people as they enter the juvenile justice system.

TABLE II-B

JUVENILE DETENTION STATISTICS FOR CUMBERLAND COUNTY

	HELD-FOR COURT AT MYC	TRANSPORTED MORE THAN 50 MILES TO MYC	HELD-FOR COURT AT CC JAIL	HELD-FOR COURT AT LITTLE BRO.	HELD-FOR COURT AT FAIR HARB.
FY 1977 July/Aug.	98	66	Data Unavail- able	17 (7 months)	Data Unavail- able
FY 1978 July/Aug.	86	52	27	8 (3 months)	2 (3 months estimate)

The available statistics indicates that the total number of youths held-for-court at MYC and the Cumberland County Jail pre- and post- Code periods has decreased, as has the number of juveniles transported over 50 miles for detention at MYC. Current juvenile intake data indicates that only nine of the juveniles held-for-court at the Youth Center during July and August 1978 were from Cumberland County or York County. It is tempting to conclude that proximity to the Maine Youth Center is no longer the key factor it once was

in a decision to detain a youth at MYC. However, further monitoring will be necessary before drawing any firm conclusions.

No doubt the reduced number of detentions at MYC and the Cumberland County Jail is partly the result of an increase in the number of "hold-for-court" referrals to the Little Brothers Emergency Shelter, a non-secure facility. The "release-with-conditions" provision of the Code has probably also contributed to the reduction in the number of MYC and County Jail detentions. Intake data indicates that the three intake workers released 62 out of 150 juveniles, 13 of which were conditional releases. (See Table II-C)

4. Detentions and Pre-Adjudication Evaluations

Detaining a youth at the Maine Youth Center solely for the purpose of "shocking" the youth or to conduct a psychological evaluation before adjudication was a notion that troubled the Juvenile Code Commission. The new Code does not authorize either of these practices, as evidenced by (1) the absence of psychological evaluations in the Code's list of detention criteria (15 MRSA §3203), and (2) the inclusion of two express provisions for psychological evaluations and reimbursement of evaluation expenses - 15 MRSA §3312(2), which permits the court to order a post-adjudication evaluation for use during the dispositional hearing; and 15 MRSA §3318, which allows the court to suspend proceedings when the juvenile appears mentally ill or incapacitated, and either commit the juvenile or order an evaluation.

The practice of ordering a detention and evaluation is still occurring, though less frequently. The Bureau of Corrections Statistics for July, August and September 1978 indicate that the Portland and Brunswick courts ordered 19 juveniles evaluated at MYC while being held-for-court (out of a total of 53 MYC evaluations ordered statewide). The Portland and Bridgton juvenile

docket books indicate that in at least two cases, the judge stated no reason other than the performance of an evaluation in support of the continued detention. Interestingly enough, during the same two months in 1977, the docket shows only three pre-adjudication "D and E's" ordered by Portland and Bridgton juvenile courts. MYC estimates the total number of psychological evaluations conducted during 1977 at 353. Where the only reason for a detention at MYC is to conduct an evaluation, the court should not detain the juvenile.

A separate but related issue is whether pre-adjudication psychological evaluations are objectionable even when conducted while a juvenile is being detained for one of the reasons enumerated in the Code. Some people argue that to evaluate a juvenile before adjudication violates that juvenile's right to privacy and possibly other constitutional rights. Others defend the pre-adjudication evaluation as being in the youth's best interest, since it might help the intake worker, the court, and counsel to more fully understand the juvenile's problems and avoid a juvenile record. They also argue that to evaluate a youth while being held-for-court (presumably for valid reasons) is a more effective use of court time and tax dollars.

5. Alternatives To Maine Youth Center Evaluations

If detention at MYC for pre-adjudication psychological evaluations is no longer acceptable, what alternative settings are available? DMHC's Portland "Treatment and Evaluation Unit" and Western Maine Counseling Center in Bridgton appear likely substitutes. The Children's Psychiatry Division of the Community Mental Health Center in Portland also seems to be a logical choice. However, the agency indicated that it may already be functioning at full capacity and therefore could not absorb many of the cases that the court would shift from MYC. A fourth possibility might be private residential facilities, such as Sweetser Children's Home.

TABLE II-C

RELEASE, DETENTION AND EVALUATION STATISTICS FOR CUMBERLAND COUNTY

NUMBER RELEASED BY INTAKE WORKER PENDING FURTHER ACTION	NUMBER DETAINED BY INTAKE WORKER PENDING FURTHER ACTION	NUMBER DETAINED BY INTAKE WORKER & THEN RELEASED BY JUDGE AFTER REVIEW HEARING	PLACE OF DETENTION				NUMBER OF EVALUATIONS ORDERED
			CC JAIL	MYC	BRUNS. PD	PTLD PD	
2* (out of 150 total cases); (46 w/o con- ditions; 13 w/condi- tions)	3**	37* (out of 150 total cases)	27*	9* (86** ** for whole state)	1*	4*	19**** (53**** referred for evaluation state wide)
			***** (603 for the year, or roughly 50/month)	***** (49/ month for whole state)			(353***** for whole state)

Taken from District I intake data compilation, September 11, 1978. (Figures for the place of detention include detainees from both Cumberland and York Counties.) It should be noted here that the Portland and Bridgton docket books only indicate 25 detentions. Of the nine post-Code detentions at MYC, three were escapees, three were probation violators, and three were charged with multiple offenses.

Taken from Portland Juvenile Docket book (none in Bridgton; Brunswick records not included).

* This represents pre-adjudication evaluations ordered by the Portland and Bridgton courts and conducted while the juvenile was being detained at the Maine Youth Center. (Data taken from the Juvenile Docket in Portland and Bridgton; the only detention hearing and evaluation order recorded for Bridgton was actually held in Portland.) The other two figures given in this column are not necessarily court-ordered, pre-adjudication evaluations.

** Bureau of Corrections statistics for July - September 1978.

*** Taken from the Bureau of Corrections' Office of Juvenile Justice Delinquency Prevention Monitoring Report, Page 23 (1977).

6. Confusion Surrounding Intake Detention Decisions

Another problem area surrounding the Code's detention provision is whether a juvenile can be detained by either an area intake worker or a duty intake worker, and then be released by an area worker within 48 hours, without according the juvenile a detention review hearing. Initially, some intake workers were petitioning for a detention review even though they did not intend to seek continued detention. Many of the juvenile judges viewed this as an unnecessary burden on the court's time.

To eliminate this confusion, the Juvenile Intake Supervisor has issued a memo stating that a detention hearing is necessary only when the intake worker plans to request continued detention. The language of the Code does not expressly authorize an intake worker to reverse an original decision to detain without judicial review. Apparently most of the juveniles involved in these "detention-release" situations are juveniles who are being held until a responsible adult arrives to whom the intake worker can release the juvenile. This raises the question of whether intake workers are over-using the Code provision permitting detention of a juvenile offender who needs shelter and supervision. Questions also arise as to where these youths are detained (MYC? County Jail?) and whether a release-on-condition to an emergency shelter or elsewhere is possible.

Another question that some have raised is whether an intake decision to release a juvenile to an emergency shelter is sufficiently similar to a detention order to require judicial review within 48 hours. In some cases, intake workers placing juveniles at the shelters as "hold-for-courts" make it clear that if the juvenile runs from the shelter or breaks the shelter's rules, the intake worker will detain the juvenile at MYC or the County Jail. Other juveniles are placed at the shelters by intake workers without such a caveat.

The Code Committee recognizes that the restraint on a youth's freedom present at an emergency shelter is not of the same degree as that imposed at MYC or a jail. The Committee also recognizes the existing burden on the court created by the detention hearings that the Code already requires. However, many members of the Code Committee believe that the Legislature should consider amending the Code to provide some form of due process review for juveniles held-for-court at the emergency shelters. The Committee makes no recommendation at this time.⁷

7. Judicial Detention Orders

A number of juvenile court judges are reluctant to order continued detention on cases where the intake worker has not yet requested a petition against the juvenile. In Portland, intake workers and judges apparently have an arrangement whereby the intake worker must request a petition within two weeks of the detention hearing and judges detention order. Otherwise, the judge will release the youth.

The dockets in Bridgton and Portland reflect only three juvenile appeals regarding detention: two regarding the amount of post-arraignment bail set by the court, and one challenging a court order of continued detention following a detention hearing.

-
7. It is interesting to note the definition of "detention" recommended by the Institute of Judicial Administration - American Bar Association Joint Commission on Juvenile Justice Standards (Tentative Draft, 1977):

"Interim Status" §2.9. "'Detention' means placement during the interim period of an accused juvenile in a home or facility other than that of a parent, legal guardian, or relative, including facilities commonly called 'detention', 'shelter, care', 'training schools', 'receiving homes', 'group homes', 'foster care', and 'temporary care'".

8. Administration of Detention Hearings

An administrative problem created by the new detention review hearings is that of the availability of juvenile judges and court reporters. This is especially true in the Portland district court where a heavy adult civil and criminal caseload, coupled with summer vacations, resulted in the unavailability of a judge to hear juvenile cases on a number of occasions. The unpredictability of detention hearings makes orderly scheduling a difficult task.

9. Reported Code Violations

The Code Committee has learned of several incidents which, if accurately reported, violate the spirit and the letter of the Code. For example, one juvenile states that she was held 1½ days at the County Jail for possession of drugs without being read her Miranda warnings, without any contact with the City's Youth Aid Bureau, and without any attempt by the intake worker to place her at Fair Harbor, although she claims she suggested this. She apparently has no prior record, is in the legal custody of DHS, and had stayed at Fair Harbor in the past. The intake worker ultimately released her to a foster home which had eight to ten other youths with some of whom the juvenile had had previous conflicts. When the intake worker eventually requested a petition, the charge was possession of marijuana. Cases such as this point out the need for more precisely defined detention criteria which would guide the intake worker in selecting the least restrictive placement for a juvenile.

If this and other scattered incidents reported to the Committee are true, they raise serious questions about the extent to which rights are being accorded to juveniles under the Code. The Committee hopes that, if accurate, these incidents are merely the result of a failure to fully understand the Code's provisions during the first few months of operation rather than conscious decisions to frustrate the intent of the Code.

RECOMMENDATIONS The Juvenile Code Committee makes the following recommendations:

1. 15 MRSA §3203(4)(C)(2), WHICH PERMITS DETENTION IN ORDER TO PROVIDE PHYSICAL CARE TO A JUVENILE WHO CANNOT RETURN HOME, SHOULD BE REPEALED.

When an intake worker detains a juvenile for the sole reason that no responsible adult is immediately available to whom the worker can release the youth, there seems little to distinguish such a juvenile from one taken into interim care (15 MRSA §3501). Juvenile offenders should not be deprived of their freedom by placement at MYC or the County Jail where they pose no threat to others or to the court proceedings, and where it is reasonably certain that they will appear in court. Intake workers should view these juveniles as needing interim care and follow Section 3501 guidelines regarding the appropriate place to hold these juveniles.

2. JUVENILE COURT JUDGES SHOULD NOT ORDER DETENTIONS AT MYC SOLELY FOR THE PURPOSE OF CONDUCTING PSYCHOLOGICAL EVALUATIONS, BECAUSE THE CODE DOES NOT AUTHORIZE SUCH ORDERS.

Regardless of whether pre-adjudication evaluations are objectionable per se, the Code clearly does not permit them as the sole justification for a detention at the Maine Youth Center. When the juvenile, parent(s), judge, and defense counsel agree that a psychological evaluation is necessary, they should arrange such an evaluation on an out-patient basis at an agency such as Community Mental Health. The Legislature should provide funds for these pre-adjudication evaluations, just as it does for the evaluations specifically authorized by the Code.

3. IF A JUVENILE IS DETAINED AT MYC FOR ONE OF THE REASONS LISTED IN THE CODE AND THE COURT WANTS TO ORDER AN EVALUATION, THE COURT SHOULD FIRST SECURE THE CONSENT OF THE JUVENILE AND PARENT(S) AFTER PERMITTING THEM TO

SEEK LEGAL ADVICE FROM RETAINED OR APPOINTED COUNSEL. THE MYC STAFF SHOULD GIVE THESE JUVENILES PRIORITY. THE COURT SHOULD NOT EXTEND A DETENTION PERIOD SOLELY FOR THE PURPOSE OF COMPLETING AN EVALUATION.

Again, the Legislature should fund these evaluations.

4. THE PORTLAND DISTRICT COURT SHOULD EVALUATE EXISTING STAFF AND SCHEDULING AND REQUEST ADDITIONAL FUNDING FOR STAFF IF NECESSARY.
5. AN INDEPENDENT COMMITTEE SHOULD CONTINUE TO MONITOR DETENTION PRACTICES STATEWIDE TO ENSURE THAT INTAKE WORKERS AND JUDGES ARE DETAINING JUVENILES IN THE LEAST RESTRICTIVE FACILITY. (SEE GOAL #1, RECOMMENDATION #7).
6. EITHER THE LEGISLATURE SHOULD AMEND THE CODE OR DMHC SHOULD ISSUE A STATEWIDE ADMINISTRATIVE POLICY SO THAT JUVENILE COURT JUDGES NEED ONLY REVIEW DETENTION DECISIONS IN CASES WHERE AN INTAKE WORKER INTENDS TO REQUEST CONTINUED DETENTION.

During the first few months of the Code's operation, a considerable amount of confusion existed as to whether an intake worker needed to petition the court for a detention review hearing in cases where an intake worker had detained and then released a juvenile, or where the juvenile was still being detained but the intake worker intended to request release at the hearing.

Juvenile court judges in both Portland and Bangor told the Committee that they felt a review hearing in either of those cases was unnecessary. The District I intake supervisor has told his workers that they need not request a hearing. In the event that confusion still may exist around the state, and in the interest of uniformity, DMHC should adopt an official policy for all intake districts to follow.

7. WHEN THE COURT ORDERS CONTINUED DETENTION IN CASES WHERE THE INTAKE WORKER HAS NOT YET REQUESTED A PETITION, THE COURT SHOULD REQUIRE THE WORKER TO MAKE A PETITION DECISION WITHIN FIVE DAYS OF THE HEARING. IF NO REQUEST IS FORTHCOMING, THE COURT SHOULD REVIEW ITS DETENTION ORDER AT THE EXPIRATION OF THAT TIME LIMIT.
8. DMHC SHOULD EVALUATE THE NEED FOR ALTERNATIVE PRE-HEARING SHELTERS STATEWIDE.

RULE OF THE INTAKE WORKER

GOAL #3 COMPARE THE ACTUAL ROLE OF THE INTAKE WORKER WITH THE ROLE INTENDED AND STATUTORILY MANDATED BY THE LEGISLATURE; REVIEW THE MANNER IN WHICH INFORMAL ADJUSTMENTS OPEPATE.

FINDINGS

1. Code Provisions

Did the Maine Legislature intend the intake worker to act as merely a "broker" of services or rather as a caseworker who provides direct services and also procures them from other sources? The Code defines "intake worker" as "an agent of the Department of Mental Health and Corrections who is authorized to perform the intake functions established by this part for a juvenile alleged to have committed a juvenile crime or for a juvenile taken into interim care." (15 MRS §3003(12)) The "intake functions established by this part" include: deciding whether to detain or release a juvenile; conducting preliminary investigations of juvenile referrals from the police; making decisions about whether to refer for services, arrange an informal adjustment, or request a petition; and effecting an informal adjustment once agreed upon. The Code does not specify the extent of involvement expected of an intake worker in a particular case.

Informal adjustment, a sort of pre-adjudication probation arrangement, clearly offers the greatest potential for provision of direct services by an intake worker. In the absence of any statutory or administrative limits on the degree of participation by the intake worker, the size of an intake worker's caseload will be the only real constraint on the nature of the worker's role.

2. How Intake Perceives Its Role

The Juvenile Intake Procedures Manual (July 1, 1978) offers some clarification of the intake worker's role, as interpreted by DMHC:

"The intake worker, with input from the juvenile, will establish the conditions that are appropriate for the juvenile during the period of the Informal Adjustment and include these on the consent form. Such conditions shall be designed to be conducive to the rehabilitation of the juvenile. Examples of such conditions may include, but are not limited to the following: restitution, public service work, counseling, foster home placement, etc. The area intake worker shall monitor the conditions of Informal Adjustment. The scope of Informal Adjustment...is limited only by the ingenuity of the intake worker".⁸

The intake workers readily admit that their role is necessarily determined by the extent of their caseloads. One intake worker said that once he refers a juvenile for services elsewhere, he checks on that juvenile's progress to make sure that he made an appropriate referral and that the promised services are being delivered. He sees this monitoring as a delinquency prevention effort on his part - "If the kid goes off the track, I'll just end up with him again later, so I'm better off to put in the time now." Another worker stated that presently she is able to meet with each of her informal adjustment clients every week or every two weeks, depending on their individual needs.

8. Intake Procedures Manual, Page 11

According to the Juvenile Intake Supervisor, most of the intake workers have master degrees and counseling experience. Some have worked with juveniles while at DHS or in a law enforcement or corrections capacity. Others have worked at residential treatment facilities for alcoholics. Therefore, most of them can probably offer some direct counseling or other services to the youths who are referred to them.

3. How Others View The Intake Function

Most of the social service agencies apparently do not know what role the intake workers should be playing. Of the 18 agencies responding to a United Way questionnaire, only nine had any opinion - six viewed the intake worker as both a broker and direct provider of services, while three said intake was only a referral service. According to the Juvenile Intake Supervisor, Maine's District Court judges have gone on record as supporting the concept of intake workers as service providers.

The Juvenile Code Committee believes that because of the larger caseloads of District I intake workers, those intake workers will ultimately be serving mainly as brokers of social services. This role is appropriate, too because of the wide variety of available community resources. The Committee also believes that intake workers have a professional responsibility to conduct follow-up and act as a juvenile referral's for advocates where promised services are not being provided.

4. Intake Workers and The Police

The relationship between juvenile intake and local police departments, particularly those with youth aid divisions, has been somewhat rocky. Many juvenile aid officers view the role of the intake worker as merely a duplication of the screening function that the juvenile officers have provided all along. Some officers believe that they are more effective than intake workers in most cases, because the youths involved are unwilling to be open with a stranger.

They will communicate with a youth aid officer because they know him and know he is familiar with the community and their personal problems. The juvenile officers feel that they are as well trained as the intake workers and that they have the same resources at their disposal. Therefore, they suggest that the extra "layer of bureaucracy" be removed from towns that already have a functioning youth aid bureau, leaving the intake workers to concentrate on towns that must share the limited resources of the Cumberland County Sheriff's Juvenile Aid Division.

The Committee does not agree with this position. The Legislature incorporated the intake process into the juvenile justice system in an attempt to establish more uniformity and thoroughness in the screening of juvenile cases referred by law enforcement to juvenile court. In the past, many minor cases and first offenders were petitioned for the court to consider. The court system was not equipped to cope with what were basically social problems. The local police departments that were doing an adequate job of screening cases in the past can continue to do so. Those that were not adequately staffed for thoroughly screening juvenile cases can now turn to the intake workers for assistance. Moreover, police departments with youth aid departments can now refer to intake serious cases that require a great deal of attention and follow-through to ensure rehabilitative success. The result is bound to be a greater rate of success for both police and intake workers in handling juvenile cases.

Local intake workers have detected an increasing spirit of cooperation on the part of police officers in some of the larger departments. The small departments and departments without a youth aid bureau were fairly cooperative from the outset. Initially, officers from some of the larger departments expected every case they referred to intake to be petitioned. These same officers are now willing to discuss various dispositions with the intake workers rather than look-

-
9. One idea suggested as an alternative to the juvenile intake system is the establishment of a set of minimum state standards to be used by police in processing juvenile cases. This was proposed to the Juvenile Code Commission, but was apparently rejected. (Interview with Wayne Syphers, Westbrook Police Department, Juvenile Division, August 1978).

ing for a rubber stamp of their decision. In some cases, the officers are referring a case because they have dealt too many times with the particular juvenile without success, or because they know the family and cannot handle the case objectively. Thus, even the departments with youth aid bureaus stand to benefit from the juvenile intake program.

5. Preliminary Investigations

While police officers no longer expect every referral to go to court, some of them strongly believe that intake workers should automatically petition certain cases without taking up to ten days to perform a preliminary investigation - a period administratively established in District I based on the average time it was taking intake workers to complete investigations. A memorandum from the Probation and Parole District Supervisor to the District I intake workers has established an administrative policy that intake workers waive the ten-day preliminary investigation period and request a petition immediately in cases where: (1) the juvenile completed probation within the last twelve months; (2) the juvenile is not a Maine resident; (3) the offense is a felony (a Class A, B, or C offense); (4) the victim required medical treatment; (5) the arresting department has three or more non-prosecuted offenses against the juvenile; (6) the juvenile was adjudicated within the last twelve months; or (7) the juvenile was on informal adjustment within the last twelve months.

Some police officers and DMHC officials defend this policy as the product of common sense and as being in the best interests of the juvenile and the community. They argue that to let an investigation drag on for up to ten days only downplays the seriousness of an offense.

The Code clearly requires a petition where a juvenile falls within categories 6 and 7 (see 15 MRSA §3301(R)(4)). However, it also states that "when a juvenile

accused of having committed a juvenile crime is referred to an intake worker, the intake worker shall, ..., conduct a preliminary investigation to determine whether the interests of the juvenile or of the community require that further action be taken." (15 MRSa §3301(1)). Thus, the other five categories, if blindly adhered to, would fly in the face of the spirit of the Code by failing to consider each juvenile's complete story, focusing instead on isolated, standardized factors. In addition, by applying only to District I cases, the memo reduces the degree of statewide uniformity in screening juvenile offenders that the Legislature intended to achieve under the Code.

The memo does permit the intake worker to discuss the wisdom of a petition with the arresting department and District Attorney's office, but only after the worker has requested the petition. As time passes and the intake workers become more familiar with the juveniles and police in their area, their reliance on the memo's criteria will presumably decrease proportionately.

Another factor that may decrease the workers' reliance on the memo is that the Department is hoping to secure three new full-time supervisory positions for the Intake Division in its Part Two budget. Having an intake worker and supervisor work together to determine the best disposition in a difficult case is much more desirable than decision-making based on an inflexible set of criteria.

Admittedly, the Code does not define what constitutes a "preliminary investigation". However, the Juvenile Intake Procedures Manual indicates that facts, attitudes, and opinions gleaned from interviews with the juvenile, the victim, the law enforcement agency, and the juvenile's parent(s) or guardian are a major part of the investigation.¹⁰

10. Juvenile Intake Procedures Manual, Page 10 (July 1, 1978).

Other sources of information for the preliminary report include past employers, school officials, and psychological evaluations. The intake worker uses all of this material to complete form IW-4 (see Appendix B - see also IW-2). Unless the intake worker has already done this for a particular juvenile and there is no new information, the Code clearly requires a preliminary investigation that is thorough enough to permit the intake worker to make an intelligent assessment of the juvenile's case.

6. Interim Care

Another area in which the language of the Code and actual practice differ is in the handling of interim care referrals. Title 15, Section 3501(5), clearly states that a law enforcement official who has taken a juvenile into interim care must contact an intake worker and transport the juvenile to the location designated by that worker. In practice, many departments apparently contact the intake worker only for cases developing after regular business hours. Otherwise, some police departments are working directly through DHS. One officer stated his rationale as follows: The intake workers can do no more for these juveniles than the police can. They have no additional resources to work with, and possibly fewer, since they would not be as familiar with the community. Calling the intake worker only confuses the issue and frightens the juvenile. According to one intake worker, most runaways are merely returned to their homes.

7. Informal Adjustment

Neither the Code nor the Intake Manual offers much assistance in determining whether informal adjustment is appropriate and whether it should be terminated. The Probation and Parole memorandum previously discussed apparently represents DMHC's attempt to develop written criteria for use in deciding which cases can be informally adjusted. This effort is

unacceptable for the reasons already mentioned. The Department currently has no intake guidelines that will facilitate uniformity in meeting out justice from client to client or from worker to worker.

Generally speaking, a juvenile has no legal representation when agreeing to accept an informal adjustment with the intake worker. Apparently, some juveniles do not fully appreciate the legal and practical ramifications of a juvenile record. One girl whom the Committee interviewed has opted for an adjudication rather than informal adjustment because she "didn't want something hanging over her head for six months, with no guarantee that they wouldn't take her to court later on that charge plus a new one". She said she "figured the judge couldn't do much to her". Other juveniles, eager to avoid contact with the court, could conceivably confess to an offense that they did not commit and that the State could not prove.

No doubt the way in which informal adjustment is presented to a juvenile and parents varies from case to case and from one intake worker to another. There apparently is no written statement of rights and options which the intake worker presents to a juvenile at this stage, other than form IW-2, which briefly recites the three courses available to intake worker (see Appendix B). Section 3301(5)(B) states that the intake worker "may effect whatever informal adjustment is agreed to by the juvenile and his parent(s)..." Form IW-5, "Consent To Informal Adjustment", states that the juvenile will comply with conditions outlined in the agreement (See Appendix B). The extent of the juvenile's participation in arriving at suitable conditions is unclear. Probably the juvenile accepts whatever arrangement the intake worker presents. It is conceivable that a juvenile could agree to some conditions that an intake worker with good intentions ought not to have imposed.

It is possible to construe the appeals procedures mandated by 34 M.R.S.A. §262(4) as requiring an opportunity to appeal an informal adjustment provision. The section expressly applies to service responsibilities

placed on DMHC by Chapter 11-A, dealing with delinquency prevention and rehabilitation - which presumably encompasses informal adjustment.

Likewise, one could interpret that same section to require an appeals procedure for juveniles whose informal adjustments have been terminated for whatever reason. This interpretation may conflict with 15 MRSA §3301(6), which permits the District Attorney to overrule an intake worker's decision to informally adjust a case. However, the appeals provision could at least apply to situations in which the intake worker terminates an adjustment on his/her own initiative because the juvenile allegedly violated a condition. Presently, the intake worker uses Form IW-8 to notify the juvenile of the termination, apparently without any opportunity for the juvenile to tell his/her story to an impartial third party (See Appendix B).

8. Referral Statistics

The following statistics (Table II-C) were compiled from intake forms in the Portland, Bridgton, and Brunswick court districts, for the months of July and August 1978:

TABLE II-C

INTAKE WORKER DISPOSITIONS FOR JUVENILE OFFENDERS REFERRED BY
LAW ENFORCEMENT OFFICERS IN CUMBERLAND COUNTY

	TOTAL NUMBER OF REFERRALS FROM LAW ENFORCEMENT	NUMBER OF INFORMAL ADJUSTMENTS	REFERRED ELSE- WHERE FOR SERVICE	NUMBER NOT NEEDING SERVICES	NUMBER OF PETITIONS REQUESTED
IW #1	90	26	0	7	57
IW #2	26	14	0	3	8
IW #3	34	12	0	5	17

These figures represent cases that local law enforcement officials referred to juvenile intake workers after determining that they could not handle these cases "in-house". Thus, the number of juveniles which the intake workers released, referred, and informally adjusted represent a second level of screening for those cases - cases which under the old law would have gone directly to court.

During the month of July 1977, police in Cumberland County handled 130 cases "within the department", out of a total of 204 cases. In July 1978, 140 cases out of 202 were handled "in-house". In August 1977, 141 cases out of 208 were "handled within the Department", while in August 1978, the proportion was 165 out of 247. It appears that the role of local police departments has remained about the same and that intake workers are serving the screening function the Legislature intended them to perform. Several months of additional statistics must be reviewed, however, before any firm conclusions can be drawn. (See Police Tables I and III, Appendix F).

The intake statistics in Table II-C indicate a tendency by intake workers to handle juvenile clients without referring them to community service providers for shelter, counseling, etc. This concerns some service agencies, who fear that intake workers may be attempting to resolve problems that are too complex for them to successfully handle alone. Many juvenile offenders have a multitude of problems - poverty, illiteracy, abuse and neglect. One intake worker, carrying a sizeable caseload, cannot expect to personally resolve all of these needs. While many of the intake workers are skilled counselors, most juveniles require more assistance than the limited counseling that an intake worker would have time to provide. Although it is possible that available intake statistics do not accurately reflect the degree to which intake workers are utilizing community resources, data supplied by approximately 18 social service agencies in response to the Code Committee's questionnaire indicate that they have had few

referrals from intake workers (See Table I, Appendix F).

Juvenile intake interim care statistics for July - September for District I (Cumberland and York Counties) indicate that intake workers handled 24 interim care cases referred by law enforcement officials, as follows:

TABLE II-D

INTAKE WORKER DISPOSITIONS FOR INTERIM CARE

REFERRALS FROM LAW ENFORCEMENT IN CUMBERLAND AND YORK COUNTIES

	TOTAL # OF INTERIM CARE CASES	LITTLE BROS.	WINDSWEEP FARM	FAIR HARB.	EMERG. FOSTER HOMES	OWN HOME (VOL)	OWN HOME (INVOL.)	COUNTY* JAIL (INVOL.)
Male	12	4	2			3	2	1
Female	11			1	3	2	5	

* 15 MRSa §3501(7)(B) provides that a juvenile may be held in a jail only if no other appropriate facilities are available and only if kept in the public section of the jail with adequate supervision.

Uniform Crime Reporting juvenile arrest data for July 1978 indicate that local police handled most of the "runaway" cases coming to their attention "within the department". One town made referrals both to "juvenile court" and to "welfare agencies" (See Police Table III). It is unclear whether police are reporting runaway referrals to intake workers as court referrals (Disposition #2) or as agency referrals (Disposition #3). Thus while agency responses, UCR

data, and interviews with police and intake workers tend to show that law enforcement officials are ignoring the Code's interim care provision, it is impossible to determine how widespread these violations are.

RECOMMENDATIONS The Juvenile Code Committee recommends the following:

1. A NEW UNIFORM CRIME REPORTING (UCR) DISPOSITIONAL CATEGORY SHOULD BE CREATED AND DESIGNATED: "REFERRED TO INTAKE WORKER (DISPOSITION #6)".

Currently, UCR statistics do not clearly indicate the number of cases that local police refer to intake workers. In the interest of accuracy, as well as to aid DMHC in preparing its annual plan and evaluation, the Department of Public Safety, Bureau of State Police, Uniform Crime Reporting Division, should institute this change in reporting techniques.

2. THE LEGISLATURE SHOULD AMEND 15 MRS §3501(5) TO PERMIT LAW ENFORCEMENT OFFICIALS TO REFER INTERIM CARE CASES EITHER TO AN INTAKE WORKER OR TO DHS. WHERE AN OFFICER MAKES A DIRECT REFERRAL TO DHS, THE CODE SHOULD REQUIRE THAT OFFICER TO FILE A REPORT WITH THE APPROPRIATE LOCAL INTAKE WORKER.
3. IN ORDER TO ENSURE THAT EACH CASE IS VIEWED ON ITS OWN MERITS, INTAKE WORKERS SHOULD CONDUCT A THOROUGH PRELIMINARY INVESTIGATION IN ALL CASES REFERRED TO THEM EXCEPT THOSE SPECIFICALLY EXEMPTED BY THE CODE.
4. DMHC SHOULD DEVELOP WRITTEN CRITERIA FOR INTAKE WORKERS TO USE IN DETERMINING WHETHER INFORMAL ADJUSTMENT IS APPROPRIATE.

The Department should solicit public review and comment of proposed criteria. Once DMHC has adopted a final proposal, it should then require statewide use of the criteria to facilitate uniformity in these intake decisions.

5. AN INDEPENDENT COMMITTEE SHOULD MONITOR THE INFORMAL ADJUSTMENT PROCESS FOR ONE YEAR TO DETERMINE THE NEED FOR AN ADMINISTRATIVE PROCEDURE PERMITTING JUVENILE APPEALS FROM (1) INTAKE DECISIONS TO IMPROVE PARTICULAR CONDITIONS OF INFORMAL ADJUSTMENT AND (2) INTAKE DECISIONS TO TERMINATE AN INFORMAL ADJUSTMENT AGREEMENT AND REQUEST A PETITION.

The Code Committee has identified a problem in the lack of an appeals procedure for informal adjustments, but could not reach a consensus on requiring a provision in the Code for such appeals at this time. Should the need for an appeal mechanism arise, the Department or the Legislature could look to the system developed by the Portland Program For Adolescent Responsibility (PAR) as a model for the Code to follow. In contemplating the revocation of a restitution agreement, PAR notifies the juvenile of its intention to revoke by certified mail and arranges a hearing before its citizens advisory board, at which time both PAR and the juvenile can present their cases (See Appendix C).

6. DMHC SHOULD REVISE ITS INTAKE FORMS TO PERMIT THE COLLECTION OF THE FOLLOWING DATA: (1) WHETHER THE D.A. OVERRULES AN INFORMAL ADJUSTMENT DECISION; (2) WHETHER THE D.A., VICTIM, OR POLICE OFFICERS REQUESTED THAT AN INFORMAL ADJUSTMENT DECISION BE OVERRULED; (3) THE OUTCOME OF A DETENTION REVIEW HEARING; (4) WHETHER THE INTAKE WORKER ORDERED THE JUVENILE'S RELEASE WITHIN 48 HOURS, AFTER INITIALLY ORDERING DETENTION.
7. DMHC MUST PROVIDE ADEQUATE MONITORING AND SUPERVISION OF INTAKE WORKER CASELOADS TO ENSURE THAT COMMUNITY RESOURCES ARE BEING USED AND THAT INTAKE WORKERS ARE NOT TRYING TO ASSUME TOO GREAT A DIRECT SERVICES ROLE.

If intake workers intended to provide direct counseling or other services to their juvenile clients, they must be prepared to make a serious commitment to those cases and see them through to a successful resolution. They must not assume more direct service responsibilities than they

can handle. Excess cases should be referred to appropriate agencies for services.

The Committee does not have confidence that intake workers can provide adequate service to caseloads as high as 80 or 90 juveniles, as has been suggested by DMHC. However, if DMHC allows intake workers to assume such caseloads, it must be careful to ensure that the cases are being adequately served.

DISPOSITIONAL ALTERNATIVES

GOAL #4 COMPARE THE KINDS OF DISPOSITIONAL ALTERNATIVES USED BY JUVENILE JUDGES BEFORE AND AFTER THE NEW CODE.

FINDINGS

1. Code Provisions

One of the often-cited "improvements" made by the new Code is a "broader range of (judicial) dispositional alternatives". According to at least one juvenile judge, however, the only expansion of the court's dispositional authority under the new Code is the split sentence¹¹ provision (15 M.R.S.A. §3314(8)). The real improvement is apparently having a complete list of the various dispositional alternatives written into the Code, rather than relying on the creativity of the judge in a particular case. In this respect, the new Code places all adjudicated juveniles on a more equal footing.

11. A "split sentence" means that the judge sentences the juvenile to X number of days at the Maine Youth Center (some number greater than 30), and then suspends the sentence except for a period not to exceed 30 days. The juvenile usually serves this sentence at the County Jail, either on consecutive days or on weekends.

The dispositional alternatives authorized by prior law and by the new Code are listed below:

Prior Law (15 MRSA §2501, 2611)

1. Release and dismiss;
2. Continue on probation for up to one year;
3. Find probable cause (i.e., bind over);
4. Adjudge a juvenile offense committed, and commit to Maine Youth Center, Department of Human Services, or to his/her family under Probation and Parole or DHS supervision; or suspend imposition of sentence or continue the case for sentencing; or impose sentence and suspend execution, placing the juvenile on probation; or dismiss and refer to DMHC, BMR, or DMH, or other disposition including payment of fine.

After a change in the law in 1973, no juvenile could be committed to the Maine Youth Center under the old statute for an offense that would not be a crime if committed by an adult.

New Code (15 MRSA §3001, 3314)

1. Permit the juvenile to remain in the legal custody of his/her parents under the conditions imposed by the court;
2. Order participation in a supervised work or service program for a period not to exceed 180 days;
3. Commit to DMHC or DHS for placement in a foster home, group care home, or halfway house, or for provision of services in his/her own home;
4. Commit a juvenile over the age of 18 to DMHC if he/she is adjudicated prior to attaining 18 years of age or upon probation revocation;

5. Require the juvenile to make restitution;
 6. Commit to Maine Youth Center;
 7. Impose a fine;
 8. Commit to Maine Youth Center and order the sentence suspended except for a maximum period of 30 days to be served in a designated county jail or a non-secure group home or halfway house;
 9. Order the juvenile unconditionally discharged;
 10. Impose any of the dispositions just listed, suspend the sentence, and order a period of probation.
2. Effect Of The Code's Dispositional Section

While the Code confers broad dispositional authority for all practical purposes the dispositional alternatives do not exist. For example, the Code specifically authorizes the court to commit the juvenile to DHS for placement in a foster home, group care home, or halfway house. However, the Legislature did not approve an accompanying appropriation to allow DHS to fund these facilities. In reality foster homes for teenagers are virtually non-existent, and group homes and halfway houses are in short supply.

One alternative that may soon become a major weapon in the Portland court's dispositional arsenal is restitution. The Portland Program For Adolescent Responsibility (PAR) is developing an elaborate system for evaluating the restitution required by a particular case, negotiating a restitution agreement between the juvenile and victim, and providing supervision and counseling for the juvenile until the contract is completed. This program represents one of the few new resources available since the Code became effective. It presents a realistic dispositional option to a judge dealing with certain kinds of cases involving physical injury or property damage.

3. Commitment Guidelines

The new Code also goes further than prior law by providing guidelines for determining when commitment to a secure facility is appropriate (15 MRSA §3313). Factors for the court to weigh in favor of such confinement are: (1) the risk that the juvenile will commit another offense; (2) the juvenile's correctional needs; (3) the risk of minimizing the seriousness of the offense by imposing a lesser sentence. Factors weighing against confinement include: (1) no serious harm was involved or intended; (2) the juvenile was strongly provoked; (3) the juvenile's conduct was excusable or justifiable, although not sufficient to constitute a defense; (4) the victim contributed to the harm; (5) the juvenile has no prior record or an inconsequential one; (6) the conduct resulted from circumstances unlikely to recur; (7) the juvenile's character and attitude indicate that he/she is unlikely to commit another offense; (8) the juvenile is likely to respond well to probation; (9) and confinement would impose excessive hardship on the juvenile or his dependents.

4. Dispositional Statistics

Court Tables III through VI (Appendix F) illustrate the types of cases that the juvenile court heard in Portland and Bridgton and the kinds of dispositions the judges ordered. Statistics for July and August 1977 in Portland indicate that informal probation, restitution, and Maine Youth Center commitments suspended for certain probationary periods were the most common. The court apparently ordered two cases of mandatory participation in supervised work programs as part of other dispositions. During that same period in Bridgton, the court ordered a continuance from day to day most often, followed by restitution and commitments to MYC.

Figures for July and August 1978 show that the court was still ordering a fair number of dispositions pursuant to prior law: "continued from day to day", "informal probation" and "filed". The vast majority of cases before the court during those months involved petitions brought under the old statute. If some of these cases had arisen after July 1, 1978, the intake workers might well have screened them out. Since they occurred before July 1, the court must continue to dispose of such cases according to alternatives available when the juvenile committed the crime.

Other dispositions frequently used during the first two months of the new Code's operation include fines, restitution, and suspended sentences. The Portland court ordered participation in a work program for one juvenile and split ("shock") sentences at the County Jail for three others.¹² Out of 167 cases heard in Portland during July and August of this year, the court committed only four to the Maine Youth Center. During the same period last year, the court committed 13 out of 157 to the Youth Center. While there appears to be a trend away from Youth Center commitments, it is probably too early to be certain or to know whether the Code's new guidelines are playing a part.¹³

5. Marijuana and Alcohol Offenses

During at least one recent session of Juvenile Court in Portland the judge, defense counsel, and assistant district attorney were quite confused about whether the court could commit a juvenile to MYC for possession of marijuana or alcohol. The Code prohibits such a disposition and the group ultimately resolved the question against such a disposition after referring

-
12. Richard Wyse (MYC) reports that at least one juvenile has been committed to the Maine Youth Center since July 1 for the purpose of serving a split sentence - a clear violation of the Code.
 13. One agency director has expressed the concern that the number of MYC commitments will dramatically increase. She is fearful that judges will now operate under the assumption that only "hard core" juveniles are being petitioned - that all the "good kids" are screened out by the intake workers.

to the Code.¹⁴ (15 MRS §3103(2)) The juvenile docket book indicates that no such commitment has been mistakenly ordered so far.

6. Determine Sentences

The Superintendent of the Maine Youth Center, has expressed the concern that the Code provision permitting judges to sentence juveniles to the Youth Center for specifically limited periods of time may be inappropriate for the kinds of testing and programs that MYC currently offers. Youth Center programs are geared to an average 5½ to 6 month residency. To be truly effective, the Center believes the staff should probably work with the juvenile several more months, but the Center is overcrowded and understaffed. If judges begin sentencing youths to MYC for only five or six weeks, the youth will not have had an opportunity to benefit from a program that took several weeks to test and design. According to the Superintendent, if MYC must deal with juveniles for limited commitments, it will need funding for additional facilities and staff in order to tailor new programs for the special needs of these juveniles. He also stated that the judges are not providing enough detail about the reason for the commitment and the kind of program, after-care supervision, security, etc. that they think the juvenile needs. He attributes this in part to the design of the new "mittimus" (committal) forms (see Appendix A), and suggests that the courts return to the old forms. He also said that MYC no longer receives a copy of the petition, which he thinks is helpful to have.

-
14. A commitment to MYC or another secure facility is appropriate, however, where the possession offense is a violation of probation. 15 MRS §3103(1) (D). The Juvenile Code Committee views the Code provision making possession of marijuana or alcohol a non-committable offense as inconsistent with the provision permitting commitment to MYC when the possession violates a condition of probation. When a juvenile has a drug or alcohol problem, counseling would seem more appropriate than a commitment to MYC.

The Superintendent's comments call into question the legislative intent behind the Code provision for determinate sentences, i.e., commitments to the Youth Center for a specific time period. 15 MRSA §3316(2) Some of those whom the Committee interviewed have conjectured that the Legislature envisioned the court "limiting" sentences in cases where the offender is very young (i.e., 12 years old) and should not be committed until his/her 18th birthday. They also believe that the Legislature intended the court to "extend" sentences only in cases where, because the juvenile is nearly 18 years old (the maximum sentence), a commitment beyond that age is more appropriate (e.g., an extension to the juveniles' 19th birthday). These people viewed a disposition sentencing a 16 year old to the Maine Youth Center for two months as an inappropriate use of that facility - a use that the Legislature would not condone.

7. Dispositional Hearings and Continuances

A somewhat minor issue of textual conflicts exists with regard to dispositional hearings and continuances, found in 15 MRSA §3310(5)(B) and §3312(3)(A). These sections read as follows:

Section 3310:

§3310(5)(A) - When the court finds that the allegations of the petition are supported by evidence beyond a reasonable doubt, the court may adjudge that the juvenile committed a juvenile crime and shall, in all such adjudications, issue an order of adjudication setting forth the basis for its findings.

§3310(5)(B) - The court shall then hold the dispositional hearing, but such hearing may be continued for not more than two weeks on the motion of any interested party or on the motion of the court.

Section 3312:

§3312(1) - After making an order of adjudication, the court shall hear evidence on the question of the proper disposition best serving the interests of the juvenile and the public. If not waived by the court, such evidence shall include...the social study and other reports...

§3312(3) (A) - The court may continue the dispositional hearing, either on its own motion or on the motion of any interested party, for a reasonable period not to exceed one month to receive reports or other evidence.

It appears that §3310(5) (B) refers to a continuance granted after the adjudicatory phase has ended but before the dispositional hearing has begun; §3312(3) apparently governs a continuance ordered after the dispositional proceeding has started. Some people interpret the conflicting language as a mere drafting oversight, and suggest that the two time frames should be identical.

RECOMMENDATIONS The Juvenile Code Committee recommends that:

1. THE USE OF SPLIT SENTENCES SHOULD BE MONITORED TO ENSURE THAT NONE ARE BEING SERVED AT MYC.

The Chief Judge of the District Court should issue a memorandum to all juvenile judges calling this new Code provision to their attention.

2. DISPOSITIONS ORDERED FOR DRUG AND ALCOHOL POSSESSION OFFENSES SHOULD BE MONITORED TO ENSURE THAT NO JUDGES ARE SENTENCING FIRST OFFENDERS TO MYC OR OTHER SECURE FACILITY.

The Chief Judge of the District Court should issue a memorandum to juvenile judges reminding them of this new Code provision.

3. THE COURT ADMINISTRATOR SHOULD AMEND THE MITTIMUS FORMS TO ENABLE AND REQUIRE JUDGES TO PROVIDE MORE INFORMATION TO MYC OFFICIALS ABOUT THE KIND OF PROGRAM ENVISIONED FOR A PARTICULAR JUVENILE.

Before amending the forms, the Administrator should solicit suggestions from the people who must use them.

4. THE JUVENILE COURT JUDGES SHOULD ASSIST DMHC IN DOCUMENTING THE KINDS OF PROGRAMS AND FACILITIES NECESSARY FOR EFFECTIVE DISPOSITIONS.
5. DMHC SHOULD DEVELOP A PLAN FOR AN ALTERNATIVE PROGRAM TO HANDLE JUVENILES WHOM THE COURT WOULD OTHERWISE COMMIT TO MYC FOR DETERMINATE (SHORT-TERM) SENTENCES. THE DEPARTMENT SHOULD THEN REQUEST FUNDING, IF NECESSARY, FROM THE LEGISLATURE TO IMPLEMENT THE PROGRAM.

There is a growing national trend toward diverting adjudicated juvenile offenders away from correctional facilities and into alternative, community-based settings. Thus, the Committee recommends the development of an alternative program rather than an additional building or program at MYC. However, if determinate sentences are appropriate at MYC, DMHC should seriously consider reallocating existing resources to create a short-term program, rather than immediately seeking additional funding.

6. THE LEGISLATURE SHOULD TAKE APPROPRIATE ACTION TO RESOLVE THE APPARENT CONFLICT BETWEEN 15 MRSA §3310 and §3312.
7. JUDGES SHOULD INCREASINGLY CONSIDER RESTITUTION AS AN EFFECTIVE DISPOSITIONAL ALTERNATIVE, AND ORDER IT WHERE APPROPRIATE.
8. DMHC SHOULD DEVELOP RESTITUTION PROGRAMS STATEWIDE USING THE PROGRAM FOR ADOLESCENT RESPONSIBILITY IN PORTLAND AS A MODEL.

SOCIAL SERVICES

GOAL #5 DETERMINE THE EXTENT OF SOCIAL SERVICES AVAILABLE TO MEET THE NEEDS OF JUVENILE REFERRALS UNDER THE CODE.

FINDINGS

1. Agency Survey

Ensuring the effective utilization of existing community resources and the strengthening of those programs and facilities that are currently inadequate are both of critical importance to the success of the juvenile intake screening process. In an effort to pinpoint the social services that are overburdened and those that are not being fully utilized, the Code Committee surveyed approximately 25 social service agencies to determine the kinds of services they provide, the age group and sex they serve, and the reasons for sources of and numbers of referrals they experienced since July 1, 1978 and during fiscal year 1977. (See Table I, Appendix F; see sample questionnaire, Appendix D).

Most of the responding agencies indicated that they do not maintain the kinds of records necessary to provide meaningful referral statistics. Many were unfamiliar with the Code and the role DMHC might expect them to play. They also stated that local intake workers had not contacted them either to make referrals or to ask about the agencies' capabilities.

2. Intake Workers and The Agencies

The extent to which intake workers are familiar with the various community resources in Cumberland County is unclear. DMHC initially provided them with lists of emergency and group shelters and with a resource handbook entitled HELP: Index of Youth Resources In Maine, published by the Maine Criminal Justice Planning and Assistance Agency (1978). However, the

handbook needs updating. It omits such programs as Portland Youth Opportunity Office, Youth-In-Action, Program For Adolescent Responsibility, Project Hold, Portland Youth Council, Side-By-Side School and Peoples' Regional Opportunity Program (PROP). Several of the intake workers said they have started meeting with agency personnel learning more about the community's resources.

3. Inadequacies In Community Resources

It is clear from interviews and questionnaire responses that some agencies currently cannot meet the demand for their services. For example, Day One and Community Counseling Center both have waiting lists of people who want to enter their programs.

The Department of Human Services probably represents the bleakest situation among service providers. Due to a shortage of protective and substitute care caseworkers and an insufficient number of shelter care alternatives, the Department has had to resort to ranking in order of priority the cases it accepts, and expanding the kinds of referrals it will not accept, in order to make the most effective use of its limited resources. (See discussion of the "case classification schema" and the DMHC-DHS "runaway agreement" in Goal #1.)

The result has been that DHS responds mainly to cases of very young children faced with immediate and very serious danger. Consequently, most teenage referrals receive little attention until they develop into crisis situations. Because of this, many opportunities for delinquency prevention have been lost. Hopefully, the recent decisions to fund 28 additional protective caseworkers will improve DHS' ability to respond to juvenile problems.

4. Areas of Agency Strength

A number of other agencies seem to have great potential capabilities, but intake workers apparently are not using them to full advantage. These include the Portland Program For Adolescent Responsibility (PAR

formerly the Maine Restitution Project) and the Portland Youth Opportunities Office (a job placement program for young people). DMHC intake statistics indicate that restitution is one of the most frequently used conditions of informal adjustment. In addition, many agency staff members cite unemployment as one of the most common problems among juvenile offenders.

5. Additional Service Needs

Some of the agencies responding to the questionnaire suggested additional kinds of programs and facilities needed to satisfy service demands in Cumberland County. These include: foster homes, group homes and semi-independent living arrangements for teenagers, particularly for girls; a job placement service for youths who have job skills but who lack interviewing and application skills (a service is needed where someone not only locates the job, but goes with the youth to talk with the employer); an active program of neighborhood work projects, such as that being developed by the Portland Youth Council; a special CEITA program designed for juvenile offenders; and an alternative program for juveniles serving determinate sentences.

One agency representative suggested that, before agencies receive increased funding to expand programs and facilities, DMHC should assure itself that maximum coordination of services exists.

Documentation of the need for these services is going to be important if existing or new programs are to receive increased funding. Social service providers who lament the fact that they have insufficient staff, facilities, and funding to adequately meet the needs of the population they serve should make a serious effort to improve their methods of recordkeeping. No one wants to see every agency staff member become a "paper shuffler", because that, too, increases the inadequacy of services. But there must be a compromise

position that will allow more effective data collection without placing an overwhelming burden on the staff.

6. "Within The Limits Of Available Funding"

The new Code contains several sections requiring DMHC and DHS to provide certain services to juveniles "within the limits of available funding". (e.g., 15 MRS §3502(2)(A) and (B)). The Legislature apparently included the "limited funding" language as a disclaimer intended to protect the state from a right to treatment suit brought by a dissatisfied juvenile or parent. Whether the disclaimer would have the desired effect is debatable.

The Code Committee is concerned that the presence of this limiting language in the Juvenile Code will have a negative effect on the ability of DMHC and DHS to secure additional funding from the Legislature. The Committee fears that the Legislature will point to this language as a protective shield when it refuses to make a departmental appropriation, arguing that because of that language the state is not obligated to provide any greater level of services than the Legislature chooses to fund.

RECOMMENDATION 1. DMHC SHOULD SUGGEST MINIMUM STANDARDS FOR AGENCY RECORDKEEPING.

Title 34, section 266(1) authorizes the Commissioner of DMHC to require directors of agencies that the Department operates or with whom it contracts to report to the Department "at such times and on such matters" as the Commissioner requires. Where these agencies do not cooperate voluntarily, the Department could withhold funding or include an appropriate clause in a service contract. However, where other agencies refuse to provide adequate data, the Department is virtually powerless to obtain it.

2. DMHC SHOULD REQUIRE INTAKE WORKERS TO ASSIST IN DOCUMENTING JUVENILE SERVICE NEEDS. THE DEPARTMENT SHOULD ALSO REQUEST SIMILAR ASSISTANCE FROM THE COURTS.

3. THE LEGISLATURE SHOULD REQUEST DATA FROM DHS DOCUMENTING THE NEED FOR ADDITIONAL CASEWORKERS AND SHELTER CARE FACILITIES FOR TEENAGE REFERRALS. THE LEGISLATURE SHOULD APPROVE INCREASED FUNDING TO ENABLE DHS TO MEET THE SERVICE NEEDS OF ALL JUVENILE REFERRALS WITHOUT DELAY.
4. DMHC SHOULD ANNUALLY REVIEW AND UPDATE THE RESOURCE INFORMATION PROVIDED TO INTAKE WORKERS TO ENSURE THAT THE WORKERS HAVE COMPLETE AND ACCURATE KNOWLEDGE OF THE COMMUNITY RESOURCES AVAILABLE, THEIR CAPACITIES, THEIR ELIGIBILITY REQUIREMENTS, AND THEIR REFERRAL PROCEDURES.
5. DMHC SHOULD ENCOURAGE INTAKE WORKER REFERRALS TO THE PORTLAND PROGRAM FOR ADOLESCENT RESPONSIBILITY AND THE PORTLAND YOUTH OPPORTUNITIES OFFICE.

It is an ineffective use of an intake worker's time to design and supervise a restitution program or to locate employment for a juvenile when agencies have been created to perform those exact functions.

6. DMHC SHOULD WORK WITH AGENCIES TO DEVELOP AND SECURE FUNDING FOR ADDITIONAL YOUTH EMPLOYMENT PROGRAMS, ALTERNATIVE LIVING ARRANGEMENTS FOR TEENAGERS, AND AN ALTERNATIVE PROGRAM FOR JUVENILES SERVING DETERMINATE SENTENCES.

Any real chance of success that the Code has for reducing the delinquency rate depends on the availability of employment, alternative living arrangements, recreation, and other programs that can help juveniles feel that they are a part of the community and not just an unwanted commodity.

7. THE LEGISLATURE SHOULD AMEND THE CODE TO REQUIRE THAT THE SERVICES MANDATED BY THE CODE BE FUNDED AT A REALISTIC LEVEL, RATHER THAN MERELY "WITHIN THE LIMITS OF AVAILABLE FUNDING".

COURT ADMINISTRATION

GOAL #6 DETERMINE NECESSARY CHANGES IN THE ADMINISTRATION OF JUVENILE COURT.

FINDINGS

Court related administrative problems in Portland involving the new Code fall into five categories; scheduling, court forms, recording of hearings, availability of judges, and appointment of counsel.

1. Scheduling and Availability of Judges

Juvenile court is held in Portland on Monday (non-Portland cases), and on Tuesday (Portland cases). In Bridgton, an at-large judge presides on Monday to hear all district court and juvenile cases. The Portland court attempts to schedule adjudicatory hearings during the afternoon and requests juveniles involved in those cases to appear at 1:30 p.m.; other juvenile cases are scheduled at 9:00 a.m. While this may force some people to wait several hours before the court discusses their petition or holds their hearing, this system apparently is an improvement over that used a few years ago, when everyone was scheduled for 9:00 a.m.

Conflicts in scheduling arise in two situations:

(1) when detention hearings become necessary on non-Juvenile Court days and (2) on regularly scheduled Juvenile Court days, when for some reason (vacation, conference, illness, etc.) there is a shortage of judges covering the Portland District Court. According to one Portland Youth Aid Officer, in at least seven instances during July and August 1978, the court continued all juvenile cases because the only District Court Judge available in Portland was presiding over adult matters. On one of these occasions a detention hearing was scheduled, but apparently, the intake worker found a person to whom she could release the youth. Thus, a hearing was avoided. However, it is unclear whether this arrangement was completely satisfactory to the intake worker, or merely a decision the worker made because there were no other alternatives.

Detention hearings scheduled for Wednesday through Friday serve to make an already full court day even more hectic. Judges expect intake workers to have all necessary parties and witnesses present and ready to go. Since things do not always go according to plan, court clerks must sometimes perform this "round-up" function, which can be an annoying addition to their workloads.

2. Court Reporters

The same two women in Portland serve as court reporters for both District Court criminal cases and Juvenile Court hearings, in addition to a myriad of other clerical functions. While one of them is usually available for juvenile hearings without too much delay, they are forced to fall behind in other aspects of their work.

3. Court Forms

The consensus of many of those who have to deal with juvenile court forms is that the Court Administrator should revise the forms to provide more space for narrative and also to eliminate unnecessary paperwork. This was a common complaint of judges, court clerks, and the superintendent of MYC. One of the local probation officers observed that juvenile probation forms contain a list of standard conditions that are more appropriate for adult probationers than for juveniles.

However, the major source of irritation over court forms comes with the preparation of the summons and petition that are served by police officers. First, the forms contain errors as printed, so the clerks must make manual corrections before distributing them. Second, whereas formerly the clerks had only three forms to prepare for service, they must now type six forms to be served: two petitions, two parental summons (Form (b)), and two juvenile summons (Form (a)). The officer serves copies of the petition and parental summons on the parent. The juvenile receives copies of the petition and juvenile summons. The officer then returns the extra copies to the court clerk indicating that proper service has been completed. Apparently many of the officers return two "a's" or two "b's", and must retrace their steps to correct their error - a time-consuming mistake. According to one of the court clerks, service of both the petition and summons is unnecessary, since the summons describes the offense charged as completely

as the petition.¹⁵ (See Appendix A for sample forms)

4. Appointment of Counsel

Apparently very few juveniles retain their own counsel (see Court Tables III through VI, Appendix F). The Code provides that if a juvenile requests an attorney and if the court finds that the juvenile and his/her parent(s) are without sufficient financial resources, the court will order appointment of counsel. Based on six days of observation in chambers, it appears that the court appoints attorneys without question where a juvenile has not retained one on his/her own initiative. Apparently there is a presumption of indigence.

Generally, the appointment procedure runs smoothly, with the attending probation officers bringing to the bailiff a list of those juveniles for whom the court has authorized appointment of counsel. The bailiff then notifies the various attorneys, who in turn contact their new clients. Occasionally, something fouls up communications, everyone thinks someone else has contacted an attorney for the youth, and two weeks later the court finds that counsel has neither been retained nor appointed. The case is continued for several more weeks and the appointment question settled immediately to avoid future mix-ups. Apparently a big annoyance to appointed counsel (and probably to the bailiff as well) is being appointed to represent a juvenile at a detention hearing and then receiving a call several hours later advising the attorney that an intake worker has released the juvenile.

RECOMMENDATIONS The Code Committee recommends that:

15. Section 3304(1) states that "the summons shall briefly recite the substance of the petition..."

1. THE COURT ADMINISTRATOR SHOULD MODIFY EXISTING JUVENILE COURT FORMS, AFTER CONSULTING WITH THE VARIOUS PEOPLE WHO MUST WORK WITH THEM.
2. THE COURT ADMINISTRATOR SHOULD REVIEW EXISTING PERSONNEL TO DETERMINE WHETHER AN ADDITIONAL COURT REPORTER AND JUDGE WOULD BE JUSTIFIED FOR CUMBERLAND COUNTY.
3. THE COURT ADMINISTRATOR SHOULD EVALUATE THE JUVENILE COURT SYSTEM AND TAKE NECESSARY STEPS TO RESOLVE SCHEDULING PROBLEMS THAT ARISE, PARTICULARLY IN THE SUMMER.

JUVENILE RIGHTS

GOAL #7 DETERMINE THE EXTENT TO WHICH MANDATED STATUTORY AND CONSTITUTIONAL RIGHTS ARE ACTUALLY BEING AFFORDED JUVENILES.

FINDINGS

Based on six days of observation at the Portland Juvenile Court, the Code Committee has identified the following juvenile rights as being especially worthy of discussion:

1. Records

The new Code requires a verbatim record of all detention, bind over, adjudicatory, and dispositional hearings. 15 MRSA §3307(B) The Court has apparently complied completely with this provision, with all hearings being recorded, the number of the tape noted in the juvenile docket, and the tape stored for a year in case someone requests a written transcript. There has apparently been a problem with recording equipment in Brunswick. At least one Brunswick detention hearing was transferred to Portland for recording purposes.

2. Rules of Evidence

Prior law apparently did not require that proceedings be governed by the Maine Rules of Evidence. In addition, the Maine Rules of Evidence, Rule 1101 (1977) specifically exempted juvenile proceedings from their application. However, one juvenile judge stated in an interview that he always observed the Rules of Evidence in hearings over which he presided under the old law, regardless of whether it was

legally required.

The new Code now mandates that the Rules of Evidence apply in all juvenile proceedings. 15 MRSA §3307

(1) While there is generally some attempt to observe the Rules during adjudicatory hearings, the parties appear to ignore them in detention hearings. The parties follow the Rules to varying degrees in dispositional hearings.

On several occasions witnessed by the Committee's staff, the State introduced reports during both adjudicatory and dispositional proceedings which the defense attorney had obviously had no previous opportunity to study. However, defense counsel made no attempt to conduct even a minimal cross-examination of the person who prepared the report or to raise even the slightest question about its contents. In another instance, the Committee's staff observed a hasty stipulation¹⁶ in chambers between a defense attorney, police officer, and assistant district attorney to a chemist's reporting analyzing some marijuana allegedly confiscated from a juvenile. Such a stipulation seemed a bit premature without having read the report. While these various reports may not have been crucial to their cases, it appears that these attorneys may not be truly protecting their clients' interests.

3. Discussions In The Judge's Chambers

During the Code Committee staff's observation period in chambers, discussions involving any length or detail were usually those regarding cases where the juvenile wanted to plead guilty or where there was a recognized psychological problem, and all parties to the case were attempting to arrange a satisfactory disposition. In all such instances, the judge, defense attorney and assistant DA were present and participating in the discussion. However, some members of the Committee are concerned about the possibility of prejudicial discussions regarding a juvenile's prior record before an adjudication. With

16. A "stipulation" is a concession on a specific matter made by one party to the other, relieving the first party of the burden of proving that point.

the Code's emphasis on the recording of juvenile hearings, the Committee believes that discussions in chambers could be used to short-circuit the formality required by the Code.

4. Right To Appeal

Maine's new Code provides a detailed appeal procedure for juvenile cases. 15 MRSA §3401-3407 While the juvenile judges generally advise the defendant juvenile of his/her right to appeal from an order of adjudication and disposition, this same right is usually not emphasized to the juvenile following an order of continued detention. Such an order would be "final" and thus appealable, under 15 MRSA §3402(1) (F).

5. Judicial Findings

Just what constitutes "findings" for the purposes of the Code and a record of the hearing is unclear. There appears to be no exact formula shared by the various juvenile court judges. Some state simply, "I adjudicate you guilty...I commit you to the Maine Youth Center". Others run through the facts stated in the petition, making findings on each point for the record. None seem to attempt to refer to any evidence introduced during the hearing that may have carried particular weight.

6. Statements Made To An Intake Worker

Section 3204 of Title 15 clearly states that statements made by a juvenile to an intake worker are inadmissible against the juvenile in a later proceeding. The Code makes no mention of statements made to an intake worker by the juvenile's parent about the juvenile. However, at least one intake worker has stated vehemently that she would consider statements by both as confidential. DMHC will hopefully settle this question when it has completed its uniform policy on confidentiality (see discussion, Goal #1-A).

7. The Attorney As Advocate

Attorneys whose names appear on a court appointments list are usually called upon once a month by the Juvenile Court. When representing a juvenile defendant, a court-appointed attorney receives a flat \$50.00 fee, which most consider very low. During six days of observation in Portland, the Committee's staff was disturbed by the apparent lack of preparation, and even lack of interest, with which some attorneys "represented" their juvenile clients.

Admittedly, some attorneys appeared to have spent a great deal of time mapping out a defense and argued zealously on behalf of a client in detention, adjudicatory, and dispositional hearings (even though not always successfully). However, a large percentage of the attorneys apparently had their first contact with a particular case only a brief time before they entered the courtroom or the judge's chambers. This was true whether they were seasoned attorneys or attorneys "still learning the ropes".

Many of the juveniles simply pleaded to the charges against them. In several of these cases, the attorneys apparently had not explored any dispositional alternatives on their own, choosing to follow whatever the judge, probation office, and juvenile aid officer recommended. The same was true of most of the detention hearings that the Committee's staff observed. Most of the attorneys seemed willing to abide by the intake worker's decision, without having studied the situation carefully to ensure that the court and intake worker were placing the juvenile in the least restrictive facility. In only one of the hearings that the Committee's staff attended did defense counsel actively oppose the intake worker's request for continued detention.

Even those attorneys who contact their clients prior to their appearance in court do not necessarily thoroughly prepare. The Committee's staff interviewed one juvenile whose experience, if accurately related, illustrates this point: the police had apparently arrested the juvenile, had taken her

directly to the County Jail, and had failed to read her Miranda warnings. The duty intake worker ordered the juvenile's continued detention at the jail, although the juvenile was only charged with possession of marijuana and could probably have gone to Fair Harbor. She was released within 48 hours so no detention hearing was held. According to the juvenile, when her court-appointed attorney contacted her a week before her initial court appearance, he asked her only two questions: (1) Did she really have drugs in her possession at the time of the arrest? and (2) Was there anything else she thought the attorney should know? Since most lay people, whether adults or juveniles, probably would not know what information was legally significant, this interviewing technique seems a poor method for ascertaining a possible defense.

9. Judicial Impartiality

During detention hearings and uncontested adjudicatory hearings, the assistant district attorney in Portland is not always present to conduct the State's case. In these situations, the presiding judge examines witnesses on behalf of the State. One judge objected to this practice, and the DA reluctantly participated. The Committee is concerned that a judge's participation in the proceedings might create an appearance of judicial bias in favor of the State's case and lead to an erosion of public confidence in the impartiality of our juvenile justice system.

RECOMMENDATIONS The Code Committee recommends the following:

1. JUVENILE JUDGES SHOULD SUPPLY MORE COMPLETE STATEMENTS OF THE FINDINGS AND REASONS SUPPORTING A PARTICULAR DETENTION, ADJUDICATORY, OR DISPOSITIONAL ORDER.

In most cases, the juvenile and defense counsel can only conjecture what evidence lead the judge to issue a particular order. If the judge gave a more complete explanation, the losing parties would probably feel a lesser sense of frustration and would have a

better idea of how to proceed with an appeal.

2. JUDGES SHOULD ADVISE JUVENILES OF THEIR RIGHT TO APPEAL A DETENTION ORDER.
3. ATTORNEYS APPOINTED IN JUVENILE CASES SHOULD CONTACT THEIR CLIENTS EARLIER AND PREPARE MORE THOROUGHLY.
4. THE LEGISLATURE SHOULD APPROPRIATE ADDITIONAL FUNDING TO INCREASE ATTORNEY'S FEES IN JUVENILE CASES. THE COURT SHOULD CONSIDER AWARDING FEES ON AN HOURLY BASIS.
5. JUVENILE JUDGES SHOULD TAKE A NEUTRAL POSITION DURING JUVENILE HEARINGS AND REQUIRE THE ATTORNEY FOR THE STATE TO CONDUCT THE STATE'S CASE.

GOAL #8 ASCERTAIN THE EXTENT OF FORMAL OR INFORMAL TRAINING ABOUT THE CODE RECEIVED BY THOSE WHO WORK DIRECTLY WITH JUVENILES AND DETERMINE WHETHER ADDITIONAL TRAINING IS NECESSARY.

FINDINGS

1. Training For Intake Workers

Having observed the first few months of the new Code's implementation, the Committee staff has concluded that more advance preparation, education, and public relations would have made a great difference in the degree to which people understand and accept the Code. The training that DMHC provided to the new intake workers occurred during the last week of June, one week prior to the Code's implementation. According to several of the intake workers, the session was too short and too theoretical, and there was not enough opportunity to become acquainted with the various social service providers and local police officers. The Department plans to require that intake workers receive 40 hours of ongoing, in-service training per year, as well as courses in crisis intervention, counseling and college courses, as a way to supplement their initial training and individual experiences.

It is only within the past few weeks that the intake workers for this district have been able to make a concerted effort to meet with different agencies and discuss ways in which they might work together. Most of the agencies responding to a questionnaire earlier in September (see Appendix D) stated that no one from DMHC had contacted them to discuss the role they were expected to play under the Code. Most had not even seen a copy of the new law. Any communications they did have with DMHC were apparently minimal, and then were only because the agency itself had initiated the contact.

2. Training For Law Enforcement Officers

One of the greatest needs for education about the Code rests with police officers on patrol duty. District Attorneys Henry Berry and Joseph Jabar¹⁷ conducted several training sessions for the police around the state last June. However, many of these officers apparently still have problems with some of the Code's requirements, such as (1) when they must contact an intake worker, (2) what information they must include in the report they file with the intake worker, (3) when and where they must file the report, and (4) which papers they must serve on the juvenile and parent.

3. Training For Juveniles and Agencies

Many social service providers have expressed their concern to the Committee that neither they nor the juveniles they serve have a complete understanding of the rights of juveniles under the new Code. During the Summer of 1978 the University of Maine Orono/Old Town Teacher Corps Project prepared a juvenile law handbook designed to meet the needs of juveniles and parents. This booklet will be printed and dis-

17. Jabar, Kennebec County DA, chaired the Legislature's Juvenile Code Commission.

tributed shortly. (See Appendix E.)

4. Training For Judges and Attorneys

Several juvenile court judges have expressed a desire for additional material highlighting and clarifying changes made by the new Code. Many of the attorneys whom the Committee staff observed in juvenile court appeared to lack an understanding of the intake system and other new Code provisions.

RECOMMENDATIONS The Code Committee recommends the following:

1. DMHC SHOULD PROVIDE COPIES OF THE CODE TO ALL AGENCIES PROVIDING SERVICES TO JUVENILES. DMHC REPRESENTATIVES SHOULD MEET WITH THESE AGENCIES TO DISCUSS THEIR RESPECTIVE ROLES UNDER THE CODE.

The Maine Criminal Justice Planning and Assistance Agency (MCJPAA) has prepared copies of the Code and will distribute them upon request.

2. DMHC SHOULD ASSESS THE CURRENT LEVEL OF INTAKE WORKER FAMILIARITY WITH COMMUNITY RESOURCES AND TAKE IMMEDIATE STEPS TO SUPPLEMENT THEIR KNOWLEDGE WHERE IT IS INADEQUATE.

Ideally, the Department would accomplish this by arranging group conferences between intake workers and individual agencies.

3. THE VARIOUS DISTRICT ATTORNEYS, THE ATTORNEY GENERAL'S OFFICE OR MCJPAA SHOULD PREPARE A CONCISE HANDBOOK FOR POLICE OFFICERS TO CARRY WHILE ON DUTY.

A single version should go to all departments to assure uniformity of implementation. Perhaps MCJPAA could provide funding.

4. THE UNIVERSITY OF MAINE JUVENILE HANDBOOK SHOULD BE DISTRIBUTED TO JUVENILES AND SOCIAL SERVICE AGENCIES.

Possibly MCJPAA could finance printing and distribution costs. Once juveniles and service providers understand how the system is supposed to operate, they can assist in monitoring the Code and help ensure that it is functioning as the Legislature intended.

5. THE ATTORNEY GENERAL'S OFFICE, PINE TREE LEGAL ASSISTANCE, OR MCJPAA SHOULD PREPARE A CONCISE HANDBOOK FOR JUVENILE COURT JUDGES AND ATTORNEYS TO FAMILIARIZE THEM WITH NEW HEARING PROCEDURES, DISPOSITIONAL PROVISIONS, AND THE FUNCTION AND OPERATION OF THE JUVENILE INTAKE SYSTEM. THE MAIN BAR ASSOCIATION SHOULD SPONSOR A SEMINAR ON THE NEW JUVENILE CODE.

BINDOVER

GOAL #9 COMPARE THE BINDOVER CRITERIA PROVIDED UNDER THE OLD AND NEW CODES.

FINDINGS

One of the reasons that proponents of the new Juvenile Code have claimed that the law will be "tough on the toughies, and soft on the softies" is the revised bind-over provision. 15 MRSA §3101(4). In deciding whether to bindover from Juvenile to Superior Court a youth accused of committing murder or a Class A, B or C offense, the juvenile court must consider each of the following factors:

1. The record and previous history of the juvenile; and
2. Whether the offense was committed in an aggressive, violent, premeditated or willful manner, greater weight being given to offenses against the person than against property; and
3. Whether the juvenile's emotional attitude and pattern of living indicate that it is unlikely that future criminal conduct will be deterred by the dispositional alternatives available to the juvenile court.

After weighing each of these factors, the court must bindover a juvenile defendant to be tried as an adult in Superior Court if it makes a positive finding on each of the following points:

1. That there is probable cause to believe that a juvenile crime has been committed that would constitute murder or a Class A, B or C crime if the

juvenile involved were an adult and that the juvenile to be boundover committed it;

2. By a preponderance of the evidence, that the maturity of the juvenile indicates that the juvenile would be more appropriately prosecuted if he were an adult; and
3. By a preponderance of the evidence, that the nature and seriousness of the alleged juvenile crime indicate that the protection of the community will require detention of the juvenile in a facility which is more secure than those available as dispositional alternatives to the juvenile court.

Under the old system's bindover provision (15 MRSA §2611(3)), the court could find probable cause only if it concluded, "from the totality of the child's circumstances", that:

1. The child's age, maturity, experience, and development were such as to require prosecution under the general law;
2. The nature and seriousness of the child's conduct constituted a threat to the community;
3. The conduct of the child was committed in a violent manner and there was reasonable likelihood that future conduct would not be deterred by continuing the child under the care, protection, and discipline of the juvenile law process.

It was apparently the consensus of the Code Commission and the Legislature that the new Code's bindover criteria would be more workable.

The new list of required considerations and findings is more concise and straightforward than the old procedure. Not enough bindover activity has occurred since July 1, 1978 to make any generalizations about the Code's effective-

ness in this respect. In the one bindover hearing that did occur in Portland on an aggravated assault (Class B) petition, the presiding judge did not find probable cause. During the same two month period in 1977, eight bindover hearings were held, with findings of probable cause resulting in each. All of those cases involved offenses committed by juveniles at the Maine Youth Center: aggravated criminal mischief (3); reckless conduct with a dangerous weapon (1); assault on an MYC staff member (1); and aggravated assault (3). (See Court Tables III and IV, Appendix F).

RECOMMENDATIONS The Code Committee recommends the following:

1. AN INDEPENDENT ORGANIZATION SHOULD CONTINUE TO MONITOR BINDOVER ACTIVITIES TO DETERMINE HOW SUCCESSFUL THE NEW PROVISION IS AND WHAT PROBLEMS EXIST. (SEE GOAL #1, RECOMMENDATION #7).

GOAL #10 DETERMINE THE EFFECT OF OPEN HEARINGS ON JUVENILES

FINDINGS

1. Code Provisions

One of the major philosophical changes in Maine juvenile law rendered by the new Code is a provision opening certain juvenile hearings to the public and press. Under the old system, the court permitted the attendance of only the participants in the proceedings and others it deemed to have a legitimate interest in the juvenile youth system. All juvenile records were confidential. The Juvenile Code now prohibits the exclusion of the public from adjudicatory and dispositional hearings involving murder or Class A, B, or C offenses. In such cases, the petition, the record of the hearing and the order of adjudication are open to public inspection. Hearings on petitions alleging Class D, Class E or other juvenile crimes, and all bindover and detention hearings, are closed to the general public, as are all related records. A juvenile charged with two offenses, one in the Class A-C category and one in the Class D and E category, may elect to have them adjudicated separately or in a single hearing. If the juvenile elects a single hearing, that hearing must be open to the public (15 MRSA §3307(2) and §3308).

Much as been written in law review articles, social science journals, and the like about the psychological damage and social stigma that open hearings create for a juvenile offender thus exposed to public view. However, the Code Commission and Maine Legislature obviously determined that the public's interest in learning the names and details of the more serious juvenile offenders and offenses outweighs any potential negative impact on the youth involved.

2. Public Attendance At Hearings

Apparently, members of the public and press are as yet unaware that they now attend some juvenile court proceedings. During the six days of observation by the Code Committee staff, the only persons present at the juvenile court sessions were the juvenile defendant, members of the family/legal guardian, the probation officer, district attorney, defense attorney, police officers, witnesses, and other individuals necessary to a particular case.

3. Press Coverage

A recent communication from the executive editor of a local paper indicates that neither he nor his court reporter is aware of the opportunity for media coverage of all Class A, B, and C offenses under the new Code. He states, however, that when his paper does cover such an offense, it will be on the same basis as any other court case - news value, importance, the nature of the incident, the people involved, etc. He also states that they will print names when available.¹⁸

RECOMMENDATIONS The Code Committee recommends the following:

1. AN INDEPENDENT ORGANIZATION SHOULD MONITOR THE EXTENT TO WHICH THE PUBLIC AND PRESS ARE SEEKING ACCESS TO

18. Letter from John K. Murphy, Gannett papers, dated September 20, 1978

JUVENILE HEARINGS AND RECORDS AND DETERMINE WHAT EFFECTS BOTH ADVERSE AND BENEFICIAL HAVE RESULTED.

2. THE COURT SHOULD ENSURE THAT MEMBERS OF THE PUBLIC SEEKING ACCESS TO THOSE RECORDS AND HEARINGS REQUIRED TO BE OPEN UNDER THE CODE ARE GRANTED THAT ACCESS BY COURT PERSONNEL.

REHABILITATION

GOAL #11 DETERMINE THE EXTENT OF REHABILITATIVE SUCCESS RESULTING FROM THE NEW INTAKE SYSTEM AND RANGE OF DISPOSITIONAL ALTERNATIVES.

FINDINGS

Probably the single most important goal of the new Juvenile Code is that of preventing juvenile crime and rehabilitating juvenile offenders by determining the most effective pre- and post- adjudication disposition for each individual who comes in contact with the juvenile justice system. By providing a more comprehensive procedure for pre-adjudication screening, the service needs of the less serious offenders can be more thoroughly analyzed and satisfied. Those juveniles who do appear in court will hopefully benefit from the more formal proceedings, and the reduced judicial caseloads, which presumably will enable the court to conduct a more complete and thoughtful assessment of the juvenile's problems.

Ideally, the end result of this process will be a reduction in the number of juveniles who become "repeat offenders". However, it is too early to know whether or not the Code has been successful in this respect. It will probably require a year before DMHC can compile any definitive statistics.

It will be particularly interesting to follow the rate of rehabilitative success of the Maine Youth Center's new "Reality Therapy" program. The central theme of this