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The Intake Process in the Affluent County Juvenile Court*

By ELYCE ZENOFF FERSTER** AND THOMAS F. COURTLESS***

A JUDICIAL hearing is not held on every delinquent complaint made to the juvenile court. Rather, statistics indicate that in 1967, 53 percent, or 428,000 of all cases referred to juvenile courts were not formally adjudicated. In some large cities and counties the percentage of cases handled in an unofficial manner is even larger. Affluent County, however, has a considerably lower rate of informal disposition than the national average. In 1967, 39 percent of the cases referred to the court were handled informally. The Affluent County rate of informal cases increased in the next 2 years—to 45 percent in 1968 and to 50 percent in 1969.

Although approximately half of all juvenile cases referred to courts in the United States are processed informally, the percentage variation from community to community, as shown below, is very large.

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2. One observer considers it proper for intake to dispose of 50 percent of incoming cases. However, he does not advance reasons supporting this rate. Keve, Administration of Juvenile Court Services, in JUSTICE FOR THE CHILD 172, 188 (M. Rosenheim ed. 1962).

3. Affluent County is located in the Middle-Atlantic region. Its estimated 1969 population was 500,000. The name “Affluent” was chosen because the county has the highest median income of any county in the United States. DEP’T OF COMMUNITY DEVELOPMENT, AFFLUENT COUNTY, POPULATION AND SOCIAL CHARACTERISTICS 2 (CRP Rep. No. 6, 1968).

TABLE 1
Percentage of Delinquency Cases
(Excluding Traffic Cases)
Handled Informally in 1967

<table>
<thead>
<tr>
<th>City</th>
<th>Percent</th>
<th>County</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>St. Louis</td>
<td>80.0</td>
<td>Trumbull, Ohio</td>
<td>80.7</td>
</tr>
<tr>
<td>Milwaukee</td>
<td>70.2</td>
<td>Westchester, New York</td>
<td>73.8</td>
</tr>
<tr>
<td>Houston</td>
<td>59.5</td>
<td>Yakima, Washington</td>
<td>72.7</td>
</tr>
<tr>
<td>Detroit</td>
<td>50.4</td>
<td>Polk, Iowa</td>
<td>68.5</td>
</tr>
<tr>
<td>District of Columbia</td>
<td>49.4</td>
<td>San Joaquin, California</td>
<td>65.0</td>
</tr>
<tr>
<td>Atlanta</td>
<td>47.2</td>
<td>Orange, Florida</td>
<td>63.3</td>
</tr>
<tr>
<td>Los Angeles</td>
<td>43.0</td>
<td>Mecklenburg, N. Carolina</td>
<td>59.4</td>
</tr>
<tr>
<td>New York</td>
<td>40.3</td>
<td>Delaware, Pennsylvania</td>
<td>39.0</td>
</tr>
<tr>
<td>Cleveland</td>
<td>38.5</td>
<td>Macomb, Michigan</td>
<td>38.7</td>
</tr>
<tr>
<td>Philadelphia</td>
<td>27.0</td>
<td>Spartanburg, S. Carolina</td>
<td>29.0</td>
</tr>
</tbody>
</table>

Manifestly, these communities use different criteria to determine which cases shall be subject to informal disposition because no other explanation will support a range of percentages from 27.0 percent to 80.7 percent. The purpose of this article is to discover the criteria and procedures which are used to make intake decisions and to evaluate them in light of the purposes of intake.

The Purposes of Intake

It is generally agreed that the chief function of intake is to determine which complaints should be referred for a judicial hearing, although differences of opinion do exist concerning the criteria and procedures which are to be used in making this determination. Intake is supposed to eliminate three basic situations. First, intake should elimi-
nate complaints involving acts over which the juvenile court has no jurisdiction.\textsuperscript{10} For example, the juvenile court may be requested to adjudicate a child to be incorrigible merely because he failed to do his homework or cut his hair.\textsuperscript{11} Second, intake should dismiss complaints which, although they allege sufficient grounds for juvenile court jurisdiction, are not supported by sufficient evidence. Third, intake should eliminate those cases which may invoke court jurisdiction and are supported by sufficient evidence but involve only minor offenses, such as breaking a street light or possessing liquor.

Thus, in performing this screening function, the intake staff should affirmatively answer the following questions before referring a complaint for judicial hearing: Is the complaint one over which the juvenile court has jurisdiction? Is there sufficient evidence to support the allegations of the petition? Will filing of a petition be in the best interest of the child and the public?\textsuperscript{12}

It is also generally agreed that intake should decide whether the juvenile is to be released to his family or detained until the court hearing.\textsuperscript{13} There is much less agreement, however, concerning the propriety of a third function which is performed by the intake staff of many courts: supervision and treatment of juveniles against whom a delinquency complaint has been made but who are not referred to the judge for a hearing.\textsuperscript{14} Before examining these functions, however, it will be helpful to discuss intake personnel, the procedures which they follow, and the criteria which they employ to implement the screening process.


\textsuperscript{11} See \textit{MODEL RULES}, \textit{supra} note 7, rule 2, Comment (1968).

\textsuperscript{12} See Sheridan, \textit{Juvenile Court Intake}, \textit{supra} note 10, at 148, 152. Sheridan states that the intake worker should also decide what kind of petition should be filed and whether there is a need to hold the child in detention. \textit{Id.} at 152. Other authorities similarly divide the intake decision into legal considerations. See Waalkes, \textit{supra} note 8, at 119. Kahn also envisions the intake staff considering whether “there is legal sanction” to formally adjudicate “as well as whether it is useful to do so in the light of community norms and resources and the case situation.” Kahn, \textit{Children in Trouble}, in \textit{STUDIES IN SOCIAL POLICY AND PLANNING} 86-87 (1969).

\textsuperscript{13} See, e.g., W. Sheridan, \textit{supra} note 7, at 161; \textit{GUIDES FOR JUvenile COURT}, \textit{supra} note 7, at 37; Sheridan, \textit{Juvenile Court Intake}, \textit{supra} note 10, at 152.

\textsuperscript{14} See, e.g., \textit{JUVENILE DELINQUENCY} \textit{supra} note 8, at 17; Fradkin, \textit{Disposition Dilemmas of American Juvenile Courts}, in \textit{JUSTICE FOR THE CHILD} 123 (M. Rosenheim ed. 1962); Sheridan, \textit{Juvenile Court Intake}, \textit{supra} note 10, at 153.
A. Intake Personnel

The number and quality of personnel performing the screening function vary from jurisdiction to jurisdiction and from court to court. The wide variety of procedures and personnel used to screen cases in juvenile courts often reflect pragmatic factors, such as workload of the court, size of the staff and degree of prescreening performed by the police. Juvenile courts located in larger cities often have complete and separate intake sections composed of trained probation officers. In contrast, some courts located in less populated jurisdictions have no intake personnel and the intake functions are performed entirely outside the court. In one such court, the judge had delegated authority for most screening and agency referral to the police.

Statutes in most jurisdictions require that the decision to adjudicate a complaint formally be preceded by, and be based on, a “preliminary inquiry” or investigation, but many of these same statutes do not indicate who shall make the investigation. Some statutes simply designate “the court,” while others require that the probation officer make the initial inquiry. In contrast, organizations which propose model standards recommend that the intake function be performed by probation officers who would constitute a separate intake unit.

This latter procedure is followed in Affluent County. At the time

15. Some experts insist that “good primary screening,” i.e., by police, schools and other agencies screening out cases not in need of court referral, is indispensable to the efficient use of the court staff, who otherwise would use a disproportionate amount of time on intake. See Sheridan, Juvenile Court Intake, supra note 10, at 139.

16. See Memorandum, Re-Organization of Probation Department, St. Louis, Missouri (1968), which structures the intake department into three divisions corresponding to jurisdictional screening, investigation, and informal adjustment. The United States Children's Bureau has criticized the lack of a full time intake staff in Baltimore, Maryland as contrary to the usual practice of most large city courts. U.S. CHILDREN'S BUREAU, DEP'T OF LABOR, A STUDY AND ASSESSMENT OF MARYLAND'S PROGRAM AND FACILITIES FOR THE TREATMENT AND CONTROL OF JUVENILE DELINQUENCY (pt. 1) 20 (1967).


19. Id. at 868 nn. 18, 19.

20. See NATIONAL PROBATION AND PAROLE ASSOCIATION, A STANDARD JUVENILE COURT ACT, § 12, Comment (6th ed. 1959), which states that “[o]ne of the most important features of the modern juvenile court is a well staffed intake department, receiving all complaints. . . .” However, the comment does not specify it as a separate unit. Id. W. SHERIDAN and the Model Rules do specify a separate unit. W. SHERIDAN, supra note 7, at 53-54; MODEL RULES, supra note 7, rule 3; Sheridan, Juvenile Court Intake, supra note 10, at 147.
of this study the intake unit consisted of three workers and one supervisor who performed all the screening for the 2,283 cases which were referred to the court during 1968.\textsuperscript{21}

The authority delegated to intake also varies from state to state. Although based on a preliminary investigation, the intake worker’s decision about the necessity of a judicial hearing is not always final. In some jurisdictions, for example, complainants can insist on filing a petition for formal adjudication, thereby overruling the probation officer’s decision.\textsuperscript{22} In a few other jurisdictions complainants, although they cannot compel a judicial hearing, can demand that the probation officer’s determination be reviewed by a prosecution official.\textsuperscript{23}

There is no statutory authority for review of the probation officer’s decision by a prosecutor in Affluent County; neither is there authority for overruling the probation officer’s decision.\textsuperscript{24} However, at least some intake workers believe that the complainant has the right to insist on formal court action. Several of the intake reports in sample cases contained comments by the intake worker that many cases not requiring formal court action were referred at the insistence of the complainant.

Statutes which limit intake authority have been criticized by some experts because they restrict the power of officials to prevent petty disputes from burdening the courts.\textsuperscript{25} Proponents of such statutes, on

\begin{itemize}
  \item \textsuperscript{21} Interview with Affluent County Chief Probation Officer, June 3, 1969.
  \item \textsuperscript{22} See ILL. ANN. STAT. ch. 37, § 703-8 (Smith-Hurd Supp. 1967); N.M. STAT. ANN. § 13-8-32 (1953); N.Y. FAMILY CT. ACT § 734 (McKinney 1963).
  \item \textsuperscript{23} Maryland provides for review by the State’s Attorney. Md. ANN. CODE art. 26, § 70-6 (Supp. 1969). The District of Columbia provides for review by the corporation council. D.C. CODE ANN. § 16-2302 (1967). This type of review is suggested by W. SHERIDAN, LEGISLATIVE GUIDES FOR DRAFTING JUVENILE COURT ACTS § 13 (1969) [hereinafter cited as W. SHERIDAN, LEGISLATIVE GUIDES]. Sheridan also suggests giving the appropriate prosecuting official authority to file a petition in favor of the child if he believes such action is necessary to protect the community’s interest in the child. Id. § 13(b).
  \item \textsuperscript{24} The pertinent provisions of the Affluent County Code are as follows: § 81 provides that “the probation officers . . . shall perform such duties . . . as may be prescribed by the judge, including the duty of investigating complaints made to the court. . . .” § 86(a) states that “whenever any person informs the court that a child is within the purview of this subtitle, the court shall make a preliminary inquiry to determine whether the interests of the public or . . . the child require that further action be taken. Thereupon the court may make such informal adjustment as is practicable with a petition, or may authorize a petition to be filed by any person.”
  \item \textsuperscript{25} The Uniform Act does not allow a petition to be filed unless a person authorized by the court has determined that such action is in the best interest of the public, and the child. UNIFORM JUVENILE COURT ACT § 19. The drafters’ comment
the other hand, contend that if intake officials have exclusive authority to determine whether a complaint should be referred to a judge, the rights of the public and the juvenile may not be protected. The validity of this contention cannot be determined until current intake procedures and practices have been examined.

B. Intake Procedures

As explained above, the first question that an intake worker must decide is whether the complaint is within the jurisdiction of the juvenile court. For example, if the juvenile court is only authorized to handle delinquency complaints involving children 15 years of age and under and the complaint involves a charge of automobile theft by a boy who was 16 at the time of the alleged act, the juvenile court would have no jurisdiction. Ordinarily, the intake worker is able to determine whether the court has jurisdiction, but he may need to consult legal counsel if he encounters difficult jurisdictional questions. Affluent County intake personnel indicated their need for either legal training or assistance to handle these legal questions.

After determining that the juvenile court has jurisdiction over the complaint, the intake worker must decide whether the evidence is sufficient to support the allegations of delinquent conduct. The extent of the investigation the intake worker makes to determine the sufficiency of the evidence varies from jurisdiction to jurisdiction. The intake worker's function in some jurisdictions is to gather evidence; in others, like Affluent County, he is simply to review the evidence presented.

Statistics on the number of cases closed by the intake determination that the court has no jurisdiction would of course be helpful to determine how many cases are unnecessarily referred to the juvenile court. Data on the number of cases closed because of lack of evidence would be useful for the same reason. Unfortunately, juvenile courts usually do not keep such records.

that its purpose is to avoid groundless and ill-advised petitions. Id., Comment. Although Sheridan also held this view 8 years ago, Sheridan, Juvenile Court Intake, supra note 10, at 141, he prepared the children's bureau legislative guides which removed from the court control of its own jurisdiction. See W. SHERIDAN, LEGISLATIVE GUIDES, supra note 23, at § 13 & Comment.


28. The authors' examination of juvenile court annual reports included: Cook
To compensate for this lack of information, data concerning intake dispositions were obtained in Affluent County by an examination of 162 of the intake case records, including the intake worker's comments.\(^2\) Eighty-nine, or 65 percent, of these cases were closed at intake, but in only five of these cases were lack of jurisdiction or lack of evidence given as the reason for the decision not to refer the case to juvenile court. In six instances the record gave no reason for closing the case. Even if these last six cases were added to those known to be closed because intake found that the juvenile was not involved in the offense, the percentage of cases closed for this reason would be less than 10 percent. Since no comparable data were available from other jurisdictions, however, it is impossible to generalize accurately whether intake departments of other juvenile courts also dismiss only a small number of complaints for lack of jurisdiction or lack of evidence.

C. Intake Criteria

Determination of the juvenile court's jurisdiction and the sufficiency of the evidence to support the complaint is relatively simple in comparison to the most important function performed by the intake officer: deciding whether referral of the case for judicial hearing is in the best interests of the public or the child. The statutes offer little guidance. The typical statute provides that petitions should be filed when formal adjudication is in the interests of the public or the child, but it fails to specify the criteria which are to be used in making this decision.\(^3\) Juvenile courts also normally fail to provide written guide-
Even organizations which propose model standards refer only to the "best interests" of the public and the child. This informal and vague approach has not gone unnoticed, however, and has been criticized by the President's Crime Commission on Law Enforcement and Administration of Justice:

Written guides and standards should be formulated and imparted in the course of inservice training. Reliance on word of mouth creates the risk of misunderstanding and conveys the impression that pre-judicial dispositions are neither desirable nor common. Explicit written criteria would also facilitate achieving greater consistency in decision making.

The lack of definite intake criteria is presently being challenged in Conover v. Montemuro, on the grounds that the failure to provide standards reasonably related to probable cause or the purposes of the Juvenile Court Act results in an overbroad scope of the worker's discretion and in arbitrary and irrational choice of cases in which to file petitions.

Intake units do base their decision on some criteria, which, however, are frequently neither stated explicitly nor applied consistently. Factors apparently considered most important by courts and commentators when evaluating the desirability of referring the complaint to the judge for a judicial hearing include: the seriousness of the act, and

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31. We examined 6 U.S. Children's Bureau studies of local juvenile courts completed from 1965 to 1967. All of these found no written intake criteria.

32. See Uniform Juvenile Court Act § 21(1); W. Sheridan, Legislative Guides, supra note 23, § 13(d). Model Rules, supra note 7, rule 3, Comment (1968), suggests that intake "direct from the court all cases that can be handled by a private or public agency other than the court or that can best be handled by the family and the child without any outside intervention."

33. Juvenile Delinquency, supra note 8, at 21.

34. 304 F. Supp. 259 (E.D. Pa. 1969). This class action to enjoin the Philadelphia pretrial procedure for juveniles has withstood a motion to dismiss and awaits a hearing on the plaintiff's request for declaratory judgment. Id. at 263.

35. Id.

36. See Model Rules, supra note 7, rule 3 (1968); Juvenile Delinquency, supra note 8, at 661; Juvenile Division, Sacramento County Dept of Probation, Intake Policy Statement 8 (Apr. 1, 1969) [hereinafter cited as Sacramento Intake Policy]; Note, Juvenile Delinquents: The Police, State Courts, and Individualized Justice, 79 Harv. L. Rev. 775, 789 (1966) (which reports that in New York City, all crimes of violence or other serious offenses are referred).
prior court and police contacts and the attitude of the child and his parents. Some commentators suggest that the intake worker should also consider the age of the child, the time of day of the offense and the type of neighborhood in which the juveniles live.

Most authorities agree that "serious" cases unquestionably should be routed to the juvenile court. It is not clear, however, what offenses are to be considered serious. One authority suggests that in the absence of unusual circumstances, complaints of homicide, forcible rape, robbery, purse snatching, aggravated assault, auto theft and burglary should be referred to court. The District of Columbia Crime Commission, however, cautions against automatic referral to court on the basis of the classification of the act as a felony. That an act would be classified as a felony, if committed by an adult, is not considered a sufficient definition of "serious" by the Crime Commission. For example, joyriding in an automobile around the block is technically a felony, as is grabbing a playmate's pocketbook with a quarter in it. The commission pointed out that children who commit these offenses may not always demand full-scale court treatment.

An analysis of the data from the Affluent County field study con-

37. See Juvenile Delinquency, supra note 8, at 17 n.92; Sacremento Intake Policy 8. This factor is noted as being listed in Youth Division, Chicago Police Dep't, Manual of Procedure (1965).

38. See Juvenile Delinquency, supra note 8, at 17; Guides for Juvenile Court, supra note 7, at 39-40, which suggest judicial handling for "cases in which the child or parent refuses normal cooperation."

39. Sheridan considers the age of the juvenile important since the act of a young child may "be only the immature impulse of a child." However, he warns against excusing the conduct of a young child, since it may expose the community to more danger and negate opportunities for early detection and treatment of delinquent children. Sheridan, Juvenile Court Intake, supra note 10, at 150. A 1964 study of the St. Louis County Juvenile Court found age has little influence unless the child is very young when the most effective handling is informal or private. Note, Informal Disposition of Juvenile Cases, 1965 Wash. U.L.Q. 256, 269.

40. Sheridan points out that the time of day the offense took place is a clue to the home supervision. The more unusual the hour and the younger the child, the greater the significance. Sheridan, Juvenile Court Intake, supra note 10, at 150.

41. The impact of the child's neighborhood is disputed. Sheridan considers a high delinquency rate area as creating "environmental pressures." Id. at 150-51. The President's Commission warns that neighborhoods "may bear an indirect association with the avowedly irrelevant factor of race." Juvenile Delinquency, supra note 8, at 17.

42. See note 36 supra.

43. Juvenile Court Intake, supra note 10, at 149.


45. Id.
ducted by the authors demonstrates the problems involved in trying to determine intake criteria and in evaluating whether an intake unit is making decisions which protect the public. Affluent County has no written intake criteria. Although neither Affluent County Juvenile Court judge suggested that written criteria are necessary, they both believed that present criteria need to be sharpened. Both judges agreed that the court and the intake staff should cooperate in formulating intake criteria; they differed somewhat on the disposition of a case when intake and the court were not in agreement. Judge A was of the opinion that the court must have the final word, while Judge B seemed more inclined to defer to intake.

Only one criterion has been imposed by the court in Affluent County on the intake staff: Whenever two or more juveniles are charged with a single offense, if intake refers one of these children to court, they must refer all. The judges think that the court can evaluate those differences in the children which would cause intake to treat them differently. While it is true that differences can be handled at disposition, the practice of automatically referring accomplices undermines intake's role of screening out children who do not need court services.

Except for this one rule, intake in fact establishes the criteria for court referral in Affluent County. As the description below indicates, however, these criteria are unclear. Intake personnel said that the basic premise of the intake unit is that court referral should be avoided if possible. However, there is a somewhat inconsistent second premise that children who commit "serious" offenses are automatically referred to court. For these cases intake does not employ its normal procedure of conferences with juveniles and parents. The cases are merely given a hearing date. Furthermore, intake personnel were unable to specify the offenses which are serious enough to justify automatic court referral. Therefore an attempt was made by an analysis of intake records to determine empirically which offenses intake regards as "serious."

The authors examined the records of the 162 cases in the informal

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46. Interviews with the two Affluent County Juvenile Court Judges, August 5th and 21st, 1970
47. Id.
48. Id.
49. Interviews with Affluent County Chief Probation Officer; Supervisor of Intake, July 10, 1969.
50. Id.
51. Id.
sample, and those of the 49 juveniles in the formal sample for whom there had been no prior court petitions. The records show that there is no single offense for which court referral is automatic, despite intake's statements that seriousness of offense controls the intake decision. The table below lists the offense for which the juveniles in our samples were charged and indicates the frequency with which each offense was handled formally and informally.

TABLE 2
Crimes Which Were Handled Formally and Informally in 1968

<table>
<thead>
<tr>
<th>Offense</th>
<th>Formal</th>
<th>Informal</th>
</tr>
</thead>
<tbody>
<tr>
<td>Aggravated Assault</td>
<td>3</td>
<td>2</td>
</tr>
<tr>
<td>Assault</td>
<td>7</td>
<td>4</td>
</tr>
<tr>
<td>Auto Theft</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Burglary, Breaking and Entering</td>
<td>7</td>
<td>16</td>
</tr>
<tr>
<td>Disorderly Conduct</td>
<td>1</td>
<td>5</td>
</tr>
<tr>
<td>Drugs (Narcotics)</td>
<td>0</td>
<td>1</td>
</tr>
<tr>
<td>Drunkenness</td>
<td>0</td>
<td>2</td>
</tr>
<tr>
<td>Larceny</td>
<td>5</td>
<td>13</td>
</tr>
<tr>
<td>Robbery</td>
<td>3</td>
<td>3</td>
</tr>
<tr>
<td>Sex Offenses</td>
<td>0</td>
<td>4</td>
</tr>
<tr>
<td>Shoplifting</td>
<td>4</td>
<td>18</td>
</tr>
<tr>
<td>Vandalism</td>
<td>6</td>
<td>4</td>
</tr>
<tr>
<td>All Others</td>
<td>13</td>
<td>12</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>49</strong></td>
<td><strong>84</strong></td>
</tr>
</tbody>
</table>

*The total of this column is less than 162 because it includes only crimes. No "status" offenses such as running away from home or truancy are included in this comparison.

The other, nonautomatic criteria which intake uses are age and prior police and court contacts. A comparison of 49 cases which were handled formally in 1968 with the 1968 informal sample disclosed that the average ages were 15.6 and 14.5 years respectively. This difference of about 1 year is not significant. As far as prior encounters with the juvenile justice system are concerned, the informal group had considerably more contact with the police than did the juveniles who were processed formally for the first time in 1968. While prior intake contact was the same for both groups (about 6 percent for each), 39 percent of the informals and only 22 percent of the formals had prior police contacts. Nor were there any significant differences discovered between the two groups when they were compared on various combinations of age, prior intake and prior police contact variables.

52. These 49 cases represent 39 percent of the 126 children in the formal sample.
53. The complete findings appear in the following tables:
Clearly, intake decisions are not made on the basis of the criteria enunciated by the intake staff. This situation is not confined to Affluent County. There are apparently no studies or reports which provide any information concerning the standards to be used in making intake decisions. The absence of written criteria,\textsuperscript{54} the belief of some judges that intake workers should use common sense and a certain amount of intuition in making their assessment\textsuperscript{55} and the failure of some intake workers to record reasons for their decisions\textsuperscript{56} probably all help to explain the lack of precise and consistently applied criteria. Since in-

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**1968 Informal Sample**

<table>
<thead>
<tr>
<th>Number of Times of Prior Referrals to Court</th>
<th>Number of Juveniles</th>
</tr>
</thead>
<tbody>
<tr>
<td>None</td>
<td>151</td>
</tr>
<tr>
<td>Once</td>
<td>8</td>
</tr>
<tr>
<td>Twice</td>
<td>1</td>
</tr>
<tr>
<td>Three times</td>
<td>2</td>
</tr>
<tr>
<td>Four times</td>
<td>0</td>
</tr>
</tbody>
</table>

**Number of Times Prior Contact with Police Not Resulting in Court**

<table>
<thead>
<tr>
<th>Number of Referral</th>
<th>Number of Juveniles*</th>
</tr>
</thead>
<tbody>
<tr>
<td>None</td>
<td>89</td>
</tr>
<tr>
<td>Once</td>
<td>35</td>
</tr>
<tr>
<td>Twice</td>
<td>13</td>
</tr>
<tr>
<td>Three times</td>
<td>3</td>
</tr>
<tr>
<td>Four times</td>
<td>6</td>
</tr>
</tbody>
</table>

*Data on prior police contacts was not available in court records for 16 of the juveniles.

**Formal Sample**

**Cases That Went Formal for the First Time in 1968**

<table>
<thead>
<tr>
<th>Number of Times of Prior Referrals to Court</th>
<th>Number of Juveniles</th>
</tr>
</thead>
<tbody>
<tr>
<td>None</td>
<td>46</td>
</tr>
<tr>
<td>Once</td>
<td>3</td>
</tr>
<tr>
<td>Twice</td>
<td>0</td>
</tr>
<tr>
<td>Three times</td>
<td>0</td>
</tr>
</tbody>
</table>

**Number of Times Prior Contact with Police Not Resulting in Court**

<table>
<thead>
<tr>
<th>Number of Referral</th>
<th>Number of Juveniles</th>
</tr>
</thead>
<tbody>
<tr>
<td>None</td>
<td>32</td>
</tr>
<tr>
<td>Once</td>
<td>13</td>
</tr>
<tr>
<td>Twice</td>
<td>3</td>
</tr>
<tr>
<td>Three times</td>
<td>0</td>
</tr>
<tr>
<td>Four times</td>
<td>1</td>
</tr>
</tbody>
</table>

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54. See text accompanying notes 30-51 supra.
55. Waalkes, supra note 8, at 119.
56. See NCCD, The Cook County Family (Juvenile) Court and Arthur...
take's reported criteria are not those which are employed, a detailed analysis of the 162 informal cases and the 49 formal cases was undertaken to determine the actual criteria used. As the table below indicates, the reasons for handling juveniles on an informal basis were found in the intake records for only 83 (51.2 percent) of the cases.

**TABLE 3**

Reasons for Handling Cases Informally

<table>
<thead>
<tr>
<th>Reason:</th>
<th>Number</th>
<th>Percent of All Cases</th>
</tr>
</thead>
<tbody>
<tr>
<td>Juvenile found not involved</td>
<td>5</td>
<td></td>
</tr>
<tr>
<td>Referral offense was minor</td>
<td>9</td>
<td></td>
</tr>
<tr>
<td>Family found able to cope with problem</td>
<td>28</td>
<td></td>
</tr>
<tr>
<td>Juvenile receiving service from another agency in the community</td>
<td>9</td>
<td></td>
</tr>
<tr>
<td>Restitution made</td>
<td>5</td>
<td></td>
</tr>
<tr>
<td>Juvenile was a non-resident</td>
<td>11</td>
<td></td>
</tr>
<tr>
<td>No further difficulties noted since referral</td>
<td>16</td>
<td></td>
</tr>
</tbody>
</table>

Total Cases with Reasons 83 51.2%
Total Cases where Reasons Unknown 79 48.8%

Reasons for the intake decisions were given in an even smaller percentage of the formal cases. Fourteen (29.8 percent) of these cases have intake reports, with the stated reasons for formal disposition given in the following table.

**TABLE 4**

Reasons for Formal Disposition

<table>
<thead>
<tr>
<th>Reason:</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Request of victim</td>
<td>5</td>
</tr>
<tr>
<td>Seriousness of offense</td>
<td>1</td>
</tr>
<tr>
<td>Request of parent for away-from-home placement</td>
<td>3</td>
</tr>
<tr>
<td>Unknown—record lost, partial data available</td>
<td>1</td>
</tr>
<tr>
<td>Endorsed summons of court</td>
<td>1</td>
</tr>
<tr>
<td>Probation to another court</td>
<td>1</td>
</tr>
<tr>
<td>Additional offenses</td>
<td>1</td>
</tr>
<tr>
<td>Denial of offense</td>
<td>1</td>
</tr>
</tbody>
</table>

*AUDY Home 40 (1963), which reported: "[s]eldom does the recording of the complaint interview contain . . . the reasons for Complaint Department decision regarding the case."

57. The reason of "no further difficulties" for closing cases at intake is undoubtedly confusing to the reader. It was used because that was the reason stated by intake in its closing note for these 16 cases. Normally, an intake conference takes place within a few days after a juvenile is referred to court. In most of these 16 cases, however, conferences were not held for several weeks.
Affluent County authorities have attributed lack of intake data in the records of so many children to two factors. The principal reason is automatic court action. Presumably, if the child meets the criteria for automatic referral to court, intake does not interview the child or his parents. Since no such criteria were found, this explanation does not account for the scarcity of data. Nor, of course, would this reason explain the lack of data of the cases which did not go to court. The second reason, and the most plausible explanation, is the intake worker has very little time to write reports. However, it does not justify the absence of such data if they are necessary for the effective operation of the court. It is impossible for the court or the community to determine whether the screening function is being performed properly if the basis for the decision is unknown.

Even the cases analyzed as part of this study are unsatisfactory for evaluating intake screening because it cannot be determined whether these cases are representative of all intake cases. The appropriateness of the decision in the cases for which data was found is speculative at best.

The decisions in the informal cases for which data were available seem to be consistent with the basic premise of this intake department: to keep children out of court whenever possible. The decisions about children whose cases went to court also seem to be consistent with that premise because in 10 of the 13 cases where information was available intake was of the opinion that a court hearing was required. For example, the records showed that intake workers thought a complainant has a right to insist on judicial action.

Another way of evaluating intake decisions is to follow the child's progress after the intake decision. For this purpose the children in the sample were followed for at least 18 months. Intake re-referred forty-seven (29 percent) of the children in the informal sample to court during that period. The cases against four were dismissed, and another eight had their cases held open without finding. Only one case was formally adjudicated. These findings suggest that many intake decisions are inappropriate. Since the criteria used to make these decisions cannot be determined, it is impossible to discover which specific factors were weighted improperly. The task of deciding which cases

58. Interviews with Chief Probation Officer and Supervisor of Intake, supra note 49.

59. Seventeen-year olds and out-of-state residents were eliminated from the follow-up sample. Of the remaining 136 children we found that 41 of them were again referred to court.
should be referred for a judicial hearing need not be difficult if the sole function of the intake department is to screen out inappropriate cases. Establishment of precise definitions of such terms as “serious offense” and “prior contacts” by the legislature or juvenile court would enable intake workers to make decisions consistently if their function is solely to eliminate cases in which the court lacks jurisdiction, the evidence of involvement is insufficient, or the act is clearly an isolated incident.

It is doubtful, however, that the elimination of inappropriate cases is the sole function of either the typical intake unit, or the one in Affluent County. They attempt to perform three additional functions: saving judicial time by reducing the number of formal hearings; preventing delinquency by giving service to children who are likely to get into trouble again; and avoiding the stigma of adjudicating a child “delinquent.” The belief that many intake decisions are made in furtherance of these three functions is supported by the large number of nonreferred cases which are put on informal probation.

**Informal Probation**

The use of informal probation as a method of disposition of juvenile complaints has been the subject of some controversy. Those who advocate its use claim that it has several distinct advantages. The principle benefit is that it avoids the evils incident to formal adjudication, such as curtailment of employment opportunities, stigma of quasi-criminal records, harm to personal reputation and reinforcement of antisocial tendencies. A second major advantage of informal probation is that it saves judicial time and is therefore economical. Those who criticize informal probation allege that existing practices are too informal and do not adequately protect the juvenile’s rights. For example, any child on informal probation faces the risk for a considerable period of time that formal court action on the original charge will be prosecuted if he violates his probation conditions. Some commentators believe that the result of filing a petition on the original complaint after an informal adjustment has begun “is practical and perhaps legal double jeopardy.”

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60. A record of the child’s prior court contacts is available to the intake department, as police reports should be. In Affluent County, Juvenile Aid Bureau is supposed to send records of all prior police contacts to the court when referring children. However, we found that this information was not provided in all cases in our sample.

61. Juvenile Delinquency, supra note 8, at 16.


63. Model Rules, supra note 7, rule 4, Comment (1968).
Children in Affluent County are subject to this double jeopardy for a 3-month period. Although a new state law prohibits formal court action if the case has been processed informally, Affluent County is not subject to this law and thus far has allowed formal action within the 3-month period.

Most intake units permit informal probation only for those children who have admitted their offenses and automatically refer every case for formal adjudication if the juvenile denies the facts. But other courts allow factually disputed cases to be informally adjusted. According to a 1966 study, intake workers in Philadelphia claimed the power to adjust cases of contested involvement. In Affluent County the intake section may informally adjust some cases where the child has denied his involvement. This power includes the granting of informal probation.

Seventy (44 percent) of the children retained by intake were put on informal probation. Presumably, intake believed that these children needed some guidance but that a court order was not required. The children did not differ from those whose cases were closed at intake in age, seriousness of offense or prior contacts with the juvenile justice system. This absence of any noticeable difference between these children is consistent with the finding that all of the juveniles handled formally were similar to those who were referred to court for the first time.

No reason was given for placing a child on informal probation in an overwhelming majority of cases. In the few cases where reasons were given, they tended to be vague or contradictory. For example, one statement read, "It is felt that a period of informal probation for R— is very much in order at this point," but the file contained no other information about the girl. The cases of two teenage boys illustrate how conflicting reasons are sometimes given to justify the need for supervision. One boy was granted probation because his offense of drink-
ing was considered mild and he had not previously been referred, while the other boy was placed on probation because he had a prior referral.

A probation officer is assigned in most cases, but the records usually showed no contact between the probation officer and the child or his family. Although the overwhelming majority of records was bare except for a closing summary, a few of the records showed several contacts, while others indicated that the family did not respond to a letter from the probation office, or refused the court's services.

Some children seem to have been placed on informal supervision because of emotional problems. A few records indicate that the parents agreed to take the child to a mental health clinic or a private psychiatrist. Most of these children were not put on probation. The records do not indicate if the child began treatment or even if he was taken for an examination. They do suggest, however, that neither intake nor probation seems to follow the progress of these mental health referrals. Interviews with probation officers substantiated the impression that little service is provided juveniles with informal status. They believe that if the case was not serious enough to justify judicial treatment, it is not sufficiently important to require their services. 68

Since little is known about most of these children besides the nature of their offense, it is difficult to evaluate the effect of informal supervision on their problems. The reasons given in the court records for closing informal supervision cases shed little light on the success of informal probation. As the table below shows, the most frequently given reason for closure was that the probation officer found the child encountered “no further difficulties” during the period of supervision. However, almost as many cases were closed for the opposite reason—continuing difficulties. When the child committed a new offense or the parents reported continuing home difficulties, a petition was filed on the original offense.

<table>
<thead>
<tr>
<th>Reasons for Closing Informal Supervision Cases</th>
<th>Number</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>No Further Difficulties</td>
<td>28</td>
<td>41.2</td>
</tr>
<tr>
<td>Converted to Formal Status</td>
<td>25</td>
<td>36.8</td>
</tr>
<tr>
<td>Other Agency or Service Satisfactory</td>
<td>4</td>
<td>5.9</td>
</tr>
<tr>
<td>Moved Out of Affluent County</td>
<td>5</td>
<td>7.4</td>
</tr>
<tr>
<td>Reached 18th Birthday</td>
<td>1</td>
<td>1.4</td>
</tr>
<tr>
<td>Parents or Juvenile Uncooperative</td>
<td>4</td>
<td>5.9</td>
</tr>
<tr>
<td>No Reason Noted</td>
<td>1</td>
<td>1.4</td>
</tr>
<tr>
<td>Totals</td>
<td>68</td>
<td>100.0</td>
</tr>
</tbody>
</table>

68. Interviews with four probation officers, July 24 and September 10, 1969.
If the effectiveness of informal supervision is merely defined as the absence of subsequent court referrals, the experience can be called successful for 37, or 53 percent, of the informal probation cases because no court record was found for these children within 18 months of their placement on informal probation. However, it should be noted that there is no way to determine whether the children continued to live in Affluent County during this period. Nor would the Affluent County records show a referral to a juvenile court in a neighboring community.

It is also worth noting that a much larger percentage of children whose cases were closed at intake could be called successful because 87 percent of this group had no subsequent court record, while of the children referred for formal hearings for the first time 97 percent had no further court referral. (It should be remembered that the 3 percent figure reflects only recidivism rate for those who appear in court formally for the first time. The rate of recidivism for the total formal sample is in excess of 50 percent).

The absence of criteria for informal supervision makes it almost impossible to assess accurately the propriety of the decisions and usefulness of informal probation. From the data that were available, the intake criteria used seem to vary from worker to worker. Thus, while some children are unnecessarily referred to court, others who do not seem to meet the generally offered criteria for nonjudicial supervision are kept at the intake stage. Furthermore, intake workers and some probation officers apparently disagree about the use of informal probation because several interviewees said they gave little or no time to cases which were not serious enough to be referred to a judge.

Informal supervision in Affluent County seems to be a waiting period to see if the child encounters further difficulties; it certainly cannot be characterized as an active treatment or supervision program. This approach seems inconsistent not only with the term "informal probation," but also with the prevalent assumption that certain children who have problems can be helped without court-ordered treatment. The records give several examples of this passive approach. First, large numbers of children on informal supervision are apparently not seen during the supervisory period. Second, intake does attempt to discover whether services are provided to referrals to community services. Third, the closing summaries say no more than that the child has not been in further difficulty. No mention is made of the progress of the child and his family in resolving the problem which occasioned the supervision. In some cases it was clear that the worker thought the
problems were not resolved because the closing summary specified that the parents did not respond to, or actively rejected, the court's services.

**Right to Counsel in Juvenile Court Intake Proceedings**

In *In re Gault* the United States Supreme Court held that the right to counsel "is essential for the determination of delinquency." The Supreme Court did not, however, extend the right to counsel to pre-adjudication procedures. To the contrary, the Court stated that

the problems of pre-adjudication treatment of juveniles, and of post-adjudication disposition, are unique to the juvenile process; hence what we hold in this opinion with regard to the procedural requirements at the adjudicatory stage has no necessary applicability to other steps of the juvenile process.

The states have also failed to provide for counsel at the intake stage. One reason for this failure is that little information related to intake practices has been made available to the public. Moreover, the participation of attorneys in juvenile proceedings is a recent development. Affluent County does not provide for counsel at the intake stage. Some states have recently provided by statute or court rule that the right to counsel attaches at the moment the child is taken into custody. In practice, however, counsel is often not appointed until after the intake process. In response to this situation, rule three of the

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69. 387 U.S. 1 (1967).
70. Id. at 36.
71. Id. at 31 n.48. The Court also made it clear that its opinion did not cover consent decrees by saying: "Since this 'consent decree' procedure would involve neither adjudication of delinquency nor institutionalization, nothing we say in this opinion should be construed as expressing any views with respect to such procedure." Id. For a discussion of consent decrees see Ferster, Courtless & Snethen, *Separating Official and Unofficial Delinquents: Juvenile Court Intake*, 55 IOWA L. REV. 864 (1970).
72. For example, Minnesota provides that the right to counsel and to remain silent shall arise the moment the child is taken into custody, that both the child and his parents shall be informed of these basic rights, and that the right to counsel persists through any and all stages of the proceedings. MINN. STAT. ANN. ch. 260—Appendix (Rules of Procedure for Juvenile Court Proceedings in the Minnesota Probate-Juvenile Courts) (1971), R. 2-1, 2-2. A similar situation exists in California, where although immediate notification is required for children in custody, "counsel often is appointed only after the petition has been filed." Boches, *Juvenile Justice in California: A Re-Evaluation*, 19 HASTINGS L.J. 47, 85 (1967). In the first circuit of Hawaii, a jurisdiction without any specific statutory right to silence or counsel at intake, the intake workers read an elaborate list of rights and warnings to each child and his parents. Among them is "your family may hire a lawyer for you anytime you have a case in the Family Court." If a family is unable to afford this, the court can get a lawyer to represent a child charged with a violation of the law. However, in practice, an appointed lawyer is available only during a court hearing, not at the intake stage. Dyson & Dyson, *Family Courts in the United States*, 9 J. FAMILY L. 1, 5-6 (1969).
Model Rules for Juvenile Courts\textsuperscript{73} recommends that an attorney be provided at intake. This rule states that if anyone wishes representation the interview shall end and all further interviews shall take place only with counsel present, unless the right is waived.\textsuperscript{74} Although the notice of the right to counsel is given at the intake stage in Affluent County, the notification pertains to the right to counsel at the adjudicatory stage of the proceedings.

When the primary function of intake is to act as a screening device\textsuperscript{75} to eliminate cases in which the court lacks jurisdiction and in which complaints are unsubstantial, the presence of counsel is regarded as being of little value,\textsuperscript{76} at best. At worst, it will make difficult the open interview necessary for case evaluation.\textsuperscript{77} This view was reinforced by the fact that, prior to Gault, most offenses were admitted.\textsuperscript{78}

For a variety of reasons many commentators now contend that the right to counsel should be extended to intake procedures. One major reason is that statements made to an intake officer are probably admissible in most juvenile courts,\textsuperscript{79} since only a few state statutes specifically prohibit their use.\textsuperscript{80} It is argued, therefore, that the lawyer's

\begin{enumerate}
\item Model Rules, supra note 7.
\item At least one court had adopted such a procedure without being bound by rule or statutes. See Procedural Manual 11, Juvenile Div. Court of Common Pleas, 32d Judicial District, Commonwealth of Pennsylvania.
\item The Lawyer's Role, supra note 27, at 388. See also Sheridan, Intake Through Disposition, in Proceedings of the Alabama Work Conference for Juvenile Court Judges 39 (1965). In Affluent County, attorneys rarely attend intake conferences. When they do, there is little, if any, conflict between intake and the attorneys, since attorneys concur in intake's main goal, the avoidance of formal court action in most cases. Interview with Affluent County Supervisor of Intake, July 10, 1969.
\item The Lawyer's Role, supra note 27, at 388; Skolar, Counsel in Juvenile Court Proceedings—A Total Criminal Justice Perspective, 8 J. Family L. 243, 260 (1968). Skolar notes that this view is rooted in the "mystique" of the intake process, which insists that "with family along and without counsel, more flexibility and help can be provided to children passing through intake than would be possible were counsel present to force the issue of court referral with the social work staff who administer intake in most large city courts." Id.
\item The Lawyer's Role, supra note 27, at 388.
\item However, in the recent case of Leach v. State, 428 S.W.2d 817 (Tex. Civ. App. 1968), a delinquency adjudication was reversed on the grounds that incriminating statements were admitted into evidence when no Miranda warnings or notice of the right to counsel had been given.
\item ILL. REV. STAT. ch. 37, § 703-8(5) (1969); MD. ANN. CODE art. 26, § 70-8 (Supp. 1969); N.D. CENT. CODE § 27-20-10 (1969); N.Y. FAMILY CT. ACt § 735 (McKinney 1963).
\end{enumerate}
role at the adjudication hearing is quite limited unless the lawyer can also be present at intake.81 The absence of counsel at the intake does not seem to limit his role at the adjudicatory hearing in Affluent County. Statements made during intake are not used at the hearing. In fact, intake personnel never attend adjudicatory hearings.

At least one commentator does not consider even the exclusion of the child’s statements sufficient protection for the juvenile to obviate the need for counsel at the intake interview.82 This opinion is based on the belief that intake is a “critical stage” of juvenile court proceedings because the question of referral of the case to court is decided at this stage. Furthermore, the juvenile may also need representation when the intake official considers such sanctions as informal probation.83

Although privately retained counsel are allowed to attend intake conferences in Affluent County, they rarely do so. Intake personnel believe that the counsel considers participation unnecessary because intake attempts to keep children out of court whenever possible.84 There are, of course, other possible explanations for counsel’s absence at intake. For example, it is possible that many parents do not think counsel is necessary until the child is faced with a court hearing. Another reason may be the tendency of attorneys to view their role as limited to that of an advocate at the adjudicatory stage.85 An intelligent answer to the question of the necessity of counsel at intake cannot be advanced until policy decisions are made about the function of intake. The original purpose of intake was to eliminate those cases in which the court lacked jurisdiction or evidence was lacking to substantiate the complaint. In addition, intake was to screen out minor complaints when they could be adjusted or when intake interviews showed them to be isolated events. In such cases, it was usually clear that the juvenile

82. Id. See Paulson, Kent v. United States: The Constitutional Context of Juvenile Cases, 1966 Sup. CT. REV. 167, 189: “The Kent case puts its emphasis on the stages of the proceedings that decide ‘critically important’ questions. . . . The intake decision, deciding whether a given case shall go on to court, can be very important to a child.” Id. Paulson also says that it is unrealistic and unfair to expect a juvenile with or without his family to balance the complex considerations involved in deciding whether to accept formal probation and its consequences without the advice of counsel.
83. Interview with Affluent County Supervisor of Intake, July 10, 1969.
84. For a discussion of the role of counsel in the adjudicatory, disposition, and post-disposition stages, see Ferster, Courtless & Snethen, The Juvenile Justice System: In Search of the Role of Counsel, 39 FORDHAM L. REV. 375 (1971).
85. In re Gault, 387 U.S. 1, 31 n.48 (1967).
did not need court supervision. If intake is still intended to fulfill only these purposes, counsel is not necessary.

The Supreme Court decision in \textit{Gault} does not affect this conclusion. As the Court noted, the simple screening function of intake has nothing in common with a proceeding to adjudicate a child delinquent.\textsuperscript{86} Therefore, the rationale behind granting the right to counsel in an adjudication proceeding does not apply to intake. On the other hand, if intake workers are functioning as law enforcement officers in gathering evidence against the juvenile, counsel is necessary. It would obviously make no difference if the duties of a law officer are being performed by a probation officer or by a police officer. In both situations, an agent of the state is trying to uncover evidence of the juvenile's guilt, and the right to counsel should attach.

If the intake officer has considerable discretion in deciding whether a juvenile should be referred to court, counsel is essential to help the child and the family express their views. Under the procedures currently used for intake in most courts, counsel would be needed because there are no consistent intake criteria. Furthermore, in most of these jurisdictions the intake officers have vast discretion. However, under narrow criteria, such as those set out below, counsel would perhaps not be necessary. Similarly, if the probation officer is functioning as a judge by imposing the sanctions of informal probation on delinquent juveniles, counsel is necessary. The judge imposes his sanctions only after a hearing at which the facts are presented. \textit{Gault} says that a juvenile needs an attorney to assist him in this situation.\textsuperscript{87} Therefore, no logical reason exists for denying a juvenile the assistance of an attorney if a probation officer may impose quasi-judicial sanctions. If, however, informal probation is confined to services such as those recommended below, rather than restrictions on hours, companions and the like, the child would need counsel only when the probation officer decides that the complaint should be processed formally because of the lack of cooperation on the part of the juvenile or his parents.

\textbf{Conclusion: Recommendations for Screening}

The principal purpose of intake is to screen out inappropriate cases over which the court has no jurisdiction. Most intake units, including that in Affluent County, have no difficulty in making appropriate decisions about these cases. Nor does there seem to be any problem

\textsuperscript{86} See id. at 41.

\textsuperscript{87} Id.
when there is no evidence to support allegations about conduct over which the court does have jurisdiction. However, decisions about "minor" or "isolated" acts of delinquency which intake should also eliminate cause much more difficulty. One reason is that definitions of "seriousness" vary among court personnel. Similarly, judgments about whether an act is part of a general pattern of behavior or is a relatively unique occurrence differ from worker to worker.

Another complicating factor is the belief of some workers that the complainant has the power to insist on a judicial action. For example, the records showed referrals for judicial actions on several trespassing cases when the child's background clearly did not warrant such action. Finally, intake's power to screen is further reduced by the insistence of the judge that all children involved in acts of misconduct must be referred if one of them is so referred.

The screening process is made more complex by the problems associated with other functions of intake. Many jurisdictions, including Affluent County, desire intake units to screen out cases to save judicial time and to avoid placing the stigma of delinquency upon children. Thus, some children are retained at intake who could appropriately have been referred for judicial hearings.

It seems clear that a case should be eliminated when the child's problem is correctable by some service within a short period of time, and the parents and child want such service. There are few offenses which are potentially so injurious to the community that it is inappropriate to allow the decision about the disposition to be made by anyone other than a judge. There are, however, a variety of problems associated with implementing this policy.

First, there are no clear-cut or consistently applied criteria for "seriousness" or selection of children amenable to short-term services. Secondly, some probation officers are unwilling to work with children on an informal basis. Thirdly, it may be cogently argued that the imposition of restrictions on hours and associates, without an adjudication of an offense, is improper. Finally, the failure of the parents to cooperate after the child has been retained by intake makes rehabilitation difficult.

Criteria and procedures which may alleviate some of these problems are presented below. The recommendations assume that the intake unit may arrive at one of three decisions: referral for judicial action, informal supervision, or closing out the case. If the offense falls
within one of the categories of Recommendation 3(C) and there is some evidence to support it, intake must refer the case for judicial action.

Where the intake disposition of services and supervision is appropriate, the probation officer has been given an affirmative duty to see that the necessary services are offered. He has also been given the responsibility of reporting needed services that do not exist to the judge and of filing a petition if there is a refusal to use available services.

**Recommendation 1. Reception of a Complaint**

Information that a child is within the court’s power shall be referred to the intake unit of the probation department, which shall determine preliminarily whether the facts presented by the complainant are legally sufficient for the complainant to file a petition. If the facts are not legally sufficient, he shall be so informed and may be referred to another agency for appropriate services.

**Recommendation 2. Complaint Legally Insufficient**

If the intake unit refuses, after a demand by the complainant, to authorize the filing of a petition, the complainant shall be informed of the reasons for the refusal of the complaint. He shall be advised that he may submit such complaint in writing to a judge of the court, who may after consultation with the intake unit order the filing of a petition or may affirm the action of the intake unit.

**Recommendation 3. Complaint Legally Sufficient**

_A. Intake Interview_

If the facts are legally sufficient for the filing of a petition, the intake unit shall request the parties by letter or telephone to attend an intake interview. If the child and his parents do not appear, the intake officer shall file a petition.\(^8\)

_B. Procedure at Intake Interview_

At the commencement of the interview, the intake officer shall explain in simple and nontechnical language that a complaint has been made and that the facts appear to establish the authority of the court

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8. In Affluent County, petitions usually are not filed when there is no response to an interview request if the child is not a resident of the county. The reason for this practice is the belief that there will be no supervision of the out-of-community children. A better solution, however, would be for the communities to agree to supervise their own residents on out-of-jurisdiction offenses.
to act. The officer shall state why it appears that the allegations of the complaint are sufficiently serious to warrant further investigation by the intake unit. The officer shall then inform the parties of their rights under Rules 38 and 39 of the Model Rules for Juvenile Courts. If any party wishes to be represented by counsel, the interview shall end and all further interviews shall be conducted only with counsel present, unless the right is waived. If the officer thinks that the child should be represented by counsel at the interview, although counsel has not been requested, he shall so advise the child and his parents.

The officer shall then inform the child and his parents that he has the right to remain silent at the intake hearing. They should also be informed that if he does not remain silent, no information which they give at the interview will be admissible in evidence at the adjudicatory hearing.

C. Automatic Referral

The parents and child shall be told that a petition must be filed under the following conditions:

1. The complaint alleges serious physical injury or death;
2. The complaint alleges sale of narcotic drugs;
3. The complaint alleges armed robbery;
4. The complaint alleges multiple charges of one or a combination of the following: assault, burglary, robbery or auto theft;
5. The complaint alleges assault, burglary, robbery or auto theft if the child has been previously referred to intake for any one of these offenses;
6. A complaint alleging any misconduct if the child has been adjudicated delinquent within the preceding 2 years or has had two or more prior referrals to intake.

D. Right to Counsel in Automatic Referral Cases

If a petition is to be filed, the intake officer shall inform the child and his parents of the right to counsel. The explanation shall be both oral and written. It should include information about the right to retain counsel and that counsel will be appointed if the parents are unable to afford it. The court will determine the financial ability of the parents to employ counsel. Representation may be competently and intelli-
gently waived. If the parents are unwilling to retain counsel, the court shall appoint counsel for the child unless he competently and intelligently waives the right.

Recommendation 4. Informal Services: Criteria

When a petition cannot be filed under the criteria for automatic referral, the intake officer must either close out the complaint or place the child on "informal service."

The intake officer must offer the child and his family informal services if any of the following conditions exist:

1. There are multiple charges against the child.
2. The child has run away from home more than once.
3. Information from the complainant, parents, school, the police or the case worker indicates that the child may be mentally ill, mentally retarded or emotionally disturbed.
4. The child is truant, or is a nonemployed school drop-out.
5. A family member is mentally ill or alcoholic, addicted to drugs or presently under the jurisdiction of the juvenile court.
6. The child and family report serious conflict between them.
7. The family recently has been broken by death, divorce, separation or is undergoing a serious crisis.

Recommendation 5. Informal Services and Rights

The intake officer shall tell the child and his family that he intends to discuss various plans for continuing contact between the family and the probation department or community agencies. A petition will not be filed unless they wish the court to determine the facts at a hearing. They must also be told that the offer of services does not prevent the filing of a complaint within 90 days following the initial interview.

The intake officer shall explain that when a child is under "informal service status" the court cannot restrict his choice of companions, places or hours. The child and the family must also be informed of the rights to silence and to counsel in the same manner as specified in Recommendation 3. If the family or child refuses the offer of services, the intake officer must file a petition and shall so inform the family.

Recommendation 6. Procedures for Informal Services

1. The probation officer should work with the school, the family and the child to resolve the school problems.
(2) The probation officer should refer to family service agency if appropriate and see the family and the child regularly.

(3) The probation officer should either refer the juvenile to a mental health clinic or otherwise provide appropriate assistance.

(4) The probation officer should refer the family to welfare, homemaker and other community agencies, where appropriate.

(5) The probation officer should visit the home and work with the family as well as the child.

(6) In all cases, the probation officer should make sure that the child continues to receive appropriate services.

Recommendation 7. Termination of Services and Supervision

(1) Where the services are unavailable, a written report on the child, the services sought and their unavailability should be made to the judge within 30 days.

(2) If the available services are not being used by the child or parent within 30 days of the time they are offered, the probation officer should either file a petition on the original complaint or reassess the complaint to determine if a neglect petition would be more appropriate. Similar action should be taken if the child or parent discontinue the services during the 90-day informal services period.