

Pennsylvania Progress

**Juvenile Justice Achievements of the
Pennsylvania Commission on Crime and Delinquency**

June 1996

Vol. 3, No. 3

The Separation of Juvenile and Adult Offenders: A Strategy for Success

by Megan Clouser

Pennsylvania efforts to separate children in custody of the state from adult criminals can be traced as far back as 1826 with the establishment of the Commonwealth's first "House of Refuge." Located in Philadelphia, the House of Refuge provided a program of strict discipline and labor for juveniles who had been convicted of crimes or who were vagrants.

By 1883, Pennsylvania formalized its commitment to the separation of youthful offenders from adult criminals through legislative action. Pennsylvania Law 459 of 1883 specifically forbid the confinement of juveniles under the age of 16 with adults convicted of, or charged with, a crime, prohibited the mingling of these populations in the courts and during transportation, and provided for the keeping of separate court dockets for cases involving children age 16 or under.

From the establishment of the first juvenile court in Illinois in 1899 through the development of a model national juvenile court act, "The Uniform Juvenile Court Act," by the National Conference of Commissioners

on Uniform State Laws in 1968, the separation of juvenile and adult offenders remained a primary focus.

One aspect of the system that had been historically overlooked was the preadjudicatory holding of juveniles with adult criminals in jails and police lockups. Such holdings were not initially thought to be harmful for juveniles due to the relatively short-term nature of their stay in these facilities. However, as social research began revealing incidences of brutalization, rape and suicide among juveniles in such institutions, child advocates urged the state and federal governments to expand separation laws to encompass these interim facilities.

With approximately 160,000 juveniles being held in adult jails in 1974, the United States Congress took legislative action to encourage the separation of juvenile and adult populations within these facilities. The Juvenile Justice and Delinquency Prevention Act (JJDP) of 1974 required state's wishing to participate in the formula grant program established under this act to ensure that juveniles alleged or found to be delinquent were not detained or confined in any institution in which they had regular contact with adult persons incarcerated for, or awaiting trial on, criminal charges.

Implementation regulations followed that further defined the concept of "regular contact" and required that juveniles held in adult facilities be separated by both sight and sound barriers from the adult offenders.

In 1980, the requirements of the JJDP Act were strengthened to require the complete removal of juveniles from adult jails and lockups except under circumstances to be specified through regulations

Pennsylvania Progress is a publication of the National Center for Juvenile Justice (NCJJ)—the research division of the National Council of Juvenile and Family Court Judges. It is distributed to juvenile justice professionals within the Commonwealth and nationwide to acquaint them with important achievements of the Pennsylvania Commission on Crime and Delinquency. Technical Assistance materials and additional information on the topics presented are available from NCJJ's Harrisburg office. Please contact Megan Clouser at (717) 233-3343.

ncjj

promulgated by the Administrator of the Office of Juvenile Justice and Delinquency Prevention.

PENNSYLVANIA'S RESPONSE

With over 3,600 Pennsylvania youths admitted to adult jails in 1974, the Juvenile Justice Office of the Governor's Justice Commission, (the predecessor to the Pennsylvania Commission on Crime and Delinquency), declared compliance with these new mandates a top priority for the state.

In 1975, the Director of Pennsylvania's Juvenile Justice Office made some key decisions that have allowed Pennsylvania to meet and surpass federal requirements for the separation of juveniles from adult offenders. These decisions included the appointment of the state Juvenile Advisory Committee (the governor appointed State Advisory Group) as the chief mechanism for achieving compliance, and the decision to concentrate on ***complete removal of juveniles from jails and police lockups versus reconstruction efforts to meet the federal sight and sound mandates for maintaining juveniles in the same facilities as adults.***

The Juvenile Advisory Committee then began the tedious work of designing a plan of action to meet these new goals. In addition, the Committee realized the pivotal role juvenile justice practitioners would play in achieving implementation of the new strategy. Purposeful constituency building efforts were undertaken by the Committee to gain the support and insight of key juvenile justice agencies including the Juvenile Court Judges' Commission, the County Commissioners' Association, and youth services advocacy groups.

In 1976, the Juvenile Advisory Committee released the Commonwealth's formal Juvenile Justice and Delinquency Prevention Plan encompassing a four-part strategy of legislation, administrative enforcement, program funding and education and technical assistance.

Combined, these components formed the strong foundation necessary to support two decades of successful jail removal efforts in Pennsylvania.

▼ Legislative Strategy

The Juvenile Justice Office of the Governor's Justice Commission determined the need for two distinct types

of legislation to support the implementation of jail removal activities: Budgetary and Regulatory.

Act 148 of 1976 answered the first of these needs by revising the state's funding mechanism for juvenile justice and delinquency prevention services. Under this legislation counties were to be reimbursed by the Department of Public Welfare at rates determined by the Act for all eligible services provided to children. Community-based and in-home alternatives to detention were encouraged through an increased reimbursement rate of 75 to 90 percent versus only a 50 percent reimbursement rate for institutional-based services.

Act 41 of 1977 responded to the regulatory requirement by amending Pennsylvania's Juvenile Justice Act (Act 333 of 1972) to not only meet the new federal sight and sound separation requirements but to surpass their venue by ***specifically prohibiting the confinement of any youth meeting the definition of child under the juvenile act "in any facility with adults, or where he or she is apt to be abused by other children."***

Moreover, Act 41 declared it unlawful for any person in charge of or employed by a jail to knowingly receive for detention or to detain in a jail any person whom he has reason to believe is a child.

In recognition of the extensive changes that would need to take place within the system to meet these new requirements, the legislature allotted a 28 month grace period with Act 41 taking full effect on December 31, 1979.

▼ Administrative Enforcement

The Administrative Enforcement Strategy developed by the Juvenile Advisory Committee was actually comprised of three smaller endeavors undertaken to support the new legislative reforms.

The first was a state-wide effort to improve the accuracy of information reporting including juvenile court reports on the detention and disposition of youths, county reports to the Department of Public Welfare on the types of services being purchased for juveniles, and enhanced reporting requirements for county jails.

Second, existing state regulations required revision to reflect legislative changes. The Juvenile Advisory Committee worked closely with the Department of Public Welfare to ensure that regulations were reconstructed in a manner congruent with both the new federal and state legislative mandates.

Finally, enhanced enforcement efforts were needed to monitor compliance with both legislation and regulation. Inspection procedures, inspection teams, and timetables for on-site visits were developed by the Department of Public Welfare to help ensure that the regulations and procedures the state had worked diligently to develop were operationalized in youth services, agencies, detention facilities and county jails.

▼ Program Funding

Perhaps the most critical component of Pennsylvania's approach was a well prepared funding strategy to support the development of sufficient alternatives to replace the use of jails and police lockups.

Pennsylvania's strategy included a clearly stated emphasis on the development of physically unrestrictive, community-based programs for the majority of youths with a backup system of secure detention facilities reserved for the most seriously delinquent juveniles.

The development of an adequate system of secure detention was critical to the removal of certain violent and potentially dangerous juvenile offenders from the adult jail system. The Department of Public Welfare worked closely with counties to determine the number of secure detention beds needed to meet demand and to plan for the placement and construction of new facilities.

Also, state and federal funds were made available to counties for the development of appropriate alternative programming for youths for whom secure detention was not warranted. This component was essential for ensuring the most efficient use of limited secure detention space as well as for providing effective and meaningful interventions for less seriously delinquent youths, status offenders and non-offenders.

▼ Education and Technical Assistance

Another essential element in gaining operational compliance was the education of the principal actors in the State's youth services system. Through a series of eight regional workshops, the Juvenile Advisory Committee provided pertinent implementation information to juvenile probation officers, juvenile court judges, police, child welfare workers and other related personnel.

The workshops addressed specific applications of the new regulations, presented information on the

alternative programs available in each region, and emphasized the important benefits compliance would reap for individual agencies as well as the entire juvenile justice system.

Technical assistance was then provided to counties, as needed, to identify start-up funds for alternative programming and to address obstacles to implementation as they arose.

A final element of the education and technical assistance strategy was geared toward the general public to build support for community-based alternative programs. A Public Education Subcommittee of the Juvenile Advisory Committee was formed to attend local meetings and present the new mandates, their purpose and benefits, and the critical role of community-programming in achieving these objectives.

IMPLEMENTATION ACTIVITIES

The Community Advocate Unit-Youth Project (CAU) was established within the jurisdiction of the Pennsylvania Attorney General's Office to monitor progress in achieving implementation of the Commonwealth's new Juvenile Justice and Delinquency Prevention Plan. Funded primarily through a federal grant from the Office of Juvenile Justice and Delinquency Prevention, the CAU began operation in July of 1978.

In its first year of operation, the CAU conducted on-site visits to all 67 county jails in the Commonwealth. During this process, the CAU relied upon negotiation, agency coordination and litigation, when necessary, to eliminate the incarceration of juveniles in adult facilities. The CAU was also able to coordinate efforts with the Department of Public Welfare to expand the state's Childline—a hotline for reporting suspected child abuse and neglect—to include operators to field calls from law enforcement personnel who were uncertain of the procedure for handling a juvenile brought within their jurisdiction.

By 1980, the CAU monitoring report to the federal government reported that the total number of Pennsylvania juveniles held in adult jails and police lockups had decreased from over 3,600 in 1975 to **45 youths** in 1979.

Ironically, as previously mentioned, the 1980 amendments to the federal JJDP Act altered the original sight and sound separation requirements to

require complete removal of juveniles from adult jails and lockups except in specified circumstances—a requirement that had been in Pennsylvania law since Act 41 of 1977.

Thanks to the foresight of Pennsylvania officials, the Commonwealth was declared to be in compliance with the new federal mandates as of 1980.

CHANGING THE RULES

Due to the success of Pennsylvania's initial efforts, after 1980, the Commonwealth was granted exemption from federal audits through 1986. However, in 1987 a federal audit was conducted and to the shock and amazement of Pennsylvania officials, the state was **not** found to be in compliance.

One important factor that led to this finding was a new interpretation of "secure holding" by the federal Office of Juvenile Justice and Delinquency Prevention. According to implementation regulations following the 1980's amendments, one of the few exceptions to the removal rule was the ability for police departments to securely hold a juvenile accused of an act that would be a crime if he/she were an adult for up to six hours during police processing. Pennsylvania had approximately 360 police departments utilizing secure holding cells that required monitoring under this definition.

However, during the 1987 audit an expanded definition of secure holding was utilized by OJJDP that included the handcuffing of a juvenile to any secure object as a secure holding. This definition, formalized into regulation in 1988, expanded Pennsylvania's monitoring universe to include the more than 1,400 police departments in the Commonwealth, the Attorney General's Office, the Fish and Boat Commission, the State Parks and any other officials or agencies designated with arrest power.

To achieve this heightened level of monitoring responsibility, the Juvenile Advisory Committee formed an official subcommittee known as the Compliance Monitoring Advisory Committee (CMAC). In 1987 the CMAC assumed full responsibility for monitoring compliance of jails, police lockups and detention centers in the Commonwealth.

THE COMPLIANCE MONITORY ADVISORY COMMITTEE: INSTITUTIONALIZING CHANGE

The first step taken by the new monitoring committee was to improve the accuracy of recorded information. To achieve this end, the Committee designed a monthly self-reporting system, the Log Reporting System, for use by police departments.

According to this system, police record all relevant information on juveniles held within their departments as cases are processed and submit completed log forms for review on a monthly basis.

However, with no state law to require the use of this recording system *or* the six-hour secure holding requirement contained in federal regulation, the Committee realized voluntary compliance would depend on the individual police department's support for, or resistance to, this new effort.

Thus, the birth of the Pennsylvania Police Liaison Project can also be traced to 1988. This Project, born of the insight of the CMAC, employed a retired police officer to travel to the individual police departments and provide technical assistance to officers on the proper use of the new forms.

Resistance to voluntary use of the new system was met with informed responses on the benefits cooperation would yield for the individual police departments. According to members of CMAC, the argument that eventually swayed the police to full support of the new effort was the liability weight that was literally lifted off their shoulders. Specifically, the new reporting system meant that if police departments could show by formal record that youths coming within the jurisdiction of their department were handled in accordance with federal policy, the threat of litigation regarding mistreatment of juveniles would be greatly reduced.

Once the support of the police constituency was gained, CMAC then—and only then—moved forward to formalize the new policies into state law. Pennsylvania Act 9 of 1991 officially incorporated the federal definition of secure holding of a juvenile and the conditions and time-limits under which such holdings can lawfully occur.

DIRECTIONS

In 1994, CMAC began a new program to simplify the reporting process for police departments and related agencies that do not routinely provide for the secure holding of juveniles. These agencies can now be certified through a review process which then exempts the agency from the monthly log reporting requirements. However, certified agencies must file a report if an instance occurs that requires secure holding of a juvenile and are still subject to on-site

visits by the police liaison to ensure continued compliance.

As of 1996, 800 agencies including the Fish and Boat Commission, the Attorney General's Office, and the State Police have achieved certification.

For the remaining agencies, departments, jails and detention centers, CMAC continues to serve as the Commonwealth's primary mechanism for ensuring compliance. In 1995 alone, the Police Liaison

Philadelphia: Facing the Challenge

The Philadelphia police department employs a force of over 6,000 officers servicing 23 police districts. Moreover, this department is responsible for processing approximately 17,000 juvenile cases per year. Due to the size of the Department and the number of cases processed, one of the most difficult requirements for this department to meet was the six-hour time limit for secure holding of a juvenile set forth by the Office of Juvenile Justice and Delinquency Prevention in Federal Regulation (Vol. 46, No. 251, December 1981).

Despite the seemingly overwhelming task of achieving compliance in a police department of this size, the Philadelphia Police Commissioner dedicated his full support to this effort and worked diligently with CMAC to achieve and maintain an acceptable level of compliance.

Through the work of the Juvenile Aid Division of the police department and a specially appointed Jail Removal Committee, important policy and organizational revisions were formulated. The most important of these was the requirement to remove all juveniles from secure holding within the six hour grace period. If case processing had not been completed within this time frame, the juvenile was to be maintained in non-secure holding until such time of completion.

To support the city's efforts, CMAC identified funding to support several special initiatives including:

A study on the processing of juveniles in the Philadelphia Police Department conducted by Temple University;

The installation of a state-of-the-art inkless fingerprinting system to decrease the overall police processing time for juvenile cases; and

The development of transportation and shelter care alternatives to police custody by two private treatment providers operating in the Philadelphia area;

In addition, CMAC worked to incorporate the city's Jail Removal Juvenile Justice Planner/Monitor into all activities and, as of 1991, began providing training to all recruits entering the Philadelphia Police Academy on legislative and regulatory requirements governing the police processing of juvenile offenders.

By October 1993, CMAC reported that Philadelphia had almost entirely eliminated the problem of six-hour time limit violations in the holding of juveniles. At this time, Pennsylvania was once again declared in full compliance with the federal jail removal mandates.

conducted 240 site visits to ensure the accuracy of information received through the Log Reporting System and to provide technical assistance when needed.

The results continue to be positive with a 1996 federal audit finding Pennsylvania in compliance with mandates of the federal JJDP act.

Perhaps more importantly than federal compliance, however, is the recognition of CMAC by Pennsylvania law enforcement personnel as a valuable resource rather than an intrusive nuisance. Recent legislative changes have excluded certain violent and chronic youthful offenders from the jurisdiction of juvenile court, thus affecting the definition of a juvenile and affecting the procedures for the holding and detention of these offenders. Police departments from across the Commonwealth are calling on CMAC for training and advice in the interpretation of this new legislation and the proper procedures for handling youthful offenders which may differ from those derived for juvenile offenders.

This project was supported by subgrant #92/93-J-01-4608, awarded by the Pennsylvania Commission on Crime and Delinquency (PCCD). The awarded funds originate with the Office of Justice Programs, U.S. Department of Justice. Points of view or opinions contained within this document are those of the author(s) and do not necessarily represent any official position, policy or view of PCCD or the U.S. Department of Justice.

The police liaison has forged a strong relationship between the law enforcement community and CMAC that has well prepared Pennsylvania to meet these new challenges as well as any future changes to the system.

If label is incorrect,
please make corrections and
return label to NCJJ.

ATTENTION: RECIPIENT

National Center for Juvenile Justice
101 South Second Street
Suite 609
Harrisburg, PA 17101



BULK RATE
U.S. Postage
PAID
Permit No. 901
Harrisburg, Pa.