FAMILY COURT DISPOSITION STUDY
Executive Summary

Jody Adams Weisbrod
with
Silvia Casale
Sheridan Faber

Vera Institute of Justice
377 Broadway
New York, New York 10013

THREE DAYS IN FAMILY COURT: A PREFACE

Background

Ronald is a fourteen year-old white boy who is deaf and dumb and has cerebral palsy; his mother had German measles while she was pregnant. He lives with his mother and thirteen-year-old pregnant sister. His father, whose whereabouts are unknown, is a pimp.

One Sunday Ronald tried to commit suicide with a kitchen knife. His mother called the police. The police officer, in an attempt to wrest the knife from him, backed Ronald into a corner of the kitchen. Ronald lashed out and stabbed the officer above the right eye. Although gravely wounded, the officer did not lose the sight in his eye and recovered.

Ronald was charged with Assault and arraigned in Criminal Court. The Criminal Court judge transferred the case to Family Court. He held that, given the totality of the circumstances, the case was not appropriate for the adult system since Ronald was so clearly in need of the treatment and rehabilitative services uniquely available in Family Court.

In Family Court, Ronald was found to have committed an act which, if committed by an adult, would have been Reckless Endangerment. In preparation for the final disposition hearing, Ronald was referred to a series of residential placement agencies; none would accept him. He was considered too difficult to handle, and his physical disabilities too severe for any existing facilities. Ronald's mother did not want to take him home.

The Family Court judge took a particular interest in the case and kept it before him. He cancelled long-held vacation plans, and, on his vacation time, conducted a rigorous disposition hearing. The agencies' rejection of Ronald, while common-place in Family Court, was particularly unsettling in this case and the judge was contemplating the issuance of an order compelling the agencies' cooperation.

Ronald was remanded to the psychiatric ward in Bellevue while the system struggled to decide what to do with him. While in Bellevue, Ronald set a fire in his ward. He also tried to hang himself.

The Disposition Hearing: Tuesday

At 9:30 a.m. the following parties were present: Ronald; the judge; the defense attorney (called the "Law Guardian" in Family Court); the Assistant District Attorney; a representative of the New York State Division for Youth; a representative of Special Services for Children; an attorney for the Board of Education; an attorney for the State Department of Mental Hygiene; an attorney for the Mental Health Information Services; a teacher who had been working with Ronald; the Court Liaison Officer of the Department of Probation; the court clerk; the court "bridge man"; and various guards. Ronald's mother was present but she was not able to maintain her composure. When the judge asked a guard where she was, he was told she was "crying in the waiting room."

The only party who was not present was the sign language interpreter who had been ordered at the Law Guardian's request to interpret the proceedings for Ronald. By 11:00 a.m. the interpreter still had not arrived. Nothing could go forward in his absence. While there was some frustration, all of the parties but one had an air of resignation, like passengers in a train station; this sort of delay was not foreign to their experience. The one participant whose frustration was acute (and vociferous) was the Assistant District Attorney. His wife had gone into labor that night and would deliver their first child at any time. He felt urgent to complete the hearing and be with his wife. The imminent delivery was the major topic of the parties' conversation.

Finally the judge decided to check with the secretary in the clerk's office, whom he had directed to order the interpreter, to see if she knew why the interpreter was delayed. He had to investigate by himself because Family Court judges do not have their own secretaries. He came back from the clerk's office about fifteen minutes later furiously angry. For a reason that was never determined, the secretary had never ordered the interpreter.

Judge: "I have no power. She never put in the order and she doesn't give a damn. She sat there drinking coffee in my face. Look, I'm a judge, I've got this robe on. But I have no power. I can't fire her. I have no power."

The attorney for the State Department of Mental Hygiene said that he thought his brother in Westchester had a friend who knew sign language. Maybe he could reach the friend and he could step in.

The Law Guardian was amenable and the judge was willing to try. He offered the attorney the use of the phone in his small antechamber off the courtroom to call his brother. While he was gone the judge observed that, while the Law Guardian had been quite proper in her insistence on a sign language interpreter, there was an academic quality to his presence.

Judge: "You know, there's a certain element of insanity to all this. I've seen Ronald with these sign language interpreters before and, you might say, he doesn't <u>listen</u>. He never looks at the guy. He really can't control his movements that well and he has a minimal attention span so he rocks back and forth and looks at the ceiling and the floor...everywhere but at the interpreter. Everyone realizes this but what can I do? He's got a right to one so what can I do?"

At that point the attorney for the State Department of Mental Hygiene came back and said, "Your Honor, I can't dial a 914 area code on your telephone." Judge: "Jesus, that's right, I forgot." The Division for Youth worker offered the use of her phone in a separate wing of the building. However, the attorney would have to get the key to her office from her friend who was in yet another wing of the building.

Tension began to build. The Assistant District Attorney had a mile emotional outburst and immediately apologized. By now it was 12:15. Family Court breaks for lunch at 1:00; few considerations override that rule. Several of the participants had prior commitments and could not be present for an afternoon session. The hearing was adjourned for the next morning, with the understanding that the judge would personally ensure that the interpreter was ordered. To Ronald's delight, the guards let him hold the door open for the parties as they filed out of the courtroom.

<u>Wednesday</u>

At 9:30 a.m. only the judge was present. One by one, yesterday's participants arrived. The full cast did not reassemble until 10:30. The sign language interpreter was present; in fact two sign language interpreters were present. No one could account for the presence of two interpreters but the question was put aside for the moment. There was greater concern over the fact that all of the participants were there save one: Ronald.

Where was Ronald? No one could answer. A guard checked the detention room but he wasn't there. The attorney for the Mental Health Information Service left to investigate.

In the interim the conversation revolved around: 1) the Assistant District Attorney's new baby daughter. He had been up all night and looked it; 2) speculation as to why two interpreters were present; and 3) the Law Guardian's vacation plans.

The attorney for the Mental Health Information Service came back. It was now 11:00.

Attorney: "Your honor, Bellevue was never notified that Ronald was to be in court this morning."

Judge: "Jesus Christ."

Attorney: "But I spoke to the supervisor in his ward and they're putting him on the bus right now."

Judge: "But it's already 11:00. By the time they get him here we'll have too little time before the lunch break. Most of the parties can't be here for an afternoon session. Call Bellevue, tell them not to send him today, and tell them to have him here tomorrow at 9."

The attorney left and came back promptly.

Attorney: "Your honor, he's already on the bus. The bus is still in the parking lot. The driver refuses to let Ronald off the bus until he is authorized to do so by the hospital Administrator. These drivers work for a commercial bus company and they have strict instructions not to let patients off their buses without authorization. The supervisor said the judge had to call the Administrator."

The judge went into his antechamber to call the Administrator. His voice could be heard in the courtroom, where the parties were milling with a slightly diminished air of acceptance. Judge: "Hello, this is Judge Smith of Family Court, I want to..." He stopped; he had obviously been put on hold. After a few seconds, "Hello, this is Judge Smith of Family Court..." On hold again. In the courtroom, "Hello, this is Judge Smith of Family Court" was heard four times before he reached the Administrator and obtained Ronald's release from the bus.

The judge re-entered the court to adjourn the hearing for the next morning. The attorney for the Mental Health Information Service asked to be heard. She was upset. She had just spoken to the supervisor of Ronald's ward. She had learned that every time Ronald leaves Bellevue to go to Family Court he is formally discharged. When he returns he is processed as a new admission and a new file is opened, number assigned, etc. He is processed

in Bellevue's general psychiatric admission ward. Since he has been known to be violent at Bellevue, he is strapped to a chair during the entire admissions procedure. The procedure takes, on the average, two to three hours; the supervisor said that Ronald had spent as long as five hours strapped to a chair. The attorney said she thought this was done because Bellevue's insurance does not cover patients when they are off hospital premises.

This news startled all of the parties, particularly Ronald's teacher who angrily asked why this had not surfaced before. No one could answer. The attorney for the Mental Health Information Service asked if the judge could issue an order stopping the practice. The judge was unsure of his jurisdiction to enjoin a hospital's administrative procedures. He looked for a copy of the Family Court Act; none could be found.

Judge: "Goddamit, there are no Family Court Acts in the Parts. Look at this -- no Family Court Acts in the Parts. I've been trying since I got here to get copies of the Family Court Acts in the Parts. You wouldn't think it would be so hard."

The judge said, on the record, that even though he was unsure of his jurisdiction, he was issuing an order that Ronald not be discharged and readmitted each time he went to court.

Judge: "I don't know what effect this will have. Maybe it will do some good. I don't think there is anything else I can do."

He adjourned the proceedings for the next morning.

Thursday

At 9:15 the participants began to gather. A new party was present, a strikingly attractive young woman, who had been Ronald's teacher. Two guards loudly discussed the fact that they wouldn't mind being taught by her. She overheard and glared with contempt. Ronald's mother was not present because she could not miss another day of work. The same two interpreters were there. The Law Guardian asked one of the guards the question that was on everyone's lips: why were two interpreters present? The guard began to offer a possible explanation. The room was filling and the Law Guardian's attention left the guard. Unaccountably, while he was in mid-sentence, she turned her back on him and walked away. Guard: "Fuck you. That's the last time I'll explain anything to you."

By 10:15 everyone was present. The courtroom was crowded. For the first time since Tuesday, the judge called the hearing to order. The courtroom was small. The judge sat at a desk on a bare raised platform. The witness stand was to his left. To his right sat the court clerk. His desk was also raised, but less so. Two long semi-circular desks extended from either side of the judge's platform. The parties were arrayed along them. The Assistant District Attorney and the Law Guardian sat at the ends of the two desks, facing the judge; Ronald sat next to his Law Guardian. The space enclosed by the desks was empty. The window looked onto an eaves-shrouded cranny of the building so that even though it was a brilliant May day, the courtroom was dark and the fluorescent lights were turned on.

When all of the parties were seated, the two interpreters entered the empty space in the middle of the courtroom. One was a stately, blond, middle-aged woman. The other was a small, dark young man. Both carried straight-backed wooden chairs. The man put his chair down directly in front of Ronald and sat facing him, with his back to the judge. The woman put her chair down facing the man, and sat with her back to the witness stand. There was an undercurrent of mumbling about the as-yet-unknown reason for the two interpreters.

After the parties had noted their appearances, the first witness was called. He was a psychiatrist for the City who had examined Ronald. He was to testify as to his diagnosis.

He testified that Ronald had had a psychotic episode but that he was now in remission. The suicide attempt had been a call for help. He thought that Ronald was mentally ill but not psychotic. He offered as a diagnosis: unsocialized aggressive reaction.

As he spoke these words, the two interpreters set to work. Since she had her back to the witness stand, the woman had to look backwards over her left shoulder and twist her head as far as she could in order to see the witness. While twisted in that way, she was "signing" to the young man. He would watch her for awhile and then turn and sign to Ronald. The woman asked the witness to pause while the young man signed to Ronald. When the young man finished and turned back to face her, she twisted her head back over her shoulder and indicated to the witness that she was again ready to proceed. This process was repeated as the psychiatrist delivered his testimony.

As the judge had predicted, Ronald glanced only occasionally at the young man signing to him. He rocked in his chair making gurgling noises. He looked mostly at the attractive teacher and at the ceiling.

The interpreters continued their signing as the psychiatrist went on with his testimony; the attention of most of the parties was on the interpreters. The witness said that Ronald had a neurological deficit causing perceptual problems. He recommended a structured school setting.

After some whispered exchanges with a few of the parties, the judge interrupted the witness.

Judge: "Excuse me, Doctor, but I must break in for a moment. I have to ask a question. Can somebody tell me why we have two interpreters?

There was silence in the courtroom.

Judge: "Nobody knows why there are two interpreters? Sir?"

He addressed the young man interpreter who had continued, throughout the judge's question, to sit facing Ronald with his back to the judge. The woman poked his arm and he turned to face the judge. He had a pleasant smile on his face.

Judge: "Sir, can you tell me what it is that you are signing to Ronald? Why can't Ronald look at the other interpreter as well as at you?"

The young man continued to smile genially. He did not say a word.

Woman Interpreter: "Excuse me, your honor, but he is deaf."

Judge: "He is deaf?"

Woman Interpreter: "Yes, your honor. Perhaps I can explain. He is Ronald's vernacular interpreter."

Judge: "Vernacular interpreter?"

Woman Interpreter: "Yes, your honor. The witnesses are speaking in very technical language. I sign what they are saying to my colleague here. He then signs it to Ronald putting it in a vernacular that Ronald can understand."

Judge: "Do you mean to say that he is putting phrases like "unsocialized aggressive reaction" and "neurological deficit causing perceptual problems" into a vernacular sign language that Ronald can understand?"

Woman Interpreter: "Well, your honor, I'm sure that, on occasion, he summarizes."

The judge looked to the other parties for comment; none was forthcoming. The young man interpreter continued to smile at the judge. The judge asked the Law Guardian if she had any objections to proceeding with two interpreters; she had none.

Thus, the witness resumed. In this fashion, the psychiatrist continued to testify, the interpreters signed, and Ronald rocked and cooed and looked at the ceiling until lunch.

EXECUTIVE SUMMARY

Family Court Disposition Study

I. Background

This report is intended to describe how New York City's Family Courts handle delinquency and status offense cases.

The jurisdiction of the Family Court embraces diverse subjects related, more or less directly, to the functioning of the family. Included within the court's business is a jurisdiction grounded solely in offenses -- criminal and non-criminal -- committed by juveniles under 16. Delinquency cases allege acts that would be crimes if committed by adults. Status offense (Person in Need of Supervision) cases allege non-criminal behavior such as truancy, ungovernability, and disobedience that grows out of a juvenile's unique need for (and right to) adult supervision and that would, generally, be beyond the reach of any court if engaged in by adults.*

In 1978, when Vera began the work of the Family Court Disposition Study, the court's juvenile-offense-based jurisdiction had become a major issue of public policy. Critics from various quarters spoke with one voice: the public was not satisfied with

---

* A Person in Need of Supervision is a juvenile "who does not attend school in accord with the provisions of part one of article sixty-five of the education law or who is incorrigible, ungovernable or habitually disobedient and beyond the lawful control of parent or other lawful authority or who violates the provisions of section 221.05 of the penal law..." (possession of marijuana). Family Court Act §712(b).

the outcomes of delinquency and PINS cases. A perception took hold that the results of delinquency and PINS case processing were not fitting for the behavior generating jurisdiction.

On the one hand, Family Court was seen to be too lenient with hardened juvenile criminals. The limited dispositional alternatives and the statutory injunction to consider the "best interests of the child" in delinquency proceedings seemed inappropriate in the face of a perceived tide of violent crime committed by juveniles. The "softness" of Family Court was said to be the reason "Why 15 Year Olds Get Away With Murder."*

On the other hand, outcomes in PINS cases were seen as too harsh a response to non-criminal behavior. The public's sense of proportion came to be disturbed by coercive court intervention in cases that seemed to involve little more than the ordinary rebellion of adolescence.

Not surprisingly, during this period, the legislature focused attention on the Family Court Act. The Juvenile Justice Advisory Board of the New York State Division of Criminal Justice Services led the field in recalling the intentionally experimental nature of the Family Court Act. At the time of its passage in 1962, the drafters intended that it be re-evaluated after about ten years and that the lessons learned in a decade be applied to a re-thinking and re-drafting. By 1978, that evaluation was overdue; the public's vocal dissatisfaction with the perceived results of the experiment lent urgency to the task.

---

* "New York Magazine," June 13, 1977.

But when policy planners set out to evaluate, understand and design change in the handling of juvenile offenses they were confounded by a lack of information about the real functioning of the delinquency and PINS jurisdiction. The vivid anecdotes of "kid killers" going free and innocent status offenders languishing in placements flew about unrestrained by hard data.

No one agency was charged with tracking cases from arrest or initial appearance at Probation intake through final Family Court disposition. The various agencies involved in the Family Court process collected data discrete to their own operations, but the agencies' data could not be woven together to form a systematic picture of case processing. A citizen asking "What does happen to the cases of 15 year olds arrested for murder?" could not find a reliable answer in existing data sources. Neither could officials responsible for managing the system and for improving it.

Even more frustrating than the lack of systematic aggregate data was the absence of illuminating deeper information: what was really going on in the delinquency and PINS cases brought to Family Court and why were they being handled as they were? Was the court presented with hardened criminals committing heinous acts in its murder and assault cases? Were its robbery cases predatory attacks late at night on deserted streets? Did judges dismiss cases out of concern for the "best interests of the child" or because complaining witnesses were generally unwilling to go forward? Did PINS cases embody familiar parent-child conflicts or did they involve juveniles so utterly out of control that nothing short of the court's authority could affect their

behavior? Were Family Court actors willing and able to supervise when parents weren't? Most policy makers agreed that the essential first step toward desired change was the gathering of reliable, systematic, full information.

At the time that legislators and Family Court planners were grappling with the consequences of their lack of knowledge, Vera had just completed the monograph, Felony Arrests: Their Prosecution and Disposition in New York City's Courts (1977). Felony Arrests was an exploration of the process by which felony arrests of adults are handled in New York City's criminal courts. In connection with that inquiry, Vera researchers developed a research design that wove together data from a "wide" (statistical) and a "deep" (interview) sample; the technique proved useful as a means of documenting and shedding light on case processing decisions. Briefly, the wide sample statistical data was used to identify and quantify the points in the court process at which case termination occurred; the deep sample interviews provided, in the words of the system actors themselves, a close look at the reasons for the decisions made at each of those points.

A planning group consisting of the principal New York City Family Court policy makers and Vera researchers suggested that the wide and deep sample design could be a useful method for documenting the dispositional patterns of delinquency and PINS cases and understanding underlying reasons for the processing decisions made in those cases. With grant awards from the Division of Criminal Justice Services, the Foundation for Child

Development, the W.T. Grant Foundation, and the Scherman Foundation, Vera began the work of the Family Court Disposition Study.

We drew a wide sample -- 1890 delinquency and 898 PINS cases -- selected at random from all delinquency and PINS cases appearing at New York City probation intake in the four major boroughs between April 1, 1977 and March 31, 1978.* The wide sample (weighted proportionately by borough) represents approximately one out of every ten delinquency and one out of every six PINS cases that appeared at Probation intake during the sample year.

We then gathered the most detailed information possible from the arrest report in each delinquency case; this enabled us to obtain immediately the distribution of offenses in our delinquency sample. We then tracked each case to the Probation intake file. Since PINS cases are initiated by appearance at intake, it was here that we began our PINS wide sample data collection as well. From the Probation files, and from Family Court records, we tracked each sample case until a final decision was reached that removed the case from further Family Court processing. We collected information from our written record sources describing in the fullest detail available: the incident or behavior generating jurisdiction, the juvenile respondent and his/her family situation, and the handling of the case in the Family Court system. Our data collection ended at the final case termination

---

* It should be noted that the designated felony statute in its original form was in effect during the sample year. Thus, predicate felony provisions and jurisdiction over 13 year-olds had yet to be enacted.

point -- wherever it occured: adjustment at intake, dismissal or withdrawal at court before a finding, probation or placement, etc. We did not collect information on the implementation of disposition.

The deep sample consisted of 150 cases drawn, in most instances, from the wide sample.* Vera researchers interviewed as many as possible of the Family Court system actors who exercised significant decision-making power in each deep sample case. The purpose of the interviews was to flesh out the aggregate wide sample data by describing, in terms richer than those available in written records, fact situations and reasons for dispositions reached in individual cases.

The remainder of this Executive Summary will describe what we have learned in the Family Court Disposition Study. We will discuss: 1) the behavior with which the court was presented in the delinquency and PINS sample cases; 2) the characteristics of

---

* The only deep sample cases not drawn exclusively from the wide sample are those discussed in the murder/manslaughter chapter. We considered it critically important to understand the murder cases brought to Family Court because of the notoriety and myth surrounding them, and because, historically, it has been murder cases that have focused legislative attention on the Family Court and caused reactive statutory changes.

We faced a dilemma, however, since juveniles fifteen and younger are not frequently charged with murder. Our random one-in-ten delinquency sample that yielded 491 burglaries and 411 robberies contained only 9 cases of murder/manslaughter/attempted murder. We therefore went outside of the wide sample and, with the generous assistance of the Youth Records Unit of the New York City Police Department, obtained a list of <u>all</u> juveniles arrested for murder/manslaughter during our sample year. With certain technical adjustments, each of those cases was included in the deep sample.

the juvenile respondents, as documented in Probation and Family Court records; 3) the processing and dispositions reached in the sample cases; and, 4) indications of the relationships among the sample juveniles' behavior and documented characteristics and the outcomes of their cases.

Summary presentation of the results of this work is extremely difficult, because the principal purpose of the effort is to dig beneath the picture one gets from aggregating into a few categories the behavior of juveniles and the responses of officials. We believe, however, that this necessarily sweeping summary sets forth a coherent overview of the kind of information contained in the study.

II. The Delinquency Sample (1890 cases selected at random from all delinquency cases appearing at New York City Probation intake -- the four major boroughs -- between April 1, 1977 and March 31, 1978. Sample represents approximately one-in-ten delinquency cases appearing at Probation intake during the sample year.)

A. With what delinquency charges is the Family Court presented?

Our random, one-in-ten sample offers a unique opportunity to see the range of alleged offenses that make up the court's delinquency jurisdiction. For purposes of this offense distribution, each sample case is categorized according to the top offense charged at arrest.

Burglary was far and away the most frequently charged offense; over one-quarter of the sample received a top charge of burglary at arrest. Interestingly, 92% of those cases were charged at burglary 3°, a D felony and the lowest degree of burglary.

The second most frequent top charge was robbery, accounting for 411 cases or 22% of the sample. Sixty-five percent of the robberies were charged at robbery 2°, a C felony; 20% as robbery 1°, a B felony; and the rest as robbery 3°, a D felony.

We noted an interesting pattern in the borough distribution of robbery 1° arrests. The distribution of all sample robbery arrests taken as a group (1°, 2°, and 3°) follows fairly consistently the population distribution of the sample as a whole: we learned that most of our offense categories repeated this same pattern. Thus, the borough distribution for all robbery arrests is: Kings - 37%; Manhattan - 21%; Bronx - 27%; and Queens - 15%. Similarly, the borough breakdown for the entire sample is: Kings - 35%; Manhattan - 20%; Bronx - 27%; and Queens - 18%.

Against this background, the occurence of the robbery 1° arrests stands out as curious: Kings - 24%; Manhattan - 22%; Bronx - 42%; and Queens - 12%. We caution against immediate conclusions and we underscore the limits of our data in allowing us to explain this phenomenon. We cannot know if we have uncovered a picture of actual variation in juveniles' criminal activity or in arrest practices. We do know that the numbers would fail to surprise Bronx District Attorney Mario Merola since they go some way to confirm his contention that the Bronx deals with a disproportionate share of violent criminal activity in New York City.

The next most frequently occuring charge, representing nearly one-fifth of the sample, is grand larceny. Of all grand larceny cases, 80% were charged as grand larceny 3°, an E felony. Only 4 juveniles received a top charge of grand larceny 1°;

three of those four were auto theft arrests. The grand larceny arrests consisted of about one-half purse snatch and one-half auto theft cases.

Burglary, robbery and grand larceny together represent the top charges in 65% of the entire sample. After this substantial concentration there is a sharp falling off and the offense distribution in the remaining 35% of the sample is scattered and quite diverse. Only assault, petit larceny, criminal mischief and drug offenses rise to a level of 3 percent of the sample. The 146 assualt cases merit a longer look here since, unlike the "top three" burglary, robbery and grand larceny, assault contains a misdemeanor degree. The degrees charged within the assault cases reveal a pattern that is becoming familiar: infrequent charging of the top degree. Thus in the assault sample, ten percent are charged as assault 1°, a C felony; 59% as assault 2°, a D felony; and 30% as assault 3°, an A misdemeanor.

The seven offense categories we have discussed account for 80% of the sample. The rest of the offenses occur most infrequently; they are predominantly non-serious. We noted with particular interest murder and arson, notorious offenses that have become linked in the public's perception with juvenile crime and that have spurred specific legislation. In our 1890 case sample we had a total of nine cases of murder/manslaughter and/or attempted murder, representing 1/2 of 1% of the sample; the sample contained 17 cases of arson, or 1% of the sample.

The appearance of designated felonies in the sample reinforces the pattern in which the most serious classifications

tend to appear with least frequency. Four percent of the sample, 71 cases, were designated felony arrests. Included in those cases were 46 robbery 1°'s, 11 cases of assault 1°, and 8 cases of rape 1°/sodomy 1°.

We were curious as to the extent of victim injury represented in sample cases. Information as to the seriousness of victim injury was not uniformly available in our data sources. Thus, to err on the side of caution, we coded as serious any injury for which medical attention was received, even if the attention was a check-up and immediate release. Using this standard we learned that 83% of the sample involved no victim injury, 10% non-serious injury and 6% serious injury. There were 6 fatal injuries in the 1980 case sample.*

The great majority (84%) of the juveniles were arrested with no weapon. We cannot always distinguish between mere presence and actual use of a weapon, but we know that in 6% of the sample a knife was present at arrest, in 4% a gun and in 6% some "other" weapon -- such as a baseball bat or chuka stick. Since over three-quarters of the sample cases involved juveniles acting in concert, we can safely assume (and our deep sample interviews confirmed) that the presence of weapon figures may overstate their actual use.

---

* The nine sample murder/manslaughters did not involve nine victims because certain juveniles were arrested as co-respondents in a single incident.

B. How does the Family Court system describe the juveniles before it in delinquency cases?

We caution first that the information available to us describing the juvenile respondents in our sample cases may be less reliable than that describing their alleged behavior and the processing of their cases. Our sources were police, Probation and Family Court records. While certain descriptive, demographic variables are relatively "hard" (age, sex, race, etc.) and reliance is not likely to be misplaced, others are by their nature more fluid and susceptible to error: source of family support; members of household working; etc. We did not independently verify any such information; we coded what appeared in our sources. Thus, with respect to some of the variables in this section, we set forth our findings less for the truth of the characteristics asserted than for an understanding of how delinquency respondents are described by the system actors handling their cases.

Two-thirds of the juveniles in the sample were 15 (37%) or 14 (30%). A remaining 18% were 13; few were younger. Confirming common wisdom, 91% of the sample was male. Fifty-two percent was black, 30% Hispanic and 15% white.

Forty-two percent of the juveniles live in homes in which no one is working. Fifty-two percent were described as living with their mothers only, with no father or constant male figure in the household. Slightly over one-quarter lived with both natural parents. If we add to this latter figure those juveniles who live with their mothers and a man who is not the natural father but who does stand in a formal or enduring relationship to the

juvenile, the total rises to 35% of the sample. Again we caution quick conclusions based upon the absence of a father in 52% of the homes. An upper middle class prepatory school in Manhattan recently indicated that close to 50% of its students lived alone with their mothers; most likely we are in the presence of a phenomenon affecting all children -- not merely those who come into contact with Family Court.

We conducted, as thoroughly as possible, a cross-borough search for sample juveniles' prior Family Court records.* Fifty-two percent of the sample juveniles had at least one prior appearance at Probation intake on a delinquency or PINS case. It is interesting that 90% of those with priors had only delinquency and no PINS priors. Of course we can only speculate, but this figure could shed some doubt on the utility of considering PINS cases to represent "pre-delinquent" behavior. Almost one-half of those with priors (almost one-quarter of the sample) had a pending active case at the time of our sample case intake. Finally, the extent of the juveniles' priors seemed fairly substantial; over one-quarter of those with priors had four or more prior delinquency appearances at Probation intake.

---

* Of course, at the time of our data collection the Juvenile Justice Information System was not yet in place and there was no systematic mechanism for locating the prior record of one juvenile in all boroughs. We gathered our data on priors by means of a rather laborious hand search in each borough. At this writing (March, 1981), JJIS is still not fully in operation.

C. What happens to delinquency cases in the Family Court System?

In this section we will briefly describe how the system processes and disposes of delinquency cases. Our unit of measurement in documenting patterns of case outcome is case termination point: that is, what is the last point in the Family Court system that is reached by a case before a final decision removes it from further Family Court processing.

Of the 1890 case sample, 50% of the cases were "adjusted" (closed) at intake and never sent to court. By far the largest category of these closed cases were the "TWA" (Terminated Without Adjustment) cases. Probation intake officers, in the exercise of their discretionary powers, "adjust" cases when they feel they are inappropriate for judicial handling. An intake officer TWA's a case when he must close it for reasons other than a discretionary determination of inappropriateness -- most often when he lacks jurisdiction. The most common jurisdictional defect (and the reason for most of the 407 TWA'd cases in our sample) is an unavailable or unwilling complainant. Because of the quasi-civil/quasi-criminal nature of the Family Court, in most instances, de facto and de jure, cases cannot proceed without complainants.

One hundred fifty-eight of the cases sent to court by the intake officer (8% of the sample) had no petition drawn by the assistant corporation counsel or assistant district attorney, and proceeded no further in the system. The reason for an NPD decision is similar to a TWA: no jurisdiction, most frequently because of a non-participating complainant.

Petitions were drawn, initiating formal Family Court proceedings, in 781 sample cases. Of those cases, 515 were terminated at the court level without ever reaching a "finding" — a judicial determination of guilt or innocence. The most common pre-finding disposition was the ACD (Adjournment in Contemplation of Dismissal) imposed in 198 cases or 10% of the sample. The ACD, transposed virtually unmodified from adult criminal court proceedings, is a favorite interim control measure among Family Court judges dealing with non-serious or difficult to prosecute delinquency cases; it is seen to allow the imposition of some behavioral conditions while avoiding the costs of further court processing.

Thus, to this point, over 85% of the sample cases have reached final disposition: 50% closed at intake, 8% NPD, and 28% terminated at court with no finding. We note that, in no case terminated up to this point, has there been an adjudication of the accused juveniles' guilt or innocence.

Findings of fact did occur in the remaining 14% of the sample cases. We discovered patterns of charge deterioration at this stage. Most top charges at arrest remained the same when petitions were drawn, and the changes that did occur were split fairly evenly between increases and reductions. However, at fact-finding, 70% of the top petition charges were reduced. As an illuminating side note, we learned that fully 71% of the juveniles with findings admitted at least some charges against them; only 28% of the finding cases reached adjudication after a hearing. These figures, amplified by deep sample information,

paint a clear picture of the plea bargaining that is becoming institutionalized in Family Court practice.

Another side note on the fact-finding cases: in 72% of those cases, the judge ordered the Probation Department to conduct an I&R (investigation and report) to aide the judicial disposition decision. The I&R could be called the classic Family Court operating tool since it involves a broad ranging "social history" investigation into the life of the juvenile and his family; it is the I&R that is intended to identify the needs and best interests of the juvenile before the court. The substance and language of the I&R's provides a rare written embodiment of the ethos of Family Court. Over 60% of the I&R's mentioned, in more than passing detail, the juvenile's physical appearance; "inappropriate affect" was invoked with considerable frequency. School problems were mentioned less often than personal appearance. Similarly, the I&R's evidenced an unaccountable interest in the parent's appearance; 25% contained extended reference. Comments like "Mother looks like Dionne Warwick" or "mother is thick-lipped with oily skin" were not unusual.

The 266 fact-finding cases received various dispositions. One-hundred-ten (6% of the sample) were placed on probation; 84 (5% of the sample) received placement dispositions (70 with the New York State Division for Youth). Most of the remainder were dismissed or ACD'd.

It is interesting to compare the overall patterns of outcome in the aggregate sample to the outcomes in particular offense categories. Of all burglary cases, 52% were adjusted, 9% NPD,

26% dismissed at court before a finding, 13% received a finding, 5% were placed on Probation and barely 1% were placed. These figures are close to the aggregate sample, with a lower placement rate that is not surprising given the overwhelming (92%) presence of relatively non-serious burglary 3°'s.

Robbery cases show a lower adjustment rate (45%), 9% NPD, 27% dismissed at court without a finding, 19% received a finding, 8% were placed (a higher rate than the whole) and 6% put on Probation. Finally, the assault cases showed the strongest departure from the whole, with a 35% adjustment rate, the lowest of any major offense group. Seven percent were NPD. Thirty-six percent (higher than the 28% of the aggregate sample) were dismissed at court without a finding, consisting largely of ACD cases. The reason seemed to be the particularly diverse character of the behavior generating the assault arrests and the use, discussed earlier, of the ACD as a device to weed out less serious cases. The rest of the assault cases' dispositions followed the familiar pattern: 14% received a finding; 8% were placed on Probation; and 6% received placement dispositions.

Finally, among the diverse case processing data elements we have assembled, we note here our findings as to the detention status of the sample cases. Eighty-six percent of the sample was ROR'd (released on recognizance) immediatly after arrest and before appearance at Probation intake. A much larger proportion of juveniles were detained when their cases reached court. Of all sample cases that went to court, 31% of the juveniles were detained at some point in the proceeding. In over one-half of

the cases detained at court, no parent was present in court when the detention decision was made. We note also that, despite a statutory requirement that judges record written reasons for each detention decision, no written reason appeared in 93% of the detained juvenile's records.

D. What factors seem to be related to the outcomes of delinquency cases?

Our primary task in the Family Court Disposition Study has been to present basic descriptive research. We have not set out to perform sophisticated statistical tests or apply complex analytic techniques to the data.

We are, however, able to determine certain statistically significant relationships when we carry out basic cross-tabulations. We have preliminarily but nevertheless reliably discovered significant relationships between certain characteristics and the fate of a case in the Family Court system. Broadly, we emerge with a picture of rough proportionality in the handling of delinquency cases and with a stronger than might be expected link between the characteristics of the underlying incident and the severity of the Family Court's response. We summarize here a few of the interesting indications we have discovered:

- A significant relationship exists between the degree of victim injury and case outcome. The more serious the injury the more likely is the case to remain active as it passes through the possible case termination points in the Family Court system, and the more likely to receive a disposition of Probation or placement;

° A similar significant relationship exists between the presence of a weapon and case outcome. Any weapon leads to more serious handling than no weapon; guns are treated rather more severely than knives;

° A similar significant relationship exists between the extent of a juvenile's prior Family Court record and case outcome;

° A similar significant relationship exists between the juvenile's detention status and case outcome. Juveniles who are detained at any time in the proceeding (both police and court detention) are significantly more likely to have their cases stay in the system until the last decision point and to receive dispositions of placement;

° When cases are categorized according to the identity of the victim, cases in which there is no victim and cases in which the victim is a member of the juvenile's family (more on this in the PINS section) tend to drop out of the system at the earliest point. Cases involving security guards and cases in which the victim is a friend of the juvenile tend to stay in the system longest. The deep sample interviews helped us to understand this phenomenon. It seems that security guards make particularly tenacious complainants since they are often granted ample, paid time off to pursue cases; the business of being a complainant is seen as "part of the job," indeed as part of protecting a job.

The reason for the survival of the friend/victim cases is more complex. The finding has a particular reverberation because it would appear to be quite different from the conclusion in Felony Arrests that "prior relationship" cases are weeded out of the adult criminal court system earlier than cases involving "stranger victims." The key to the difference seems to lie in a distinction between children's and adults' relationships. The defendant/victim relationships discerned in Felony Arrests were bilateral and criminal court proceedings frequently terminated with the two parties' reconciliation. However, the respondent/victim relationships we examined in the FCDS most frequently involved not two but four parties: the juvenile respondent and his parent, and the juvenile victim and his parent. The key actor -- and the primary force behind the pursuit of court remedies in these cases -- is the victim's parent -- most frequently, of course, the mother. When the victim and respondent must continue to deal with one another, the victim's mother has an obvious interest in protecting her child from further injury

and in seeing that the respondent is controlled and supervised. We learned that mothers in these cases look to the Family Court for help in regulating the on-going relationship. The mothers' insistence on court action in these cases accounted for their longer life within the court system than cases involving other categories of complainants.

E. Thoughts on the Delinquency Sample

Clearly a data base of this size offers rich opportunities for reflection. We conclude here with a brief discussion of a few of the interesting issues that seem to run through the data:

° We learned that there is proportionality in the processing of delinquency cases: it is generally true that the more serious the incident (measured by charge) or the juvenile (measured by prior record) the more likely is the case to receive a finding and disposition. At the same time, we learned that the substantial majority of delinquency cases brought to Family Court do not involve threatening criminal behavior. The very high attrition rate demonstrated in the processing of the sample cases (86% of the cases reached final disposition before an adjudication) is to some extent a result of the system's ability to distinguish between serious and non-serious cases.

As a corollary to this, we learned that there is frequently a real dissonance between the association engendered by penal code charges and the underlying behavior that the charges describe. We saw that, in many cases, outcomes that seem incomprehensible at first blush made a good deal of sense when the facts of the cases were explored.

We will illustrate with two murder cases. In neither case was a conviction obtained. One case was ACD before a finding,

the second was NPD and thus did not even reach a judge; both cases could be read quickly as juveniles "getting away with murder." When we dug into the facts of the cases, however, we discovered sound reasons for the lack of adjudication and court-ordered disposition.

The first case involved 12 and 13 year-old brothers as co-respondents. Until 2 years before the incident the two boys had lived with their father and stepmother and her 8 and 9 year-old daughters from a previous marriage. The father and stepmother separated and the father became abusive; for two years she moved constantly, fleeing the father's threats to kill her. Finally, one day, the father took his sons to the woman's apartment. While the boys held the two daughters down, and while the four children watched, the father shot the stepmother six times and killed her. The father and the boys were arrested and each charged with murder 2°.

The boys' cases were ACD in Family Court before a finding for the following reasons: The system actors were more interested in convicting the father than the boys; according to the arresting officer, the father was a "total and complete low-life.... [The boys] were terrorized by [him] and they'd do whatever he said." The testimony of the two daughters was essential to any conviction. The ADA said that the two were "bright, sweet girls but scared to death.... They didn't want to testify against their brothers." He was afraid that if the girls testified against the boys, they might "not be up to the strain of testifying against their stepfather later on." Because he did

not want to jeopardize the case against the father, he proposed an ACD. The judge agreed because he did not want the "two little girls to go through the trauma of testifying...against the two little boys who were their half-brothers," when they would have to repeat the "trauma" in Supreme Court.

The second reason underlay the ACD. Immediately after the arrest, the boys were remanded to shelter care and BCW* began planning for a long-range, permanent placement. The ADA recommended the pre-finding ACD because "a delinquency [finding might] screw up their chances of placement."

The second murder case displays a fact pattern that was repeated in other murder cases. Again, we underscore the discrepancy between the images evoked by stories of "kid killers" and the actual facts of these cases. This case is interesting also as it illustrates the intersection of neglect proceedings with delinquency cases.

The eight year-old respondent was arrested and charged with murder 2° for the death of his two year-old sister. While the two were playing together, and while their mother slept, he knocked over a television set which fell on the baby and killed her. The hospital that treated the baby asked BCW to investigate the family because the baby had been hospitalized there on three previous occasions following "accidental" burns and other serious assaults by the brother.

---

* Bureau of Child Welfare (Special Services for Children).

The arresting officer sensed other factors at work and "I did a little research. I questioned the mother who was pregnant. She couldn't tell me...what had happened. She said the baby had been walking and it fell on the floor while walking. She picked the baby up and put it in the bed. Consequently the baby died in the home. So I went to the doctor's office. He said it couldn't have happened from a fall.... [Ultimately] I thought the mother had done something to [the baby]. She wasn't emotional enough for me...I thought it was very strange. I would be broken up. I couldn't understand it. You know, a mother has certain instincts. An infant turns over -- a mother will wake up. [But here] while she's laying there sleeping, the kid comes in the room...takes the baby into another room, starts playing, she's still sleeping, knocks the TV over; the TV falls over on the baby, she still doesn't wake up. The kid takes the baby back to the bed. She says: 'I sleep very hard.'"

The arresting officer, ADA and Probation intake officer joined together with the BCW worker to fashion a disposition in the case; none thought that prosecution of the boy was appropriate and there was insufficient evidence for a criminal prosecution of the mother. No delinquency petition was drawn on the condition that the boy leave the mother's house to live with his grandmother in the Virgin Islands. Three separate neglect petitions were filed against the mother for failing to protect the baby from the boy; the petitions were withdrawn when the boy moved out of the household.

° Private placement agencies and, under some circumstances, DFY placement facilities all have the right to reject juveniles referred to them for placement. The laws and regulations governing these agencies' ability to refuse juveniles, indeed the functioning of the facilities themselves, is beyond the scope of this court processing study. Nevertheless, we saw repeated instances in which this right to refuse led to a final case disposition other than that desired by most court actors; our data do not allow us to escape the conclusion that some juveniles are placed on probation solely because they are too difficult or troublesome to be attractive to placement agencies. The actors in the Family Court system are without power to compel acceptance, and must finally adjust their own decisions to reflect those of the agencies. We learned, not surprisingly, that the oldest, largest, angriest and least controllable juveniles were most likely to be rejected; anomolously it seems that a juvenile's desire to be placed is, in most cases, the sine qua non of his being accepted by a placement facility.

The following assault case demonstrates this result; although all Family Court actors wanted placement, the final disposition was probation. We include the case also as it illustrates another phenomenon that stood out in the sample: the mechanical level at which Family Court case processing can break down. Files missing, adjournments because all parties are not present, mistaken identities in warrant pick-ups -- all of these symptoms recur in the sample cases. Family Court judges do not have their own secretaries; the list of purely technical impediments to fair

case processing could begin there. The broadly proportional patterns of case disposition that the sample revealed should not obscure the complexity -- and frequent disfunction -- of the mechanical process through which the cases pass.

Finally, we note the excerpts from the I&R in this case as good examples of their singular content and language, discussed above.

The respondent, an 11 year-old, was arrested with another boy, aged 12. Two transit police observed four boys fighting at a subway turnstile. When one boy fell to the ground the police approached the group; the two complainants had been kicked and beaten with chains. One of them, aged 8, told the police that he had come looking for the respondent who, he claimed, had taken his bicycle from him several days before. These robbery allegations were never pursued.

The transit officers took all four juveniles to the nearest precinct where the sergeant immediately recognized the respondent, saying "This is his second home." According to him, the respondent had an extensive record; he and his brothers were well known at the precinct. The respondent had a pending arrest for sodomy of a 7 year-old and a prior case of arson at a local school. According to the transit officer: "The co-respondent wasn't so bad -- but <u>this</u> kid...." The two were charged with assault 2° and possession of a weapon. They were released on recognizance for an intake date 9 days later.

The intake officer, through happenstance, chanced to know that there was a pending case, but was not fully aware of the prior history the police had described:

> "I was not aware that there was a [serious] prior record because it had been miscleared. There had been an inadequate clearance of the case record. They hadn't found the right case number. So I got the case fresh as if there had been no prior history."

He held the case open for 26 days waiting for the complainant to appear. In that period, he learned that the pending case was an alleged multiple, forcible sodomy of 2 young boys by the respondent and his brother. The prior case was adjourned for trial when the sample case came to intake; this could explain the absence of the Probation file at intake and the intake officer's lack of information.

Because of the family's notoriety, the sergeant at the precinct asked the intake officer to keep him informed as to the case's progress (an unusual procedure). The intake officer by now had learned more about the family:

> "There were any number of cops in that precinct who wanted a piece of one of these kids; it didn't matter which one -- they're all guilty of almost half of the robberies going on at any given time.... [The sergeant] stated that he knows the respondent to be a terror in the neighborhood."

The sergeant volunteered to contact the complainants and to make sure that they appeared in court. With that assurance, the intake officer sent the case to court. He pointed out that this concern of the police was unusual and testified to the notoriety of the respondent and family. Nevertheless, the intake officer recommended that the juvenile not be detained pending court proceedings. He based his recommendation:

> "...solely on the fact that there had been no findings [for respondent] and because the kid was 11 years old, despite the fact that I would have liked to recommend something that would have taken him off the streets."

This case had 10 court appearances in all. At the second, 1-1/2 months after the incident, there was a fact-finding on admission to assault 3°, an A misdemeanor, involving non-serious physical injury and no dangerous weapons. The Assistant Corporation Counsel was willing to accept the plea "in the interests of time and for convenience."

The Probation Officer preparing the I&R contacted respondent's school for a report:

> "Behavior evaluation: unruly and dangerous; threatens children and staff; terrorized others...lack of supervision; child left in street; failure of parent to see that child attends school regularly; inadequate clothing."

The respondent had apparently been suspended from school several times prior to the date of the sample case.

The I&R noted that the father, who was not living at home, was an alcoholic. The respondent and his four brothers lived with their mother on total public support; no one in the household was employed. The I&R described the mother as "overly made-up and looks older than her stated age...[she] seems resigned to frequent court appearances for all her children; speaks little English despite her being in the country for ten years." The I&R noted that the mother was unable to control her five sons.

The case reached a final disposition one year after the incident. The judge issued an order to Probation to explore

placement. The judge did not order respondent placed in a Title III DFY facility,* the maximum security placement available within DFY and the only kind of facility that must take court-ordered juveniles. The judge rejected this most restrictive alternative because respondent was "too young...just turned twelve." We note this is the same consideration that led the intake officer to reject remanding the 11 year-old respondent to Spofford.

The Probation officer referred the respondent to ten placement facilities; he was rejected by each one. We note that the finding in this case occurred at the second court appearance; it was the process of referral and rejection that kept the case active for one year and that led to the eight court appearances entered after the finding. The Probation Officer attributed respondent's repeated rejection to the fact that he was "manipulative and resisted placement."

After the tenth rejection, Probation recommended, and the judge agreed, that the respondent be placed on probation for two years (longer than the average term) with the condition that he would be placed in a Title III facility if he engaged in further delinquent activity. In this way, the case received a final disposition of probation. A final condition was attached to the order of probation: the respondent was to attend therapy sessions "to help him form positive peer group associations and develop leisure time interests."

---

* The most secure facilities are so-named because they derive their operating authority from Title III of the New York State Executive Law.

III. The PINS Sample (893 cases selected at random from all PINS cases appearing at New York City Probation intake -- the four major boroughs -- between April 1, 1977 and March 31, 1978. Sample represents approximately one-in-six PINS cases appearing at Probation intake during the sample year.)

A. With what PINS allegations is the Family Court presented?

In structuring our analysis of the PINS sample, we have treated PINS allegations as analogous to delinquency charges. We are, of course, mindful of their obvious dissimilarities. Primarily, PINS cases allege non-criminal behavior. The language of PINS allegations is looser, vaguer and more subjective than delinquency charges. PINS allegations are not bound to meet the standards of specificity and notice required of accusatory instruments in criminal proceedings.*

However, the assumption that PINS and delinquency charges are more similar than different is implicit in the Family Court Act, which draws the analogy itself. Procedures for the adjudication and disposition of PINS and delinquencies are set forth in the same Article;** in almost every instance they are identical. Significantly, the criminal standard of "proof beyond a reasonable doubt" must be met in PINS fact-findings.

One of the purposes of our exploratory research is to document and understand the Family Court system's response to the

---

* The PINS statute has withstood constitutional challenges alleging that it is vague and over-broad. See: In re Mario, 65 Misc. 2d 708, 317 N.Y.S. 2d 659 (Fam. Ct. N.Y. Co. 1971); In re Patricia A., 31 N.Y. 2d 83, 335 N.Y.S. 2d 33 (1972).

** Family Court Act, Article 7.

various types of juvenile misbehavior with which it is presented. The language of PINS allegations serves as the formal description of behavior that initiates court action. However impressionistic, it is the name assigned by the Family Court system to the juvenile's acts giving rise to jurisdiction. We therefore considered it important, at the outset, to understand what PINS allegations appear before the court, how frequently they occur and what, if any, relationship they bear to final case outcome.

As might be expected, the sample PINS allegations were wildly diverse. Delinquency arrest reports and petitions rarely contain more than three or four Penal Law charges. PINS petitions usually contain numerous individual allegations, ranging from the statutory "beyond the lawful control of parent" or "ungovernable" to charges such as "comes and goes as he pleases," "uses vile language," etc. Indeed, system actors are fond of calling PINS petitions "grab bags."

The allegations present in our sample cases swept from "assaults mother with a knife" to "refuses to bathe." Within the diversity, however, certain interesting patterns appeared. For instance, the truancy allegation stands out as somewhat sui generis. Virtually alone among PINS allegations, truancy is specific and susceptible to objective proof. It was the single most frequently occurring allegation, appearing in almost sixty percent of the sample cases.

Fully one-quarter of the sample cases alleged criminal behavior: drug use, stealing from home, assault of a family mem-

ber, etc. We were surprised to see, in that substantial a portion of the sample, behavior that rose to the level of a Penal Code charge.

We were able to uncover a partial explanation. We learned that a policy had evolved (to varying degrees of formality in the individual boroughs) whereby intra-family offenses (delinquencies) were treated as PINS cases, even when substantial personal injury was inflicted. We learned that, when intake officers sent delinquency cases charging family violence to the ACC for petition, the ACC sent the case back to the officer, requesting adjustments of the delinquency and filing of a PINS petition.

When we set out to analyze our sample cases according to particular categories of behavior, we were confounded by the multiplicity of PINS allegations; we were clearly precluded from analyzing each allegation individually.

We were curious to learn whether the many possible PINS allegations appeared together in any discernible pattern or if the association of the various charges was purely random. The size of our sample allowed us to answer the question. We were intrigued to discover, by means of a factor analysis,* that statistically important clusters of allegations do occur in the data. We were able to identify (and create our own names for) four combinations of allegations that appeared with regularity and that made up the great bulk of the PINS sample. For the most

---

* See, FCDS Methodological Note for fuller explanation of the factor analysis.

part, these "factors" are made up of groups of allegations that are intuitively linked. The four groupings seem to make up a fairly comprehensive typology of PINS behavior (at least as described by the language of allegations); they proved useful analytic categories:

1) "Out Late" -- cases that include the "staying overnight," "keeping late hours," and "disobediance/incorrigibility" allegations;

2) "Away for Sex" -- cases that include "running away" and "sexual acting out" allegations;

3) "Out of Control" -- cases including the "stealing from home" and the general "in need of supervision" allegations.

4) "Drug Set" -- cases including the "drug use" and "undesirable companions" allegations.

Finally, we treated truancy cases as a fifth, discrete analytic category. The prime frequency of the allegation and the particular policy concerns connected with truancy cases indicated that they merited a separate look.

The opacity of the PINS language has become a fact of life for actors in the Family Court system. We were told that allegations have become an "internal code" and little effort is exerted to bend language to describe behavior. As one initiated intake officer told us: "Keeping late hours is not the behavior problem as such; it's a clue as to whether you respect your parents."

B. How does the Family Court system describe the juveniles before it in PINS cases?

Over two-thirds of the juveniles in the sample were fourteen or fifteen; most of that group were fifteen. Twenty percent of

the juveniles were thirteen; a sharp drop occurred below thirteen, with the remaining juveniles scattered fairly evenly from ten to twelve. We note that this age distribution duplicates almost exactly the distribution of the delinquency sample.

The gender distribution tells quite a different story. The delinquency sample was 91% male, 9% female; the PINS sample is 51% male, 49% female. We seem to confirm what has become a piece of common wisdom: girls are brought into the juvenile justice system primarily through the PINS jurisdiction. The comparison between their proportionate representation in the PINS and delinquency samples is dramatic.

The ethnic distribution of the PINS sample -- 44% black, 41% Hispanic and 14% white -- revealed a greater percentage of Hispanic juveniles than appeared in the delinquency sample. The percent of white juveniles remains fairly constant in the two samples.

The gross description of the juveniles' living situations were also similar to the delinquency cases. Fifty-two percent of the PINS juveniles lived with their mothers only; in fifty-one percent of the households, no one was working. Twenty-eight percent of the juveniles had siblings "known to the Family Court," generally on PINS, delinquency or neglect cases.

The prior records of the PINS juveniles were substantial, but somewhat less extensive than the delinquencies. Forty-one percent of the sample juveniles had at least one prior appearance at Probation intake on a PINS or delinquency case. One-quarter had at least one prior PINS; one-fifth had at least one prior

delinquency. Most of the juveniles with prior delinquency appearances had only one.

We noted certain divergences from this aggregate descriptive data among the various categories (the "factors" discussed above). Juveniles in "out late" cases were more likely to live with their mothers only and to depend completely on public assistance. Juveniles in truancy cases were more likely to be white males.

But the most dramatic variation by far appears in the "away for sex" cases. We have noted that the delinquency sample consisted of 9% girls and 91% boys. We contrasted this distribution with 49% girls and 51% boys in the PINS sample. A resounding third figure can be added to this progression: the gender distribution in the "away for sex" cases is 71% girls and 29% boys. We cannot avoid the conclusion that we, once again, seem to confirm an accumulation of impressions and anecdotes. The PINS jurisdiction is invoked as a response to girls' "sexual acting out" when similar activity is ignored (or, some actors argue, tacitly encouraged) when engaged in by boys.

The "away for sex" cases were distinct also in their ethnic distribution: 54% Hispanic; 38% black; 8% white. An explanation for this divergence emerged in the deep sample; what we learned also shed some light on the disproportionate number of girls in these cases. We were told repeatedly of the tenacity of certain Hispanic cultural traditions that place great value on "protecting and sheltering women." We were told that Hispanic parents were more likely than other groups to become truly distraught if

their young daughters were sexually active and to look to the court to impose "paternal" coercive authority. According to one intake officer (whom we heard echoed): "Hispanic mothers are used to calling on government to back up their authority.... Apparently this is done commonly in Puerto Rico and placement can be easily arranged."

Finally, juveniles in "away for sex" cases were more likely to live with the mother and a stepfather or man other than the natural father, and less likely to live with mother only than were juveniles in the aggregate sample. One judge noted the importance -- and potential volatility -- of the stepfather relationship:

> "I used to think I was going to get a form and at the top I was going to put 'stepfather' because I wanted to ask that question.... I could key so frequently into when everything started to disintegrate and the kids started not going to school, or acting out, or beating up, to when the stepfather came into the home...most of the sexual abuse cases involve stepfathers..."

C. <u>What happens to PINS cases in the Family Court system?</u>

Thirty-four percent of the PINS sample was adjusted at Probation intake; we noted above that fully half of the delinquency sample left the system at that point. We see already that different forces are at work in PINS cases. In 71% of the PINS sample, the complainant was the mother; in a further 10%, the complainant was the father. The parent who initiates a PINS proceeding of course exerts significant pressure on the Probation intake officer to send the case to court. The parental demand for court action produces the lower adjustment rate.

It is significant that almost one-half of the sample juveniles did not appear for their own Probation intake interviews. This figure speaks to the breakdown in parent-child relations that has generally occurred by the time a PINS case is initiated; the non-appearance rate is evidence of the adversarial role in which the parent and juvenile are quickly cast. An extension of the same phenomenon occurs later in the process: sixty percent of all PINS cases sent to court had at least one warrant issued during the life of the case.

Juveniles clearly balk at appearances in PINS cases. The non-appearance data was illuminated for us by deep sample interviews distinguishing parent-child relations in PINS cases from those in delinquencies (the non-appearance and warrant rates were substantially lower for the delinquency sample). We were told that, in delinquencies, parents often rally around their children, providing protection, defense and -- when required -- alibis; parents tend to interpose themselves between the child and the state in criminal proceedings. But in PINS cases, the parent has invoked the state's authority; parent and child have become antagonistic and isolated from one another. One intake officer told us: "Parents cover up for a kid at his first arrest. The second time they'll turn on him and say he's a PINS."

Only four of the 589 sample cases that were sent to court received a final disposition of NPD (no petition drawn). Petition clerks, rather than ACC's, draw up PINS petitions; the process is primarily clerical and involves less discretion than the drawing of a delinquency petition.

We will, however, take a closer look at one of the four NPD cases as it demonstrates a technical problem in the court's jurisdiction. But the case is important to understand on another level as well. There is a flavor to the story that is familiar to court actors; the case illustrates the layers of trouble that encumber the "multi-problem" family typically presented to the court within its PINS jurisdiction:

> In this NPD case the respondent was a 15 year-old boy. Eight years earlier the mother had deserted the family. A neglect charge had been filed against the father with whom the boy lived; their apartment had no electricity. At the time of the sample intake, the father was hospitalized with a stroke.
>
> The juvenile had seven prior delinquency appearances at intake; he had been put on probation once. A robbery charge was pending at the time of the sample intake. The juvenile's sister (whose infant was also currently hospitalized) brought the sample PINS case alleging that the juvenile smoked pot and that he had taken her fur coat and given it to a friend. She asked that the boy be remanded because she did not want to care for him and, with the father hospitalized, there was no adult to supervise him except for a 21 year-old brother who was just home from prison.
>
> The PINS case had started as a delinquency arrest. The sister had had the boy arrested for stealing her fur coat. She had him arrested while he was visiting his father in the hospital. The police found marijuana on him at that time and he was charged with petit larceny, criminal possession of stolen property, and criminal possession of a controlled substance. However, the Corporation Council would not take the case as a delinquency because it was their policy not to proceed with delinquencies involving family members. The ACC sent it back to intake for processing as a PINS.
>
> However, when the intake officer sent the PINS case to the petition clerk for the drawing of a PINS petition, he also refused the case saying that the allegations were criminal and therefore delinquency and not PINS. The case proceeded no further. Soon thereafter, the pending robbery was dismissed.

By far the most frequent final case disposition in the PINS sample was termination at court before a finding of fact -- 47% of the sample left the system at that point. Most of the case terminations at that stage were attributable to petitioners' withdrawals.

We discerned two repetitive case patterns that accounted for a significant portion of the withdrawals. In the first, a mother arrives at Probation intake (generally sent by a police officer) alleging that her child has run away and asking for a warrant. In order to get a warrant, the intake officer must send the case to court. A petition is filed, a hearing is scheduled, and the judge issues a warrant. Several days later, the child returns on his/her own volition. Mother does not bother to return to court to vacate the warrant, which remains alive and outstanding. Several months later, when the court's warrant squad does "house-cleaning," they notify the mother that she must come to court to vacate the warrant. Another hearing is scheduled, and the mother appears. The warrant is vacated and the mother, having reconciled with the child, withdraws the petition.

A second recurring reason for pre-fact-finding withdrawals lies in the "insistent complainant" phenomenon discussed above. It is obvious that a parent initiating a PINS proceeding tends to insist that the Probation intake officer send the case to court -- so frequently it is the resonances of "court" and "judge" that promise solace in the parent's mind. But we learned that the formality of the court setting and the (virtually) full-blown adversary proceeding proves, when the parent physically confronts

it, more than was bargained for. A defense attorney is appointed for the child; the parent and child are separated, facing each other across the courtroom; the intimidation that the parent had hoped would be worked on the child by the authority of the court works, instead, on the parent himself. Finally, the parent must take the stand and testify publicly and formally against his child; he must prove his allegations (over the hostile objections of the child's lawyer) beyond a reasonable doubt. Many withdrawals occur at this point, when parents find themselves overwhelmed by the dimensions of the mechanism they have invoked.

One hundred and sixty-five cases, 19% of the sample, received fact-findings at court. Ninety-five percent of the findings were based on partial or total admissions. It seems that admissions can be used to effect placements. They provide evidence of a compliant attitude that makes a juvenile more attractive to a placement facility. They also speed the process when all parties have agreed that placement is the goal of the proceeding.

Given this, it is not surprising that of the cases surviving past all possible termination points, placement was the most frequently ordered disposition. Sixty-two of the 165 fact-finding cases received placement dispositions; fifty-one were put on probation.

All of the case categories we examined displayed the same heavy concentration of case termination at the pre-fact-finding point; petition withdrawal was the primary reason across all of the categories.

We note -- again -- a variation in the disposition pattern of the "away for sex" cases. Of the 37 "away for sex" cases receiving fact-finding, 19 cases (53%) received placement dispositions. This percentage rate is substantially higher than the placement rate in the aggregate sample (62 placed cases out of 165 cases receiving fact-finding — 37%), or the other factors ("out late" cases: 14 placed cases out of 45 fact-finding cases -- 31%). Since 71% of the respondents in the "away for sex" cases were girls, we seem to confirm the notion given voice by one judge: "Uncontrollable in girls means sex.... Most girls are put away for sex. Boys are not."

Finally, as we analyzed the dispositional patterns of the sample truancy cases, we noted interesting forces at work beneath the surface; we uncovered two recurrent subtexts in truancy cases. We learned that, while truancy seems the most straightforward and objective of all PINS allegations, the parties to truancy cases are frequently pursuing complex hidden agendas.

In years prior to our sample period, the Board of Education's Bureau of Attendance routinely filed PINS truancy petitions as an enforcement device. We learned that, during our sample year, the Bureau's budget was severely cut and their filing of truancy petitions dropped sharply. Indeed, the Bureau of Attendance was the petitioner in only 54 of our 893 sample PINS cases.

We learned, in the deep sample, that lurking within 81% of the cases in which a parent was the petitioner were a sizeable

number of "hidden Bureau of Attendance" cases. These were characterized by reluctant parent petitioners who were called in and urged to file PINS petitions by a Bureau that lacked the personnel to file themselves.

The second subtext involved the Department of Social Services. Mothers were frequently informed by welfare officers that welfare benefits for their children would have to be cut off if their children were truant. We note the fact that most Family Court actors believe the assertion to be untrue. Nevertheless, the threat clearly exerts a powerful sway over the parents, and many parent-petitioner cases had their genesis in this fear.

One truancy case (described as "classic" by each actor we interviewed) gives us a look at the product of these hidden agendas. The case provides good evidence of the forces motivating petitioners -- and constraining court actors -- in PINS cases. According to the Probation intake officer:

> "In this case, the mother came in here because the school told her to. The respondent had a serious truancy problem. There was also pressure on the mother from DSS who were threatening to withdraw money because the child was not in school. I also noted that the respondent had suffered from a number of illnesses when he was younger such as pneumonia a couple of times and other serious illnesses which indicated to me that there may have been some neglect by the mother in terms of care of the child.... A sibling was involved in Criminal Court. This seemed to be a multi-problem family.
>
> "As I said, the mother came in mainly because the school told her to. She wouldn't have come in on her own. She didn't feel the respondent was acting out at home. I felt it was a situation where the mother wasn't upset at the boy's behavior since he wasn't bothering her. She was only upset at the fact that DSS and the school were bothering her over the boy's

truancy. The mother, who was the complainant, did not want court action. In fact she refused. If I could have, I would have probably sent the case to court because I felt that neither the boy nor the mother were motivated to go to counselling without the authority of the court. But the mother was just not willing to pursue the case. She had been told to come to court by the school and that's what she did. She was not willing, however, to go any further. I did try to do something by making a referral; first I sent him to the Protestant Board of Guardians for counselling but they went once and didn't return. I then tried the Ocean Hill Center but that didn't work either. I wanted to try somewhere else, but the mother didn't want to, so I had no choice but to adjust the case after 60 days. Since the mother was not willing to pursue it, there really wasn't anything to do. It was one we lost. I attempted to get the mother motivated but just was not able to..."

D. <u>What factors seem to be related to the outcomes of PINS cases: thoughts on the PINS sample.</u>

We cannot avoid the sorrow in PINS cases. We were told repeatedly by court actors that they are plagued and depressed by much of their PINS caseload. An eloquent Probation officer described them to us as the cases "of tears and misery."

The PINS sample did not reveal the proportional relationship between behavior and case outcome that we found in the delinquency cases. Indeed, we saw that in many cases, the juvenile's misbehavior is not the primary problem giving rise to PINS petition; this may account for the elusive quality of most allegation language.

To the extent that we were able to discern determinants of case outcome, the actions of parents had greater explanatory power than the alleged behavior of the juvenile. Seeing the pivotal role of parents pointed us to a truth at the heart of many PINS cases.

The distinction between PINS and neglect cases blurs upon close examination. Indeed, the language of the PINS and neglect statutes is, in part, identical. The Family Court Act names "incorrigibility, ungovernability or habitual truancy"* as indicia of neglect.

Thus court actors feel, in many PINS cases, that they are really dealing with "hidden neglects" or, at least, with "multi-problem families" (a phrase used often in interviews). They feel frustrated because they must work within a legislative scheme that focuses the proceeding exclusively on the juvenile; the shape of the PINS proceeding seems inapposite to the realities with which the court actors are presented. The poor fit gives rise to numerous opportunities for the "loss" of cases through technical defects in jurisdiction.

We were frequently told that the adversarial nature of the PINS proceeding intensified, rather than ameliorated, parent/child isolation. Court actors are forced, by the virtual identity of PINS and delinquency procedures, to go forward in PINS cases using metaphors that grew out of criminal cases; they feel defeated by the procedural equation of delinquency and PINS cases because the facts of the cases, and the factors to which the court actors respond, differ fundamentally.

---

* Family Court Act, §1012 (f) (i).