

Institute of Judicial Administration

American Bar Association

**Juvenile Justice Standards**



*STANDARDS RELATING TO*

*Planning for  
Juvenile Justice*

Recommended by the  
IJA-ABA JOINT COMMISSION ON JUVENILE JUSTICE STANDARDS

Hon. Irving R. Kaufman, *Chairman*

Approved by the  
HOUSE OF DELEGATES, AMERICAN BAR ASSOCIATION, 1979

Daniel L. Skoler, *Chairman of Drafting Committee IV*  
Leonard Buckle, *Reporter*  
Suzann Buckle, *Reporter*

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Lawrence Howard	David Rice
Tsugo Ikeda	Curt Smothers
John F.X. Irving	Herbert Sturz
Nicholas de B. Katzenbach	James F. Walsh
Lawrence Leigh	Marvin E. Wolfgang

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## *Preface*

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The standards and commentary in this volume are part of a series designed to cover the spectrum of problems pertaining to the laws affecting children. They examine the juvenile justice system and its relationship to the rights and responsibilities of juveniles. The series was prepared under the supervision of a Joint Commission on Juvenile Justice Standards appointed by the Institute of Judicial Administration and the American Bar Association. Seventeen volumes in the series were approved by the House of Delegates of the American Bar Association on February 12, 1979.

The standards are intended to serve as guidelines for action by legislators, judges, administrators, public and private agencies, local civic groups, and others responsible for or concerned with the treatment of youths at local, state, and federal levels. The twenty-three volumes issued by the joint commission cover the entire field of juvenile justice administration, including the jurisdiction and organization of trial and appellate courts hearing matters concerning juveniles; the transfer of jurisdiction to adult criminal courts; and the functions performed by law enforcement officers and court intake, probation, and corrections personnel. Standards for attorneys representing the state, for juveniles and their families, and for the procedures to be followed at the preadjudication, adjudication, disposition, and postdisposition stages are included. One volume in this series sets forth standards for the statutory classification of delinquent acts and the rules governing the sanctions to be imposed. Other volumes deal with problems affecting nondelinquent youth, including recommendations concerning the permissible range of intervention by the state in cases of abuse or neglect, status offenses (such as truancy and running away), and contractual, medical, educational, and employment rights of minors.

The history of the Juvenile Justice Standards Project illustrates the breadth and scope of its task. In 1971, the Institute of Judicial Administration, a private, nonprofit research and educational organi-

zation located at New York University School of Law, began planning the Juvenile Justice Standards Project. At that time, the Project on Standards for Criminal Justice of the ABA, initiated by IJA seven years earlier, was completing the last of twelve volumes of recommendations for the adult criminal justice system. However, those standards were not designed to address the issues confronted by the separate courts handling juvenile matters. The Juvenile Justice Standards Project was created to consider those issues.

A planning committee chaired by then Judge and now Chief Judge Irving R. Kaufman of the United States Court of Appeals for the Second Circuit met in October 1971. That winter, reporters who would be responsible for drafting the volumes met with six planning subcommittees to identify and analyze the important issues in the juvenile justice field. Based on material developed by them, the planning committee charted the areas to be covered.

In February 1973, the ABA became a co-sponsor of the project. IJA continued to serve as the secretariat of the project. The IJA-ABA Joint Commission on Juvenile Justice Standards was then created to serve as the project's governing body. The joint commission, chaired by Chief Judge Kaufman, consists of twenty-nine members, approximately half of whom are lawyers and judges, the balance representing nonlegal disciplines such as psychology and sociology. The chairpersons of the four drafting committees also serve on the joint commission. The perspective of minority groups was introduced by a Minority Group Advisory Committee established in 1973, members of which subsequently joined the commission and the drafting committees. David Gilman has been the director of the project since July 1976.

The task of writing standards and accompanying commentary was undertaken by more than thirty scholars, each of whom was assigned a topic within the jurisdiction of one of the four advisory drafting committees: Committee I, Intervention in the Lives of Children; Committee II, Court Roles and Procedures; Committee III, Treatment and Correction; and Committee IV, Administration. The committees were composed of more than 100 members chosen for their background and experience not only in legal issues affecting youth, but also in related fields such as psychiatry, psychology, sociology, social work, education, corrections, and police work. The standards and commentary produced by the reporters and drafting committees were presented to the IJA-ABA Joint Commission on Juvenile Justice Standards for consideration. The deliberations of the joint commission led to revisions in the standards and commentary presented to them, culminating in the published tentative drafts.

The published tentative drafts were distributed widely to members of the legal community, juvenile justice specialists, and organizations directly concerned with the juvenile justice system for study and comment. The ABA assigned the task of reviewing individual volumes to ABA sections whose members are expert in the specific areas covered by those volumes. Especially helpful during this review period were the comments, observations, and guidance provided by Professor Livingston Hall, Chairperson, Committee on Juvenile Justice of the Section of Criminal Justice, and Marjorie M. Childs, Chairperson of the Juvenile Justice Standards Review Committee of the Section of Family Law of the ABA. The recommendations submitted to the project by the professional groups, attorneys, judges, and ABA sections were presented to an executive committee of the joint commission, to whom the responsibility of responding had been delegated by the full commission. The executive committee consisted of the following members of the joint commission:

Chief Judge Irving R. Kaufman, *Chairman*  
Hon. William S. Fort, *Vice Chairman*  
Prof. Charles Z. Smith, *Vice Chairman*  
Dr. Eli Bower  
Allen Breed  
William T. Gossett, Esq.  
Robert W. Meserve, Esq.  
Milton G. Rector  
Daniel L. Skoler, Esq.  
Hon. William S. White  
Hon. Patricia M. Wald, *Special Consultant*

The executive committee met in 1977 and 1978 to discuss the proposed changes in the published standards and commentary. Minutes issued after the meetings reflecting the decisions by the executive committee were circulated to the members of the joint commission and the ABA House of Delegates, as well as to those who had transmitted comments to the project.

On February 12, 1979, the ABA House of Delegates approved seventeen of the twenty-three published volumes. It was understood that the approved volumes would be revised to conform to the changes described in the minutes of the 1977 and 1978 executive committee meetings. The *Schools and Education* volume was not presented to the House and the five remaining volumes—*Abuse and Neglect*, *Court Organization and Administration*, *Juvenile Delinquency and Sanctions*, *Juvenile Probation Function*, and *Noncriminal*

*Misbehavior*—were held over for final consideration at the 1980 mid-winter meeting of the House.

Among the agreed-upon changes in the standards was the decision to bracket all numbers limiting time periods and sizes of facilities in order to distinguish precatory from mandatory standards and thereby allow for variations imposed by differences among jurisdictions. In some cases, numerical limitations concerning a juvenile's age also are bracketed.

The tentative drafts of the seventeen volumes approved by the ABA House of Delegates in February 1979, revised as agreed, are now ready for consideration and implementation by the components of the juvenile justice system in the various states and localities.

Much time has elapsed from the start of the project to the present date and significant changes have taken place both in the law and the social climate affecting juvenile justice in this country. Some of the changes are directly traceable to these standards and the intense national interest surrounding their promulgation. Other major changes are the indirect result of the standards; still others derive from independent local influences, such as increases in reported crime rates.

The volumes could not be revised to reflect legal and social developments subsequent to the drafting and release of the tentative drafts in 1975 and 1976 without distorting the context in which they were written and adopted. Therefore, changes in the standards or commentary dictated by the decisions of the executive committee subsequent to the publication of the tentative drafts are indicated in a special notation at the front of each volume.

In addition, the series will be brought up to date in the revised version of the summary volume, *Standards for Juvenile Justice: A Summary and Analysis*, which will describe current history, major trends, and the observable impact of the proposed standards on the juvenile justice system from their earliest dissemination. Far from being outdated, the published standards have become guideposts to the future of juvenile law.

The planning phase of the project was supported by a grant from the National Institute of Law Enforcement and Criminal Justice of the Law Enforcement Assistance Administration. The National Institute also supported the drafting phase of the project, with additional support from grants from the American Bar Endowment, and the Andrew Mellon, Vincent Astor, and Herman Goldman foundations. Both the National Institute and the American Bar Endowment funded the final revision phase of the project.

An account of the history and accomplishments of the project

would not be complete without acknowledging the work of some of the people who, although no longer with the project, contributed immeasurably to its achievements. Orison Marden, a former president of the ABA, was co-chairman of the commission from 1974 until his death in August 1975. Paul Nejelski was director of the project during its planning phase from 1971 to 1973. Lawrence Schultz, who was research director from the inception of the project, was director from 1973 until 1974. From 1974 to 1975, Delmar Karlen served as vice-chairman of the commission and as chairman of its executive committee, and Wayne Mucci was director of the project. Barbara Flicker was director of the project from 1975 to 1976. Justice Tom C. Clark was chairman for ABA liaison from 1975 to 1977.

Legal editors included Jo Rena Adams, Paula Ryan, and Ken Taymor. Other valued staff members were Fred Cohen, Pat Pickrell, Peter Garlock, and Oscar Garcia-Rivera. Mary Anne O'Dea and Susan J. Sandler also served as editors. Amy Berlin and Kathy Kolar were research associates. Jennifer K. Schweickart and Ramelle Cochrane Pulitzer were editorial assistants.

It should be noted that the positions adopted by the joint commission and stated in these volumes do not represent the official policies or views of the organizations with which the members of the joint commission and the drafting committees are associated.

This volume is part of a series of standards and commentary prepared under the supervision of Drafting Committee IV, which also includes the following volumes:

## JUVENILE RECORDS AND INFORMATION SYSTEMS MONITORING

*Addendum*  
*of*  
*Revisions in the 1977 Tentative Draft*

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As discussed in the Preface, the published tentative drafts were distributed to the appropriate ABA sections and other interested individuals and organizations. Comments and suggestions concerning the volumes were solicited by the executive committee of the IJA-ABA Joint Commission. The executive committee then reviewed the standards and commentary within the context of the recommendations received and adopted certain modifications. The specific changes affecting this volume are set forth below. Corrections in form, spelling, or punctuation are not included in this enumeration.

1. The standards were not amended.

2. Commentary to Standard 2.4 C. was revised to add the sentence, "Special efforts should be made to include local parents and juveniles in the planning process as representatives of client or community interests."



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*Planning for  
Juvenile Justice*

## *Introduction*

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This volume of standards looks at the process of planning in the juvenile justice system as an integral part of the administration of juvenile justice. Rather than focusing on the professional practice of an emerging class of formally titled "juvenile justice planners," it views planning as a process of innovation and reform which is properly the province of many officials of juvenile justice agencies. Because there are widespread efforts to make the juvenile justice system more coherent and more effective through planning, this is certainly an area in which standards may be useful to all those public officials and citizens who are involved in the process of change.

The decision to look upon planning as a pervasive activity of juvenile justice officials and others concerned with reform in the system is based on the observation that change in services to juveniles has historically tended to arise from the efforts of others than those formally mandated as planners. In part, the apparent dissociation of change from formal planning may arise from the fact that planning in juvenile justice has only recently begun to be a widely recognized and practiced activity. In part, too, as the research underlying these standards revealed, the present structure and processes of formal planning in juvenile justice seem ill-designed to have any significant impact on the system.

Because this volume of standards is based on a broad notion of planning, examination of the professional literature of planning alone is inadequate as a basis for building standards. Thus, these standards are derived not only from an assessment of recent developments in planning theory, social service delivery, and juvenile justice, but also from an empirical study of planned change in four states. The addition of empirical study provided an opportunity to analyze those change processes not associated with formal planning organizations and to consider them in the development of these standards. Finally, the empirical study provided a basis for corroboration of the conclusions of the literature by the experiences of these states.

The four states studied were selected to reflect a wide range of conditions and to include only states which had recently accomplished major innovations in the organization and composition of their juvenile justice services. In order to create a useful selection of states, an informal reputational survey was conducted among members of the project to establish a list of ten states generally recognized as being leaders in juvenile justice reform. The final four states were selected from this list of ten based on their demographic, organizational, and geographic characteristics. In particular, states were selected to assure inclusion of urban, rural, and mixed-economy states, states with a variety of ethnic compositions, and relatively richer and poorer states. A geographical distribution was sought, as was a range of organizational structure, including both highly centralized and decentralized states.

Empirical studies were made in each of the four states, based largely on documentation of reform efforts and interviews with many of the participants. Since much of the material supplied was offered in confidence, and since the identity of the states is not crucial to their usefulness to these standards, they will be called Eastern, Southern, Border, and Western State. Eastern State is a compact, industrial state with vestigial counties, strong central government, and highly visible and entrenched though predominantly liberal political interests. Southern State has a mixed economy, including industrial, agricultural, and service-oriented sectors. Counties and metropolitan areas have considerable power, but recent trends have strengthened the power of the state government, especially in social services. Considerable variation is observable in the political spectrum of Southern State, but few interest groups see juvenile services as a major issue. Border State is a largely rural, decentralized state. Some central authority has recently been acquired by the state government, but counties hold the bulk of political power. Western State is a geographically large state with a mixed economy, but has a dominant industrial sector. Power is radically decentralized, with numerous levels of government sharing decisionmaking power, especially in social services. Political opinion is widely diverse, with considerable activity by both very conservative and very liberal organizations.

The reporters wish to acknowledge the help of many people who provided invaluable assistance in preparing the empirical basis for these standards. Our most basic obligation, of course, is to the many officials of the four states who contributed considerable time and effort to explaining to the reporters and their research staff the inner workings of change in their states' juvenile justice systems. Because we have chosen to preserve the anonymity of the four states, unfor-

tunately we cannot thank them by name, but our gratitude is not diminished thereby. Our special thanks also goes to four people whom we can identify by name—our researchers. Without the exceptional efforts of Judy Ann Levenson, David Lund, Michelle Polito, and Michael P. Thomas, we could not have acquired the empirical understanding of juvenile justice planning which supports these standards. Not only did they each travel extensively in one of the four states, but together they helped us develop a theory of planning applicable to juvenile justice.

# *Standards*

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## PART I: GENERAL PRINCIPLES FOR JUVENILE JUSTICE AGENCIES

### 1.1 Definition of planning.

Planning should be employed within the juvenile justice agencies and among interest groups concerned with juvenile justice to mean the process of applying systematic thought to the future in such a way that a desired future state is conceived and a process for attaining that state is defined and initiated.

A. Planning, as defined above, is necessarily both an intellectual process and a political process; because it is future-oriented, it is also necessarily experimental, both in its intellectual methods and its political processes.

B. Planning should be a flexible process in which the plan and its implementation are constantly being modified to reflect changes in the purposes of the planners and the environment of planning.

### 1.2 Coordination of services.

A. Coordination of services within juvenile justice systems should be defined as the process of bringing services into harmony without reducing the authority of component agencies.

B. Coordination of services on a planned basis should be attempted only under the following conditions:

1. that it can be shown that greater economies of scale will more than compensate for the costs of coordination efforts;

2. that lack of coordination can be demonstrated to result in inequitable distribution of services or resources to juveniles; or

3. that clear understanding exists among the agencies to be coordinated concerning the function to be coordinated, the means by which coordination is to take place, and the specific benefit to be realized by each agency and by the client group.

### 1.3 Purposive duplication.

A. Purposive duplication of services should be defined as planned duplication of any or all services available in an existing system.

B. Purposive duplication should be attempted under the following conditions:

1. when greater diversity of services is required in a juvenile justice system;
2. when specialized conditions require provision of services on a modified basis for a minority of the juveniles served by the juvenile justice system;
3. when a particular problem is regarded as meriting special attention but a successful model of service is absent.

C. Neither coordination by plan nor purposive duplication of services should generally be attempted with respect to administrative services, including planning, information gathering and analysis, monitoring, and decisionmaking.

## PART II: ORGANIZATION OF THE JUVENILE JUSTICE PLANNING NETWORK

### 2.1 Juveniles' services agencies.

A. State legislatures should mandate the creation of juveniles' services agencies as line departments at the highest level of the executive branch of the state government.

B. Juveniles' services agencies should perform the following administrative functions: planning for services to juveniles; monitoring and evaluating the quality of services provided throughout the state; allocating state revenues dedicated to juveniles' services; setting standards for personnel practices and service quality; and conducting or administering experimental or demonstration programs and programs for the most difficult juveniles and those with special needs.

C. Juveniles' services agencies should address the needs of all juvenile delinquents and neglected or abused juveniles. They may also have responsibility for all orphaned juveniles and all juveniles who by reason of physical, psychological, or emotional problems are regarded as being in need of direct care, custody, or supervision by the state.

D. State legislatures should permit the geographically centralized provision of services to juveniles only under the following conditions:

1. regional juvenile justice service agencies responsible for the juvenile have attempted and failed to provide services within close geographical proximity to the juvenile's home; or
2. the juvenile is a member of a small group whose special needs are provided for through centrally operated programs which could not be provided in each region of the state and which can be dem-



onstrated to be more effective than those programs administered locally.

## 2.2 Regional juvenile justice service agencies.

A. State legislatures should mandate the creation of regional juvenile justice service agencies as subdivisions of the juveniles' services agency. They should be organized at as great a level of geographic decentralization as is consistent with provision of an adequate range and quality of services.

B. Regional juvenile justice service agencies should perform the following functions: direct provision of services or treatment, acquisition of services from a purchase of services system, superintendency of community-based services, and coordination with any county or local planning or operating agency in its geographical area. They may perform diversion, intake, or probation services.

C. Regional juvenile justice service agencies should be mandated to provide services or treatment to address the needs or behavior of all juvenile delinquents, juveniles who would have been regarded as status offenders, and neglected or abused juveniles. They may also have responsibility for providing services for all orphaned juveniles and all juveniles who, by reason of physical, psychological, or emotional problems are deemed as being in need of direct care, custody, or supervision by the state.

D. Regional juvenile justice service agencies should be advised by a board composed of people concerned with and affected by the juvenile justice agencies, but not employed by them.

## 2.3 Purchase of services system.

A. The purchase of services system should be defined as any arrangement whereby public agencies pay for services rendered to juveniles by non-public agencies.

B. Regional juvenile justice service agencies should maintain a presumption against private, profitmaking agencies in obtaining services through the purchase of services system.

C. No services should be provided through the purchase of services system or otherwise which would cause any juvenile to be removed from the territorial limits of the state.

D. Regional juvenile justice service agencies (or the agency authorized by the juvenile justice service agency) should make services available through the purchase of services system under the following conditions:

1. that the purchasing agency would otherwise have to build new facilities in order to provide services required for correction or treatment of juveniles;

2. that a large number of specialized services are needed to meet individual needs of juveniles;

3. that a new program is best conducted as a demonstration or an experiment and does not fit a category unsuitable for purchase of services.

E. Facilities for secure detention or incarceration or intensive treatment should not generally be provided through the purchase of services system.

F. The regional juvenile justice service agency (or other agency authorized to provide services) should conduct regular formal and informal evaluations of the quality of services being provided by non-public agencies.

G. Standards for the purchase of services system should be developed by the juveniles' services agency and should be drawn from prior evaluation so as to control only those aspects of service provision found to be directly related to the success of the service offered.

H. Providers of services through the purchase of services system should be reimbursed in a timely manner at a fair rate of compensation as determined by negotiation with the juveniles' services agency.

I. At least 25 percent of purchase of services funding should be allocated to provide capital for formation of new agencies or new facilities created by existing agencies.

#### 2.4 Local juvenile justice boards.

A. State legislatures should provide for local juvenile justice boards in all cities and counties of each state.

B. Local juvenile justice boards should perform three functions:

1. monitoring agencies of the purchase of services network located in their geographical areas;

2. supervising or operating juvenile justice services provided at the subregional level;

3. initiating and reviewing proposals for revision of the system of service provision in their areas.

C. Local juvenile justice boards should be composed of persons located within the geographical areas of the boards and who are concerned with or affected by the juvenile justice system but not employed by agencies involved in the provision of juvenile justice services. Guidelines established by the juveniles' services agency should ensure adequate representation of those communities and groups most directly affected, and an open and equitable process for selecting members.

D. Local juvenile justice boards should be provided an executive director and adequate budget for the accomplishment of their responsibilities. Funds for these purposes should be allocated by the state

legislature as a portion of the planning budget of the juvenile justice system.

### **PART III: FUNCTIONS OF THE JUVENILE JUSTICE PLANNER**

#### **3.1 Definitions of planning modes.**

A. Agency planning should be defined as the process of planning the allocation of resources within an agency and the monitoring of its performance to aid innovation of methods of accomplishing the mandate of the agency. It is the overall planning process primarily concerned with maintaining the continued organizational effectiveness of the agency and the process by which the agency alters its mode of operation to adapt to changes in its environment.

B. Advocacy planning should be defined as the process of building a constituency for juvenile justice and promoting the shared interests of that constituency in funding, programmatic, and other decisions affecting juvenile justice. As such, it is largely directed outward, focusing on the process of consciously pursuing the interests of juveniles with regard to services.

C. Program planning should be defined as the application of the planning process to innovation of approaches to juvenile justice. It is a process cutting across agency and interest group constituencies and responsibilities and is not directed toward the maintenance of any particular organization.

#### **3.2 Agency planning.**

A. Agency planning should be employed by all juveniles' service agencies, regional planning units, and local boards, though it will be the dominant mode of planning only in the juveniles' services agency.

B. Agency planning should be recognized as inherently designed to reconcile the need for agency stability with the need for constant change and should be employed only as a part of a broader planning network.

C. Agency planning should be organized to elicit continuous response from service providers and clients and should modify its goals, allocation decisions, and programs in such ways as to ensure the highest quality of services.

D. Agency planning should be visible and accessible to those who are not mandated to participate. All documents generated by the agency planning process should be available to the public. All meetings at which the formulation or modification of announced plans of the agency are to be discussed should be announced and open to the public. Agency staff and representatives of recognizable interest

groups should be informed of plans and of meetings in which plans are to be discussed.

E. The agency planning process should be closely linked to the principal operating decisionmakers of the agency, especially those responsible for the following areas of policy determination: budget development, personnel selection and training, operating policy selection, and legislative liaison.

F. Agency planning should be limited to decisions which clearly fall within the agency's power to implement.

G. Planners responsible for agency planning should have direct access to all data generated within the agency, subject to safeguards necessary to protect the privacy of individual juveniles.

### 3.3 Advocacy planning.

A. Advocacy planning should be incorporated into the planning responsibilities of juveniles' services agencies, regional planning units, and local juvenile justice boards, as a legitimate but informal element of the overall planning process.

B. The task of advocacy planning should be divided among juvenile justice agencies according to the following criteria:

1. the juveniles' services agency should have primary responsibility for constituency building with the governor, legislature, and other state agencies;
2. regional planning units should maintain day-to-day contact with direct service providers and other service agencies closely related to juvenile justice;
3. local juvenile justice boards should regard it as their primary mandate to create support for juveniles' services through direct contact with citizens and with other juvenile advocacy groups.

### 3.4 Program planning.

A. Program planning should be the responsibility of the juveniles' services agency and should be accomplished through the establishment of temporary task forces, special project teams, or commissions composed of officials and private citizens representative of those most immediately concerned with a programmatic issue under study.

B. Programmatic issues to be studied and developed by task forces or special commissions should generally be proposed by the juveniles' services agency, while the task force or commission itself should be appointed at the legislative, state executive, or federal level.

C. The specific agency and level of government which appoints program planners and to which the planners report should be deter-

mined by the specific programmatic issues to be addressed. The enabling body should have authority to generate and implement policy concerning the issues the program planners will examine.

D. Program planning should be employed as the principal vehicle for centrally proposed innovation in the juvenile justice system. Fiscal incentives should be available to local boards and private groups to conduct their own periodic studies and experiments.

### 3.5 Plans.

A. "Plans" is employed in this volume to refer to the result of the planning process, whether or not it is formally promulgated, documented, or otherwise given a fixed shape.

B. Plans should adhere to the following characteristics:

1. **Simplicity.** Plans should limit the number of changes proposed, the complexity of the process required for implementation, and the number of people whose participation or cooperation is needed for the plan to be accomplished.

2. **Focus.** Plans should be limited in topic and clear in the procedures required for implementation.

3. **Flexibility.** Plans should be subject to continuous review and revision throughout the planning and implementation processes.

C. Guidelines intended to elicit plans which will enable the transfer of funds from one layer of government to another should specify only general themes to be developed in the plan. This standard applies especially to guidelines disseminated by federal agencies to states and localities, specifying the nature of plans for the allocation of federal funds.

## PART IV: ROLES FOR EXTERNAL PARTICIPANTS IN THE JUVENILE JUSTICE PLANNING PROCESS

### 4.1 The federal role.

A. Federal policy in juvenile justice should be concentrated in two areas: the development of new ideas, both in the form of basic research and through the process of evaluating reform strategies; and the funding of states, localities, and private agencies in support of programs oriented toward innovation.

B. Federal policy concerning juvenile justice should be planned through a process which provides maximum opportunity for participation by the states and which reflects, insofar as possible, the needs of the states.

C. Federal programs directed to the development of new ideas should include at least the following:\*

1. a national research institute;
2. a continuing program of monitoring and evaluation of all federally funded programs in juvenile justice;
3. appointment of commissions and task forces to address salient issues in juvenile justice as they arise.

D. Federal funds in direct support of juvenile justice agencies and programs should be administered and distributed by a single federal agency; other funds available to juveniles in the juvenile justice system should be planned and coordinated by that agency.

E. Federal juvenile justice policy should encourage reduction of the number of agencies in each jurisdiction, innovation in services and organizational structure, and new approaches to decisionmaking. Federal funding for juvenile justice should be allocated in such a way as to give incentives to states, localities, and private agencies to pursue these purposes.

F. Federal funds for juvenile justice planning and service delivery should be allocated to an agency having authority to perform the function for which the funds are designated, consistent with the mandate of the juveniles' services agency.

G. Federal funds should include money directly allocated for agency and program planning, and indirectly allocated to support advocacy planning through the funding of professional staff.

H. Priority for federal funding in the juvenile justice system should be placed in the following areas: planning and personnel to support planning, demonstration or pilot projects, and incentive awards for agencies to upgrade services or adopt innovations.

I. Federal funds allocated to state, local, and private agencies of juvenile justice should be allocated in support of locally planned and defined programs which respond to more general federally defined policy themes.

\*The role of federal policy in juvenile justice should be concerned with the areas as outlined: the development of new ideas and the funding of public and private agencies to support innovative programs. However, federal policy should not be limited to these areas alone. It should accept responsibility for defining and monitoring minimum standards to safeguard the welfare of juveniles in all programs which it funds. The past failure to monitor and evaluate programs funded by federal grants reflects the failure of the federal government during recent years not only to achieve accountability for the use of tax funds, but to confront its responsibility for establishing minimal standards as a condition to making grants on which such monitoring and evaluation can be consistently based.

#### **4.2 State executive leadership.**

**A. Governors should employ the authority and influence of their offices to work toward improvements in the quality of juvenile justice planning, such as those outlined in these standards.**

**B. Governors concerned with improving the juvenile justice planning process and organization need to discharge a variety of roles, which include the following: advocate legislation supporting organizational changes proposed in these standards; act as appointing authority for commissions and task forces; restructure lines of authority within their branch of government to conform to these standards; and exercise their overall budgetary control to ensure that adequate and appropriate resources are available for juvenile justice.**

#### **4.3 Legislators and the legislative process.**

**A. Legislatures, both the Congress and those in the states and localities, should assign responsibility for administrative aspects and funding of juvenile justice to a single committee or subcommittee.**

**B. Planners in the juvenile justice system should develop a three-part legislative strategy, including the following steps: identification of existing legislative support for reform and strategies for the development of broader support, development of legislative proposals, provision of information concerning the findings and research on which their proposals are based, and support of legislative and public coalitions for change in juvenile justice.**

#### **4.4 The courts.**

## *Standards with Commentary*

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### **PART I: GENERAL PRINCIPLES FOR JUVENILE JUSTICE AGENCIES**

#### **1.1 Definition of planning.**

Planning should be employed within the juvenile justice agencies and among interest groups concerned with juvenile justice to mean the process of applying systematic thought to the future in such a way that a desired future state is conceived and a process for attaining that state is defined and initiated.

A. Planning, as defined above, is necessarily both an intellectual process and a political process; because it is future-oriented, it is also necessarily experimental, both in its intellectual methods and its political processes.

B. Planning should be a flexible process in which the plan and its implementation are constantly being modified to reflect changes in the purposes of the planners and the environment of planning.

#### *Commentary*

For those who are familiar with the planning process employed most often in state planning agencies (SPAs), now operative in all states in conjunction with the Law Enforcement Assistance Administration (LEAA), this definition of planning may seem unorthodox. This conception of planning, however, is derived not only from empirical study of past efforts to engage in formal planning, both within organizations concerned with juvenile justice and in other social service delivery systems, but also from analysis of current planning theory.

It can be demonstrated that attempts of LEAA, YDDPA, and their state counterparts to borrow more traditional planning techniques—such as long-range master plans—and to apply them to juvenile justice



systems, have proven largely unsuccessful.<sup>1</sup> Moreover, it is quite clear from empirical observation that in several cases in which meaningful change appears to have occurred in juvenile justice services and agencies, it has taken place *outside* the formally mandated planning process. While it is not possible to explain definitively why planners have not been effective in applying their techniques to juvenile justice systems, it is likely that their lack of impact is due to several known factors.

In particular, planning efforts in juvenile justice appear to face three conditions that may require a reassessment of their purposes and methods. First, in some crucial respects, the juvenile justice system is unique among social service systems. But in spite of the differences, planners have assumed, perhaps inaccurately, that the same techniques that appear to have worked in welfare or health systems are applicable to the problems of juvenile justice.<sup>2</sup> Second, even if planners understood juvenile services as a planning environment, it is clear that they would still face the problem of implementing their plans in the face of scant resources and no consistent political support. Finally, planning itself—both as a profession and as a set of techniques—is undergoing constant changes. Some of the emerging views of planning appear to be well-suited to the needs of those who are trying to plan for the juvenile justice system.

The section that follows attempts to support these three contentions and to provide overall commentary for Standard 1.1, above. It is not organized in the form of specific justifications for each substandard. Rather, it first defines and then evaluates prior efforts to plan for juvenile justice in four states, citing instances in which change appears to have occurred in juvenile services. It then analyzes juvenile justice agencies as an environment for planning, identifying characteristics which may make them a unique problem. The last section proposes an approach to juvenile justice planning, based on those streams of thought in planning which seem most applicable to the juvenile justice system and which are based on Standard 1.1.

### Overview: What Is Juvenile Justice Planning?

The idea that juvenile justice is an object of the planning art is still a very new one. To some extent its relative lack of development has been due to the tendency of juvenile justice to be a stepchild of the adult justice system. When the states were awarded LEAA funds to

<sup>1</sup> E.M. Lemert, "Instead of Court: Diversion in Juvenile Justice" 85-90 (1971) (hereinafter cited as Lemert); and Alfred Kahn, *Studies in Social Policy and Planning* (1969), Part III (hereinafter cited as Kahn).

<sup>2</sup> United States Law Enforcement Assistance Administration, "First Annual Comprehensive Plan for Federal Juvenile Delinquency Programs" (1976).

distribute on the basis of a comprehensive plan, for example, the assumption was made that whatever planning mechanism worked for the criminal system would also serve the needs of the juvenile justice system.<sup>3</sup> Similarly, status offenders, neglected children, and other juveniles served by the system are planned for by welfare and educational professionals. In fact, it would be difficult to find many people who would identify themselves as juvenile justice planners.

At the same time, considerable federal money is being allocated to support research, evaluation, and programs;<sup>4</sup> new organizations and programmatic approaches to juvenile programs are mushrooming; and nearly every state in the country is to some extent reorganizing its juvenile justice system.<sup>5</sup> In a real sense then, change is occurring in the juvenile justice system whether at the direction of planners or not. For this reason, it is particularly important to look *empirically* at what is happening in juvenile justice systems, to examine the changes that are taking place, and to determine what influences are powerful in shaping change.

The critical issue for the purpose of this volume is, of course, that of the relationship of these changes to planning—both the role played by formally mandated planners and the role that might be played if there were indeed a coming of age in juvenile justice planning. Definitional problems, however, haunt any effort to approach this issue directly and to study cases of planning in juvenile justice systems. A useful definition of planning in the social services area, for example, asserts that planning is “a method of rational decision-making that counterposes means and ends in an attempt to assess how these can best be brought together at the least cost and with maximum effectiveness.”<sup>6</sup> By this formulation, many governors, legislators, and case workers are planners in the juvenile justice system, as are those peo-

<sup>3</sup> See, for example, U.S. Law Enforcement Assistance Administration, “Fifth Annual Report of the Law Enforcement Assistance Administration, Fiscal Year 1973.”

<sup>4</sup> For example, in fiscal year 1973, LEAA alone allocated over \$50 million to planning, evaluation, and research and over \$400 million to operating programs in criminal justice. The proportion allocated to juvenile justice cannot readily be segregated given the LEAA comprehensive approach to criminal justice. LEAA, “Fifth Annual Report,” 134. Other federal funds were allocated to juvenile justice through the Department of Health, Education, and Welfare, the Model Cities Administration, and the Office of Economic Opportunity, among others. This statement, however, is not intended to suggest that these resources were adequate to the existing needs. See LEAA, “First Annual Comprehensive Plan” 3.

<sup>5</sup> Personal communication from Rosemary Sarri, Associate Director, National Assessment of Juvenile Correction, among others.

<sup>6</sup> Martin Rein, *Social Policy: Issues of Choice and Change* 24 (1970) (hereinafter cited as Rein).

ple who work for SPAs or juvenile agencies and allocate funds for juvenile justice.

Thus, in the four case studies that generated many of the standards in this volume, the intent was to examine juvenile justice systems and the changes they are undergoing. No attempt was made to make arbitrary distinctions as to which aspects of the systems seemed to be the results of planning or to limit the study to an analysis of what each state defined as planning. Rather, the cases provided the opportunity to examine a variety of influences on the juvenile justice system, including those people or organizations who are *formally mandated* to plan for the system. Illustrative of the kinds of conclusions we were able to draw by using this approach are the following major findings:

A. The agencies or individuals successfully implementing planned changes operated largely in isolation from the formally mandated planning agencies and the processes they established for inducing change.

B. Much of this successful innovation was accomplished by “non-planners” (i.e., those not formally mandated to implement change through a planning agency) and was not accomplished centrally.

C. Many changes in juvenile systems were *spurred* by federal inducements. The results, however, were generally not those anticipated by Congress in the design of its legislation or by the federal agencies responsible for implementation of the federal legislation.

D. In most cases these changes did not occur as the result of a planned sequence of events but came as a result of other widespread changes in “ideas in good currency”<sup>7</sup> or deliberate exploitation of minor organizational, statutory, or political idiosyncrasies of a particular jurisdiction.

### The State of the Art in Juvenile Justice Planning:

#### The Four-State Study

These four findings are supported, in part, by direct observation of planning in four states chosen both because they were reputed to be leaders in the effort to plan for juvenile justice and because together they provided some demographic and organizational diversity. In the following paragraphs, the history of change in their juvenile justice systems provides illustrations of the themes stated above.

Probably the most consistent but surprising characteristic of the states was that the agencies they mandated to plan for juvenile jus-

<sup>7</sup> For a definition of “ideas in good currency” see Donald Schon, *Beyond the Stable State* 123 (1971) (hereinafter cited as Schon).

tice had little if any impact on the shape of services to juveniles. Southern State is a typical example of this phenomenon. The planning division of the youth services agency was formally mandated to provide long-range plans for the agency. According to its director (and as corroborated by other sources in the agency), however, the division served more as a staff function for the agency director's office and, while it did produce the mandated master plan, the functions actually performed were analysis of cost-benefits, evaluation of program effectiveness, development of an agency-wide management system, and performance of a centralized recordkeeping function, particularly development of data bases. While these were perhaps useful bases for thinking about the juvenile justice system, they tended to become ends in themselves rather than becoming a stage in an ongoing planning process or a means for updating the master plan.

The other states employed formal planning organizations in slightly different ways. Perhaps the most divergent is Eastern State, in which the planning division was used at the beginning of its operations as a managerial "flying squad" of talented personnel, and later as a fund-raising organization. More like Southern were the other two states, in which the bulk of planning efforts was limited to gathering and analyzing data and went no farther.

At the same time that these kinds of formal juvenile justice planning functions existed in each of these four states, planned change (though not necessarily centrally planned change) was taking place through other processes which exhibited some remarkably consistent patterns from state to state. Southern, for example, underwent a massive reorganization of its juvenile corrections system. In an initial reorganization, authority for all aspects of intake, corrections, and aftercare services was centralized in the hands of state government, removing from the counties and municipalities a major part of their powers and personnel. A second restructuring of the system resulted in development and staffing of regional juvenile justice services and placement centers. A large turnover in personnel took place despite a strong civil service system, and systems for purchasing services from private providers and for employing volunteers were installed.

As is discussed in subsequent commentary in greater detail, these changes were not developed by the planning division of the agency, nor indeed by any of the other formalized planning agencies in the state. Rather, they came about by a combination of influences which permitted individuals in the larger juvenile justice system to plan and implement changes which might normally have been thought to be the province of agency planners. In the Southern case, it is not an exaggeration to say that two individuals, one a legislator, the other

an agency director, conceived and brought about reorganization of juvenile justice. The legislator had created a persuasive political platform which included strong commitments to making the juvenile system more humane for those who were subjected to it. The agency director brought with him a national reputation for innovation in juvenile justice and could bring leverage to bear on the basis of his expertise.

Thus, their conception of a new juvenile system was well-grounded and had the potential to wield a great deal of influence. Their ability to implement it, however, was aided by a final factor—a governor who was concerned by the proliferation of agencies reporting directly to him, and who already contemplated major governmental reorganization. His pace was accelerated when federal programs in social welfare and service provision were revised to require a major reorganization of the pattern of social services delivery. It was this combination of factors that led to the major reorganization of services to juveniles.

The other states had somewhat different histories, shaped both by their politics and by the peculiar ideologies and ideas in good currency which informed the behavior of people concerned about juvenile justice. The idea that the driving forces for change come from outside formal planning agencies holds, however. Eastern State accomplished a major reorganization of the style and structure of its juvenile justice system largely through its governor and juvenile agency director. Western State, on the other hand, accomplished major redistributions of the population of its juvenile institutions through a task force which initiated development of a probation subsidy program and incentives for the development of planning capabilities in substate government. Border State closed its largest institutions and replaced the program of treatment in its other programs without significant involvement of any but operating personnel of the youth service agency itself. In all three cases, then, any formal planning organization was largely irrelevant to development of the change that occurred. Moreover, the LEAA state planning agency, if it did become involved at all, was limited to funding those programs already developed as a part of an existing strategy of innovation, rather than participating in the process of innovation.<sup>8</sup>

While it does seem that these changes did not occur through the kind of model that a formalized planning process envisions, it would not be correct to say that they do not follow a consistent pattern or that they are not planned. It is clear, for example, that in each case a

<sup>8</sup> It should be made clear, however, that this role of funder of state efforts at innovation is not insignificant (see Part IV in particular). The distinction drawn here is entirely one of initiative.

committed governor or legislator with a clearly defined agenda was a necessary prerequisite to change, as was a person within an operating agency who was willing to carry out a plan for change. Similarly, the availability of funding, especially from the federal level, tended to dictate the general shape the reorganization would take (whether, for example, juvenile services would be administered by the adult criminal justice system so as to facilitate the flow of LEAA funding or whether by a general purpose social services agency to respond to the mandates of HEW programs). It should be noted that these factors do not suggest that change occurs by accident, but rather because persons concerned about juvenile justice envisioned a new system, took advantage of the existence of these influences, and executed a planned reorganization.

Despite the planned nature of these reorganizations, the results of the process are uneven enough in the four states to suggest that a more effective mechanism than those observed might have more predictable impacts on juvenile justice. In Southern State, for example, while widespread administrative change was accomplished, it is possible that, because the change was neither centrally planned nor formally mandated, the process yielded significant unanticipated and potentially negative consequences.

In this instance, the consequences of shifting all administrative decisions to the state capital had not been fully considered. The result was that while diversion was a major goal of the reform, more juveniles actually entered the formal juvenile justice system after its centralization than before. Children were badly assigned, many local institutions previously handling delinquents ceased providing services, and the state agency found itself understaffed and greatly underfunded. Observing these results, the legislator who initially sponsored the legislation to reform the system introduced a bill in the following year to repeal his own reform, and only failed by the narrowest of margins in having the reform undone.

Analogous situations prevailed in the other three states. Western State found that while its program of subsidy improved services to those specifically assigned to it, it had little effect on the operation of nonsubsidized services. In Eastern State, while rapid and radical change did occur in the juvenile corrections agency, the juvenile courts were soon finding alternatives to the newly deinstitutionalized corrections agency—often the adult correctional system—for the placement of difficult youths. The juvenile corrections agency has since been forced to abandon in part its policies of nonincarceration. Border State too has faced a problem in its efforts to handle juvenile justice in a deinstitutionalized system. No one involved in the reform

had considered the implications of its largely rural courts and counties, which often lacked the facilities to meet the new system's requirements for local detention and nonsecure and secure treatment facilities.

On the surface, these findings appear discouraging to those who want to create change in the juvenile justice system. Formally mandated planning agencies or planners appear to be functioning more as monitors and data collectors than as effective generators of plans, planning processes, or discernible impacts on the system. At the same time, massive reorganizations are being planned and implemented by people who are perhaps more powerful in the system, but who are not necessarily able to project the impacts of their actions, since their concerns are most fixed on implementing an ideology to which they are committed.

Thus, while a logical assumption is that more rational policies would come from a more central, legitimate planning body, it is also clear that formally mandated planning as it has existed has not proven to be a strong device. A critical question, then, is what is it about juvenile justice planning as it has been organized that makes it ineffective? The following sections will hypothesize that the juvenile justice system is a uniquely difficult arena for planning, and that, therefore, new techniques for centrally planned change must be developed to respond to its characteristics.

### Juvenile Justice as an Environment for Planning

The collection of agencies and decisionmakers we call the juvenile justice system presents a unique set of challenges to its would-be planners. Its boundaries are unclear and probably constantly shifting; it is highly fragmented; and whatever data it produces is specialized and fragmentary and therefore difficult to interpret. While the same characteristics could well describe many of the other systems in which planners must work, it appears that there are some unique properties of juvenile justice that should inform the decision as to how planning in the system should be conceived. It should be noted, though, that the characteristics we describe are not necessarily immutable and in fact are as much an object of the planner's concern as a constraint on his or her activities.

#### *The Nonsystem: Lack of Boundary Definition*

An observation, by now nearly trite, but still critical to planning for the juvenile justice system is that there is in reality no *system*. As Freed, speaking of the adult criminal justice system, put it:

A system implies some unity of purpose and organized interrelationships among component parts. There is, instead, a reasonably well-defined criminal process, a continuum through which each accused offender may pass: from the hands of the police, to the jurisdiction of the courts, behind the walls of a prison, then back out into the street. The inefficiency, fallout, and failure of purpose during this process is notorious. . . . It is hardly surprising to find in most cities, not a smooth functioning "system" of criminal justice but a fragmented and often hostile amalgamation of criminal justice agencies.<sup>9</sup>

Indeed, juvenile justice agencies may suffer an even more severe lack of systemic properties than the criminal justice system to which Freed refers. In addition to displaying all the competitiveness and lack of connection that plague the adult agencies, the juvenile justice system suffers as well from an even more basic confusion about its goals. Within each agency—as well as between agencies—there is debate concerning whether the basic purpose of juvenile justice is the service of troubled children or the correction and rehabilitation of young malefactors. In the intake process, this is often mirrored in a profusion of agencies authorized to bring a child to the attention of the court. In the courts, it may be reflected in the confusing and fragmented jurisdictions which spring up and in the very definition of the juvenile court as a quasi-criminal, quasi-civil entity, employing a mix of procedures drawn from each of its aspects. Post-adjudicatory treatment likewise is modeled partly on criminal corrections and partly on child welfare approaches first devised for dealing with orphans and abandoned children. Finally, the variety of labels employed in the law to describe the clients of the juvenile justice agencies range in most jurisdictions from children bound over to face trial as adult criminals to neglected, abused, and abandoned children.

Since there is this enduring and possibly inherent contradiction in the goals of juvenile justice agencies, it is certainly difficult to employ a traditional planning process which moves from the goal of the system to developing a means to accomplish it. So long as the juvenile justice system continues to be part welfare system and part crime control system both its goals and the means of attaining them will necessarily be difficult to determine.

<sup>9</sup> D. Freed, "The Non-system of Criminal Justice," *Law and Order Reconsidered, Report of the U.S. Task Force on Law and Law Enforcement to the National Commission on the Causes and Prevention of Violence* 266-68 (1970) (hereinafter cited as Freed).



### *The Nonsystem: Fragmentation*

In addition to what appears to be an unconscious conflict between efforts to fight delinquency and efforts to help juveniles, the system also is characterized by other types of fragmentation, especially of authority. As with the criminal justice process, juvenile justice agencies are fundamentally split by the fact that while intake and many post-adjudicatory functions are executive branch responsibilities, the juvenile court is inherently a responsibility of the judiciary branch. In juvenile justice, however, the organizational problem posed by the constitutional separation of powers is compounded by great fragmentation of jurisdiction within each step of the process.

In Eastern State, for instance, the courts are very compartmentalized in their authority over juveniles. A probate court handles cases in which juveniles are found to be neglected, abused, or abandoned; PINS and delinquent cases are handled either by the lowest level of the general purpose court system or, in some locations, by a special juvenile court. Because of the small size of the state, it is common to find a single juvenile on the docket of two or even all three kinds of court, responding to petitions filed under each of the three juvenile classifications.

Intake procedures in the juvenile justice system also tend to be widely dispersed and once a child is brought into the system, he or she may be the subject of decisions made by a broad range of public officials within both the judiciary and the executive branch.

Using Eastern State once again as an example, in addition to the police, the following individuals and organizations may initiate court proceedings: truant officers (employees of the several school committees of the state's municipalities), physicians and public health nurses, a private child protective society, the state youth service agency, and the child's parents. Unlike the power of citizen arrest, these additional intake mechanisms constitute a major source of court activity.

In addition to these often fragmented intake and adjudication stages, diversion agencies may operate before the court process is invoked and independently of its decisionmaking powers; post-adjudicatory treatment decisions are left largely in the hands of the administrative agencies of youth services and welfare.

In the same state, it would be nearly impossible to predict which treatment or correctional facility would handle a juvenile. The youth service agency, the department of public welfare, and an umbrella agency mandated to serve the children in the state all have responsibilities for some or all of the juveniles processed by one of the courts of the state. Since each agency in turn purchases services from an

overlapping set of competing private service agencies, post-adjudicatory services are a highly fragmented and centerless network.

The consequences of this fragmentation of authority—repeated in greater or lesser degree throughout the nation—require careful consideration by planners. The system is at best centerless, since it has no locus of power adequate to serve as an overall authority for the development and implementation of policies for juvenile justice. This is specially problematic when comprehensive planning methods are proposed, since there is no effective arena from which one can comprehensively plan in such a fragmented network of agencies.

In fact, in each of the four states studied, the most nearly comprehensive planning process undertaken was housed in the youth services agency, since it was the most highly organized entity in the network. However, since the processes of intake and adjudication determine to a great degree the range of action which is open to any correctional agency in the juvenile justice system, even these youth services agencies had the ability to control only a fraction of the activities critical to the implementation of most policies. It is not at all surprising that the agencies were ineffectual in accomplishing change through long-range plans, which tried to deal comprehensively with the juvenile justice system.

The consequences of this fragmentation of authority go beyond the frustration of planners who might otherwise develop rational strategies. Fragmentation of this type may also seriously decrease the quality of services to juveniles. If nothing else, it has a tendency to encourage “cream skimming” (the selection by each agency of the best clients fitting its mandate)<sup>10</sup> and as a result, a systemic tendency to resist giving service to those juveniles who most critically need it.

### *Problems of Data Collection and Analysis*

A third major problem in considering how to approach planning is the condition of data in the juvenile justice system. On the most pragmatic level, a planner as allocator of resources must have hard data to support his or her policies, particularly coherent assessments of the costs and sources of revenue to support the juvenile justice system. Attempting to develop greater resources for the system is also dependent on the availability of clear estimates of present costs and projections of future revenue needs. Finally, perhaps an even more important problem for the juvenile justice planner is obtaining the data with which to assess the performance and thus the problems

<sup>10</sup> Rein, at 53-55.

of the existing system prior to making policy and to evaluate the efficacy of his or her policies once they are implemented.

Clearly this kind of data is not readily available.<sup>11</sup> For example, at the time of this study, the juvenile service agency in Eastern State could not even tell with any precision how many children were in its charge. Two separate and contradictory information systems were in operation, and empirical observation tends to suggest that both were often simultaneously wrong.

The fragmentation of agencies compounds this problem since sub-state jurisdictions of police, courts, youth service agencies, and other human service agencies often have boundaries which do not coincide, and therefore do not allow for consistent data collection. Eastern State's data needs are certainly made even more complex by the existence of several police precincts, each of which serves the territory of more than one juvenile court. One precinct even lies across the boundary of two separate court systems, each with a different data collection and reporting system. Until recently, municipalities and state agencies used conflicting fiscal years, so that without engaging in research far beyond their capacities, planning agencies could not even obtain a reconcilable set of data about the flow of persons in the system.

However coordinated the system becomes, it is likely that the juvenile justice system shares with the adult criminal justice process an "artificiality" about its data, which makes it difficult to use that data for the formulation of policies.<sup>12</sup> In particular, because the juvenile justice system is processing clients by a series of highly discretionary and often necessarily subjective decisions, the records kept must also reflect the artificiality of these decisions. Since each processor of juveniles has discretion over the categories he or she can apply to a juvenile, the resulting descriptors and the data they represent will be artifacts of the system and not necessarily unique descriptors of an underlying reality about juveniles.<sup>13</sup>

This situation cannot be attributed to faulty record keeping by officials of the juvenile justice system or to a misuse of discretion.

<sup>11</sup> T. Sellin, "The Significance of Records of Crime," *Crime and Justice I* 121-29 (Leon Radzinowicz and Marvin Wolfgang eds. 1971). See also Wolfgang, "Uniform Crime Reports: A Critical Appraisal," *U. Pa. L. Rev.* (April 1973). While these articles refer to criminal statistics in general, juvenile justice data seems no better and sometimes much worse than that pertaining to adults.

<sup>12</sup> The concept of artificiality was first suggested to us by Schon in personal conversation in 1973.

<sup>13</sup> In the adult system, David Sudnow describes this phenomenon in the development of "normal crimes." See Sudnow, "Normal Crimes: Sociological Features of the Penal System in a Public Defender's Office," *Social Problems* 255-76 (1965.)

Rather, it is perhaps a necessary result of the very discretion which allows decisionmakers in the juvenile justice system to deal with the complexity of the issues which the system presents. Seen in this way, the characteristics which make juvenile justice agencies' records useful for the purposes for which they are gathered (having to do with each case as a unique problem) may also make them inappropriate for use in the planning process (having to do with the system, as a whole, and therefore based on generalized information).

For example, as law enforcement policies in a jurisdiction change, court backlogs may also be altered, and throughout the system indicators of the quality of services being provided should reflect considerable change, but without being causally tied to the implementation of any particular law enforcement policy. In this instance, a law enforcement policy to cease active pursuit of users of soft drugs might lead to a reduction of petitions filed in a particular court, thus suggesting that juvenile crime in the jurisdiction is declining. In fact, it might be increasing. (Indeed, it might be that very increase in crime which led to the change in enforcement policy.) Clearly, data in the system must be used cautiously by planners and policymakers, with full recognition that it may reflect not only the characteristics of juveniles and their paths through juvenile justice services, but also the institutional purposes which created it.

### *Implications of these Characteristics*

While the fragmentation, the absence of a centralized power base, and the other problems which haunt the juvenile justice system should be clear to anyone who works within juvenile justice, their implications have not been adequately recognized by would-be planners. A superficial examination of LEAA or HEW efforts to encourage juvenile justice planning through a "federal carrot" reveals a lack of recognition of most of the systemic characteristics discussed above.<sup>14</sup> Common assumptions of most of these programs have been that a system with a definable center exists; that a power base for juvenile justice exists (or can be easily created); that while not readily available, data need only be collected in more organized ways; and that the fragmentation of the system can be reduced by plan.

Specifically, even recent LEAA and HEW programs (including the "Bayh Act") work on the assumption that a system in fact exists and that the problem is to concentrate on the formation of a "center" to that system with sufficient power and ideological clarity to sup-

<sup>14</sup>Lemert, at 87 ff., discusses the H.E.W. approach and its assumptions. The L.E.A.A. approach is contained in P.L. 93-415 § 223.

port a comprehensive planning process.<sup>15</sup> To that end, the federal funds available in recent years have depended on a centralized, federally supported, comprehensive planning process as the prime prerequisite of funding for each state seeking federal grants. While worthwhile projects have been funded through LEAA and YDDPA programs in many states, it appears that little progress in overcoming the fragmentation and ambiguities of the juvenile justice system can be linked to these federal funds. In the states studied by the reporters, as noted above, these comprehensive planning agencies have been singularly absent from the direct processes by which change has taken place.

From these examples it certainly might be argued that attempts to plan comprehensively are at fault in problems inherent in LEAA and HEW strategies, and that the history of more incremental strategies is brighter. It is true for many systems that attempts to plan comprehensively have had generally disappointing results. Our observations indicate, however, that even planning which has tried to avoid this one pitfall has tended to make the same assumptions as the federal funders and has had the same disappointing results.

Several planning agencies, for instance, have focused on increased information as the key to gaining sufficient leverage on the system to accomplish lasting and extensive change through comprehensive planning. Both Western State and Eastern State attempted this as a major element of their formal planning strategies. As observed before, the Eastern State attempt was a thorough failure, both because of the fragmentation of authority in its juvenile justice system and because of limited data which could be gathered by the agencies actually processing juveniles (the Eastern State planning agency is not an operating agency with line authority).

The Western State attempt seemed more successful in obtaining a clear picture of the conditions in the state, but because the planning agency underestimated the time and effort required to obtain information, little programmatic planning has been possible. Again, once the data were collected, fragmentation of authority over juvenile justice frustrated the efforts of the centralized planners to implement even those programs which they were able to develop. Recently, the effort to plan at the statewide level in Western State has been all but abandoned.

While there is evidence that these efforts by formally mandated planning structures have faced difficulties because of faulty assumptions and inappropriate techniques, the massive reorganizations which have occurred independently of what is formally recognized as

<sup>15</sup> P.L. 93-415, § 223.

planning may face the same charges. If enough time has elapsed to judge the impact of the case, it looks as if Eastern State demonstrates that change by "revolution" may suffer from the same insensitivity to the nature of juvenile justice as have the more traditional planning efforts. Though the Eastern State reform effort appeared to succeed initially in deinstitutionalization of the juvenile corrections system, the reforms did not go far enough and, given the nature of the system, could not. Currently, plans are being developed for reinstating secure lockup facilities, and diversion programs not under the authority of the youth services agency are closing or being reduced in size and scope. Many of the employees who were part of the agency before the reform era are still in the agency and urging a return to the former system. Finally, the budget for youth services has been cut by an economy-minded legislature, and these cuts are being made primarily in services which were created by the reform.

#### A New Approach to Juvenile Justice Planning

In the face of what appears to be a mismatch between planning techniques and the nature of the juvenile justice system, it may seem that the future of juvenile justice planning is bleak. It is true (especially in its early stages) that it was dominated largely by federally initiated programs with a strong mandate to attempt comprehensive planning. Yet other social service systems were equally attracted by the prospects of comprehensive planning and often met with problems similar to those encountered in juvenile justice.<sup>16</sup> Thus, to some extent, juvenile justice planning has been a victim of the state of the planning art in general. If its techniques were inappropriate to its problems and characteristics, then new approaches to planning might well have improved its rate of success, especially if they were more responsive to the unique features of the juvenile justice system.

Critically for juvenile justice, planning itself is almost constantly undergoing considerable re-examination. In part, new theories and approaches to planning are developing in response to a changing environment—one which by some definitions looks remarkably like that faced by juvenile justice planners. Though planning began in an environment hospitable to a more easily implemented, technocratic approach, it is now faced with an increasingly competitive arena. Whereas during periods of fairly low participation by citizens and even by developers and architects it was possible to believe that all planning (especially for land use) was "in the public interest," recent decades have produced a major rise in the diversity of planners and

<sup>16</sup> Kahn, at 1-16.

their clients.<sup>17</sup> The result has been growing uncertainty among professional planners concerning their relationship to the goal of a better environment, to their clients, and toward the growing number of interest groups expressing their diverse opinions and desires.

In part as a result of pressures like these, planning theorists are constantly reformulating their notions of good planning practice.<sup>18</sup> In particular, it is becoming clear to many in the profession that effective planning is dealing with an environment in which goals can no longer be assumed to be universally accepted (e.g., in the public interest). Likewise, planners are beginning to recognize that because of the complexity of the planning arena, implementation of a plan requires not only an intellectual activity in which a plan (i.e., a desired future state and a program for attaining it) is formulated, but also a social and political process by which that plan is implemented. In conditions of low certainty about goals and of highly plural politics, planners can no longer be satisfied with producing a fixed plan but must see their task as a series of iterations in which the plan and the process of implementing it modify each other. This has led some observers to suggest that planners are necessarily entering new roles, generally focused mostly on brokerage of ideas and interests as part of the social and political processes of implementing a plan.<sup>19</sup>

This conception of planning seems well-suited to the situation in which the juvenile justice planner would typically find himself or herself. High uncertainty, ambiguity of goals, the need to broker ideas and interests, and a highly diverse set of values are certainly critical characteristics of the juvenile justice system as it was described earlier in this section. A kind of planning that requires more feedback between the planner and the "planned," that allows for extensive experimentation, and which places emphasis on the processes of implementation as well as on the generation of policies seems necessary, given the state of the juvenile justice system.

The standards that follow will describe a planning process, organization, and philosophy which attempt to reflect this view of planning rather than those which more frequently have tended to dominate juvenile justice planning. In the standards and commentary which describe this approach, two themes will dominate. First, the absence

<sup>17</sup> See, for example, Francine Rabinovitz, *City Politics and Planning* (1969). (Hereinafter cited as Rabinovitz.)

<sup>18</sup> A recent statement of thought from the American Institute of Planners can be found in *Planning in America: Learning from Turbulence* (David Godschalk ed. 1974) (hereinafter cited as Godschalk).

<sup>19</sup> Lawrence Susskind, "The Future of the Planning Profession," in Godschalk, at 139.

of a public constituency for juvenile justice and for deliberate reform in juvenile justice in particular may be the most serious challenge to planning in the system. The first step of juvenile justice planning, then, is to begin to build a constituency, both within the operating agencies which affect the lives of juveniles and in the public at large. In light of the numerous unresolved issues of substance and process which exist in the system, it seems clear that the constituency will be difficult to build. Of necessity, it will be composed of a wide variety of competing factions, which will then have to be brokered into a coalition for the support of the juvenile justice system.

A second major problem for planning is the process of developing a clear mandate to plan, and implementing plans through a decidedly complex institutional and social process. In the face of the fragmentation of the system, this process must begin by recognizing the political structure of power in the system and adapting to it. This means that in the initial stages of developing a planning process, at least, planners will probably have to abandon notions of centrally planned change in the juvenile justice system and concentrate instead on the process of rationalizing existing agencies and emphasizing issue-focused programmatic planning.

## 1.2 Coordination of services.

A. Coordination of services within juvenile justice systems should be defined as the process of bringing services into harmony without reducing the authority of component agencies.<sup>20</sup>

### *Commentary*

The coordination of services is perhaps the major issue in the planning and delivery of services in the juvenile justice system. In part, coordination is a popular concept throughout the realm of social service delivery because it is so deceptively simple. It suggests that policies of individual agencies should be supportive, not contradictory. People shouldn't work at cross-purposes, but rather participants in an activity should contribute to a common purpose. This seems logical and, on the face of it, easy to achieve.<sup>21</sup>

In fact, the basic nature of American professional practice is almost

<sup>20</sup> Substantially as stated by Rein, at 32.

<sup>21</sup> J. Pressman and A. Wildavsky, *Implementation: How Great Expectations in Washington Are Dashed in Oakland; or, Why It's Amazing that Federal Programs Work at All This Being a Saga of the Economic Development Administration as Told by Two Sympathetic Observers Who Seek to Build Morals on a Foundation of Ruined Hopes* 133 (1973) (hereinafter cited as Pressman and Wildavsky).



antithetical to this concept of coordination.<sup>22</sup> The history of this society is one of progressive specialization and provision of services within increasingly restricted definitions of professional responsibility to clients. Coordination, then, has often been sought as a way to mitigate the resulting strains between this structure of professional practice and the necessity of social services to deal with "whole people," whose problems and needs cross professional boundaries and definitions of client needs. Since both the structure of professions and the organization of services in most public systems are strongly oriented toward specialization, achieving coordination is not as easy as it must superficially seem.

In spite of these obvious difficulties, coordination of services is still seen as a major goal of planning, since one of its purposes is to impose a rational structure on service systems, which are generally characterized by agencies with great autonomy and strong jurisdictional boundaries. For the planner, the problem of coordination is doubly important because the agencies for which planners would like to create a rational basis for change are fragmented both vertically and horizontally. Typically, a service agency network is divided by governmental layer, by functional specialization (*e.g.*, health, mental health, education), by type of client (by age or by specific type of problem), and by professional skill (as, for example, in a hospital, in which a variety of special skills are offered by separate units—nursing, occupational therapy, surgery, internal medicine, etc.).<sup>23</sup>

In this regard, juvenile justice is an obvious target for strategies which might increase coordination. The system is indeed fragmented by function, jurisdiction, and type of service, and generally there is no central agency with the authority from which to mandate cooperation among the system's parts. The resulting nonsystem is clearly structurally uncoordinated. But, as was argued in the commentary to Standard 1.1, this organizational confusion might merely be undesirable because it is inefficient, were juvenile justice not processing clients. In fact, it is quite possible that in addition to inefficiency, lack of coordination also produces conflicting and perhaps inequitable services for juveniles. In Eastern State, for example, there are eight distinct ways a juvenile can proceed from a court to a given service delivery agency. As a result, the juvenile can be presented to the same agency for delivery of presumably the same service, but he or she may be assigned to a quite different category, and may receive

<sup>22</sup> N. Gilbert and H. Specht, *Dimensions of Social Welfare Policy* 112 (1974). (Hereinafter cited as Gilbert & Specht.)

<sup>23</sup> Rein, at 31.

quite different services, which may vary greatly in type and in quality.

B. Coordination of services on a planned basis should be attempted only under the following conditions:

1. that it can be shown that greater economies of scale will more than compensate for the costs of coordination efforts;

*Commentary*

This severe limitation on the use of deliberate strategies of coordination may seem to transcend logic, when planning for a system as uncoordinated as the juvenile justice system. In particular, considering the nature of the system, there might be many benefits to be obtained in coordination of service delivery. As has been indicated, a coordinated system could offer improved access to clients and improved mutual access among agencies; it might well reduce competition among agencies for resources and for appealing clients; it could prevent service inundation (too many services addressed to a small portion of the total clientele) and discontinuities in service as clients move from agency to agency; and finally, clients would have more assurance of receiving the services to which they are entitled (in the case of delinquents, society might also have more assurance that effective measures were being taken).

Coordination, however, has demonstrated at least three compensating drawbacks which suggest that, despite their attractiveness, large-scale efforts to coordinate services should be undertaken with caution. Attempts to coordinate services have high costs, both in terms of resources to accomplish them (whether in juvenile justice agencies or in more general systems) and in terms of competing social values. More important, planned coordination has proven to be of only limited success as an approach to reform of the juvenile justice system.

The economic costs of coordination tend to be high precisely because it must be attempted in contradiction to the organizational and professional structure of existing social services.<sup>24</sup> Certainly these costs are an expectable result of the difficulties inherent in imposing a new goal on the preexisting responsibilities and interests basic to any organization. This is true because under even less than ideal circumstances, successful coordination depends on a clear consensus about the goals of the organizations which are seeking to coordinate services; it demands a system of information interchange and clear definitions of the professional services offered by each agency; and it

<sup>24</sup> Rein, at 41.

requires an agreed theory of how the several services and levels of government are and ought to be related to each other for the coordinated performance of services.<sup>25</sup> Critically, these conditions do not now hold in the juvenile justice system, and the cost of imposing them for the purpose of promoting coordination could be excessive.

At the same time that costs are high, there is very little funding available for programs aimed at planned service coordination. The degree to which support is limited is reflected, for example, by lack of LEAA funding for this purpose. In one New England state, for example, LEAA funds for programs of coordination fell over a two-year period from 41 percent of all funding for that state to 4 percent and has not risen above that level since.<sup>26</sup> Similar trends in federal funding have been observed in other states.

Aside from the economic costs of developing a system of coordination, there are organizational drawbacks unique to a system such as juvenile justice, which has coercive powers. As an evident example, it would be far more efficient to provide public defender and prosecutorial organizations in a coordinated way, but there is serious doubt that the two functions can be coordinated without severe risk of co-optation. The experience of youth services bureaus (YSBs), too, reinforces the proposition that much of the juvenile justice system cannot equitably be coordinated. In the YSB case, the process of direct child advocacy and street work often proved to be at odds with the need to create a coordinated set of services.<sup>27</sup> In one urban YSB, the agency was virtually unable to function because the vocal advocates—street-level staff who were pursuing coordination at the individual service level—were constantly at odds with the central staff, who were attempting to accomplish coordination through the providers of services.<sup>28</sup>

Even in the face of these problems, this standard is not intended to prohibit the use of deliberate coordination of services. A coordination strategy might well be efficient in those cases in which a high degree of economic efficiency could be expected. In administrative and planning functions, for example, the conditions for accomplish-

<sup>25</sup> Gilbert and Specht, at 112-15; Pressman and Wildavsky, at 134.

<sup>26</sup> Hearings on the Federal Criminal Justice System before the Subcommittee on Economy in Government of the Joint Economic Committee, 91st Congress 2nd Session 57 (1970), as quoted in Nejelski and LaPook, "Monitoring the Juvenile Justice System," 12. *Am. Crim. L. Rev.* 17 (1974).

<sup>27</sup> J. Seymour, "The Current Status of Youth Services Bureaus: Report on a Conference" (1971), as cited in Croan, "The Youth Services Bureau Strategy: Community-Based Diversion and Delinquency Prevention Reconsidered" 25 (unpublished M.C.P. thesis, M.I.T., May 1973).

<sup>28</sup> Croan, at 109-14.

ing coordination are somewhat better than in direct provision of service, since greater consensus can be obtained concerning the purpose and approach of each agency. Here, too, the efficiency to be gained is apt to be high and not offset by other social values.

In general, however, the standard is introduced in the hope that the lure of a coordinated juvenile justice system will not obscure the fact that attempts at planned coordination do not consistently result in greater efficiency. The juvenile justice planner must be aware that while economies of scale can sometimes be achieved through greater coordination in other service areas, the services provided through the juvenile justice system are not intensive users of capital, either in the form of irreversibly committed facilities or in the form of "human capital," represented by highly trained specialists. As a result, it is uncommon to identify a circumstance in which the extensive costs of record keeping, information referral, and communication necessary to accomplish planned coordination can be offset by any increased returns to capital investment (such as can be gained from round-the-clock use of a radiation treatment unit, or careful scheduling of the time of a lawyer, for example).

**2. that lack of coordination can be demonstrated to result in inequitable distribution of services or resources to juveniles;**

### *Commentary*

Just as there are some services in the juvenile justice system which ought not to be coordinated because this could result in inequities for juveniles, there are also those which must be coordinated to *prevent* inequities. The example, cited earlier, of a single agency providing basic needs (such as clothing allowances) to their clients at different rates and times because of a discoordinated process of setting rates, provides a direct example of the sort of service which should be carefully examined as a candidate for increased coordination on the grounds of equity.

Even when there is an overriding concern for juveniles being equitably processed, there is some doubt that planned coordination is always the most effective means for responding to the problem of lack of coordination. Planning is particularly inefficient in bringing about coordination, since without the power of control over agency budgets, personnel, or working rules and regulations, there is little to compel the operating agencies which are being coordinated to comply with a planned process of coordination.<sup>29</sup> This is especially the

<sup>29</sup> Rein, at 41; Pressman and Wildavsky, at 134-35.

case in the likely event that the agency would have to interfere with the efficiency of its own service provision strategy in order to participate in a coordination plan. Thus, even when equity of services is at stake, planning for increased coordination should be seen as a potentially limited course of action. The intent of Standard 1.2 B. 3., below, is to indicate the conditions under which it has the greatest chance of resolving service inequities or other problems.

**3. that clear understanding exists among the agencies to be coordinated concerning the function to be coordinated, the means by which coordination is to take place, and the specific benefit to be realized by each agency and by the client group.**

*Commentary*

The three most severe constraints on planned coordination beyond the issues of efficiency and equity are inherent in the process by which services are provided in most service systems. First, it is rarely the case that the agencies which are to coordinate their services can come to a mutual understanding about the goals which they should be pursuing. More typically, participants in an effort to coordinate have conflicting goals, both in their approach to the function they perform and to the goals and processes of coordination itself. In a real sense, then, the problem of coordination may be to exert enough power to coerce agencies to change their goals.

Second, telling agencies to coordinate doesn't really define what it is that they must do.<sup>30</sup> If a coordinating council of some kind is established, is any given agency representative there to negotiate with others or to coerce them? Is the goal to compromise the objectives of all agencies or to lend enough power to one perspective to make it dominant? Unless the means of obtaining coordination can be accepted and defined before the process begins, the outcome is unlikely to be usefully related to the original objective of a coordination strategy.

Finally, there is little data to indicate what an optimal mix of services is or along what lines coordination can accomplish improved service integration. Hence, it is unusual to find a circumstance in which the planner seeking to accomplish coordination can specify the benefits to be gained. In the event that such a specification can be made and agreed to by the agencies involved—a necessary step since successful coordination is, in fact, voluntary—the prospects for success through service coordination would be greatly enhanced.

<sup>30</sup> Pressman and Wildavsky, at 134.

### 1.3 Purposive duplication.

**A. Purposive duplication of services should be defined as planned duplication of any or all services available in an existing system.**

#### *Commentary*

Purposive duplication is often discussed as the obvious alternative to planned coordination. Purposive duplication might be recommended in preference to planned coordination under two distinct sets of circumstances.<sup>31</sup> First, central planning agencies, faced with a service agency which is neither productive nor capable of being reformed, may employ a strategy of purposive duplication to create a new agency which will provide the same service as the old agency and essentially work in competition with it. The hope is that competition will then improve the efficiency and productivity of each.

A second use of strategies for purposive duplication is to generate service systems which are in opposition to the services offered by officially created agencies. The objective of this kind of purposive duplication is not to create a competitive atmosphere and thus more productivity, but to provide a vehicle by which a particular (usually underserved) client group can receive services which would not have been available to it through regular channels. This strategy has the intent of preserving the social and political values of "out-groups" such as cultural or ethnic minorities, rural populations, or groups with specialized needs not met by the formal structure (protection of cultural values, fulfillment of unique needs, etc.). In essence, this form of purposive duplication trades efficiency in service delivery for these social and cultural values.

**B. Purposive duplication should be attempted under the following conditions:**

1. when greater diversity of services is required in a juvenile justice system;

#### *Commentary*

Whether juvenile justice services are provided directly by a single public agency (as is typically the case with probation), by a predetermined group of public agencies (as with intake, in which several agencies may share the power to present a petition to the court), or by a more open set of public and private institutions (as is often the case in juvenile corrections), they tend to be remarkably homogene-

<sup>31</sup> Gilbert and Specht, at 122-23.

ous within any given system. In part, this may be an indication of professional consensus about the proper approach to providing a particular service and, in part, it may merely reflect the tendency of formal organizations to seek regularity. In those service areas which approach a market structure (i.e., one in which agencies appear to sell their services to clients), on the other hand, it often reflects the effects of what is, in fact, a monopsony (i.e., a market with only one buyer), created by the state and its subdivisions as the sole purchasers of services to children under their supervision.

Whatever the cause of the homogeneity of juvenile justice services, strategies stressing purposive duplication may be an effective device for creating more diverse services. Under some conditions, purposive duplication may be able to achieve this goal at a low cost and with far-reaching effects. Purposively developing a new competing service system, for instance, can be somewhat easily accomplished because the capital requirements of initiating a new service unit are comparatively low. While the expense of a new kind of community based correctional service may be great to the individuals seeking to begin operations, in terms of the overall cost to society (in this case the state), the capital required is minimal.<sup>32</sup> This is also true because, in contrast to a planned coordination strategy, purposive duplication can offer a solution to a situation in which there are limited service options, without incurring the information and communication costs inherent in the coordination approach. To the extent that existing agencies are responsive to competitive forces, moreover, the introduction of competitive or separatist innovations might be employed as a device to bring about innovation in the overall network of services.

Experience in using purposive duplication strategies, however, suggests that providing competition to existing services may have limited impacts in those areas of juvenile justice primarily served by line governmental agencies. In Western State, for example, the introduction of probation officers under state subsidy provided a system with superior resources available for probation officers, reduced caseloads, and improved probation services. Despite the existence of this innovation as a competitive model, the locally funded probation officers working within the same courts had no incentive to move toward the model offered by the subsidized units.

**2. when specialized conditions require provision of services on a modified basis for a minority of the juveniles served by the juvenile justice system;**

<sup>32</sup> Marshall Kaplan, Gans, and Kahn, "Integration of Human Services in HEW: An Evaluation of Services Integration Projects" 11 (1972).

### *Commentary*

Purposive duplication on a noncentralized basis can provide the specialized services needed by small minorities of the children served by the juvenile justice system. Females, for example, may have specialized needs or special characteristics which suggest that the range of services offered through the standard juvenile justice agencies will prove to be ineffective. Advocates for female juvenile offenders in Eastern State, for example, have developed a structure for creating a correctional system which operates in partial competition with the conventional service system for boys, operated by the youth service agency of the state. Though this structure is housed in the agency itself, it is proposed as a separate institutional alternative for the placement of girls and for the development of services designed to meet what are assumed to be their special requirements.

Similar alternative, competing programs have been established in other states. Special purposive alternatives to correction have been developed for first-time offenders, drunken drivers, and narcotics addicts. There is some evidence that each of these programs is showing at least some early indications of success, and thus they provide models of the ways in which purposive duplication may be used to develop better services for small segments of juvenile justice clientele.

**3. when a particular problem is regarded as meriting special attention but a successful model of service is absent.**

### *Commentary*

This condition for the use of purposive duplication is similar to that suggested in Standard 1.3 B. 2., except that it is employed not by outside advocates of a special clientele, but rather by the mandated institutions of juvenile justice. Southern State, for example, has adopted such a strategy to deal with the problems of accomplishing vocational training in a secure setting. The youth services agency has invited competitive proposals for development and operation of programs which would offer vocational training in a secure environment, thus providing an alternative to incarceration. Several contracts have been let for this purpose and diverse programs are now available to the agency in competition, both with one another and with the state-operated incarceration facilities.

The major limitation to this approach is the fact that, in the absence of a reliable model of service delivery, evaluation of such competing facilities is often difficult.<sup>33</sup> In effect, the technique may be

<sup>33</sup>C. Weiss, *Evaluation Research* 102 (1972).



limited to those kinds of problems for which a clearly specifiable outcome can be defined. In the Southern State example, evaluation could be based on the pre-release job performance of the trained inmates, on their success at gaining employment after release, or on the number of clients who run away during the programs, depending on the state's expectations for the programs.

C. Neither coordination by plan nor purposive duplication of services should generally be attempted with respect to administrative services, including planning, information gathering and analysis, monitoring, and decisionmaking.

### *Commentary*

Several attempts at achieving planned coordination of one or another of the above functions have been made by the four states studied for this set of standards. They have been uniformly unsuccessful. In Eastern State, attempts to develop a coordinated set of decisionmaking processes, one operating in each of the state's human services agencies, another located in a general children's agency, proved excessively expensive. Despite the increased resources acquired for children and the more thorough ability of the system to locate and provide services for them, there was great inefficiency caused by parallel lines of referral, monitoring, and authority. All these systems were charged with setting standards, coordinating services among specialized providers, letting contracts with private agencies, and evaluating the quality of services. Rarely did the systems function in supportive ways. Often, for example, private agencies would be independently evaluated by the systems and would be required to make conflicting changes in their services as a requirement of continued state approval. At times, too, agencies would have two sets of contracts for their services (one from each system) specifying conflicting rates of compensation and conditions of service provision.

Decisionmaking processes relating to juveniles, especially intake procedures, tend to produce unexpected consequences when provided through purposively duplicative services or by attempted coordination among several agencies. In Eastern State, for example, intake (or diversion) is provided by a wide range of alternative agencies. Because diversion agencies are evaluated according to the success rate of those they divert, the effect of the competition created by purposive duplication serves is not to provide more diversion, but, ironically, to provide incentives to greater intake. Though one agency, for example,

has a formal mandate to prevent children from reaching the courts, it has, in fact, a record of 90 percent of the children referred to it ending up before the courts.

## PART II: ORGANIZATION OF THE JUVENILE JUSTICE PLANNING NETWORK

The concept of planning outlined in Part I cannot be implemented without a corresponding modification in the organizational location of juvenile justice planners. In each of the states studied, juvenile justice planning takes place primarily in centralized superagencies which attempt to deal comprehensively with the juvenile justice system, but which lack comprehensive power. In some cases planning also has its locus in divisions of comprehensive planning agencies whose responsibilities include the entire criminal justice system. In either instance, the planners are detached from the centers of official power and from the constituencies they must develop before they can create change in the system. Often, too, they must work in an information vacuum created by their distance from the agencies actually making decisions about the juveniles who are in fact the objects of the system.

In a more structured world, it might be possible to specify a model which could be applied to all juvenile justice systems in this country, and serve to make rational planning possible. States, however, vary greatly in their internal organizations and even within one state, if the planning process is successful, the structure of juvenile justice will be undergoing constant change. This part, then, describes not a fixed organizational structure but rather a model of the planning process which is specific enough to be implementable, but still can adapt to local conditions.

It is important to note that the network recommended in Standards 2.1 through 2.4 is intended to create a state-level juvenile justice organization. In particular, the juveniles' services agency referred to in this volume is generally to be understood as the same organization as that referred to in the *Interim Status* volume as the "single statewide agency" and in the *Corrections Administration* volume as the "statewide department" or the "department." The term "juveniles' services agency" is employed in this volume to emphasize the possibility that the responsibilities described in these other volumes could be housed in an agency which at its highest organizational level serves both adjudicated and other juveniles. The regional juvenile justice service agencies are intended to be geographically decentralized subdivisions of the statewide juveniles' services agency, with operating

responsibilities for services to children in the juvenile justice system (subject, of course, to the administrative supervision of the juveniles' services agency). The purchase of service system and local juvenile justice boards are designed to provide for participation of local governmental officials, private citizens, and private, nonprofit, child-serving organizations in the provision of juvenile justice services.

The first standard of this Part presents a possible resolution of the predominant organizational issue for planners of juvenile justice—how best to establish a *center* for juvenile justice planning. The remaining standards of this part present a general outline of an organization which tries to balance these centralized aspects of planning with a decentralized, yet state-operated, network for specialized planning and service delivery. This model appears to provide the best compromise between centralized, statewide administration and the need for flexibility in light of local circumstances and of the potential contribution of local participants to juveniles' services.

## 2.1 Juveniles' services agencies.

A. State legislatures should mandate the creation of juveniles' services agencies as line departments at the highest level of the executive branch of the state government.

### *Commentary*

This standard is intended to insure that major administrative decisions concerning children—who, because of their circumstances or actions are under the supervision of the state—are performed in the most effective manner possible. In the councils of state executive and legislative decisionmaking, there must be a voice presenting the perspective of the service needs of these children. As will be discussed in the following standards and commentary, this central juveniles' agency should provide this representation, while still leaving in other hands those functions not effectively performed by a centralized organization.

This standard, like Standard 2.1 of the *Corrections Administration* volume and Standard 11.1 of the *Interim Status* volume, seeks to establish a single statewide agency responsible for administration and planning for juvenile justice services, and the juveniles' services agency should be seen in general as being the same agency as that referred to in those two volumes or elsewhere in the standards. This standard, however, employs the term juveniles' services agency to emphasize that it is not intended to preclude inclusion of services to children

other than adjudicated delinquents, except as otherwise prohibited by these standards. This standard is also not intended as a prohibition against inclusion of such a juveniles' services agency as a component in a comprehensive human services agency.

Standards 2.1 B. and 2.1 C. and their accompanying commentary will outline the scope and duties of the juveniles' services agency. The following paragraphs of commentary will examine three general advantages of a juveniles' services agency and discuss the current trend among the states to adopt such agencies.

First, by consolidating some decisions about children's services—especially as they relate to state-level decisionmaking, resource allocation, and policy analysis—a juveniles' services agency will be able to provide greater visibility to the problems of children. In particular, with the creation of a juveniles' services agency, an organizational framework can be provided to accept the administrative responsibility for the myriad of services now being offered to juveniles as a part of other human service systems. By creating a consolidated focus on all services to juveniles, the state could provide a mechanism for increasing the accountability of juvenile services and a clearer means of evaluating the quality of services offered to each group of children. It would, in effect, place in full public view the current delivery of services through protective services, foster care, adoption, and rehabilitative services.

In addition to the possible impacts on quality of service, a juveniles' services agency might also be more successful in raising the levels of funding allocated by the state to the full range of children's services. Greater visibility and the efficiency inherent in a consolidated set of proposals to the legislature can probably provide to each group of children more resources than would be available through the efforts of competitive agencies advocating their own budgetary needs. In particular, it seems that delinquency and PINS services could benefit greatly by having an administrative home with a focus on children's services. In Eastern State, for example, a juveniles' services agency is proving to be able to raise the level of funding for children's services by more than double its prior amount. In Border State, too, the conversion from categorical (program specific) to generic (function specific) social service system organization has resulted in greater funding for all social services.

Seen strictly from the perspective of creating a more rational system, a juveniles' services agency also seems necessary to manage the complexity of juvenile services. For example, the significant overlap among PINS, delinquent, neglected, and disadvantaged children suggests that services for them might be best administered under one

umbrella.<sup>34</sup> A related problem for juvenile justice is coordination with other agencies which lie outside the juvenile justice system but affect its service delivery. A juveniles' services agency may provide the greatest opportunity for efficient interchange of information with these interface agencies and for reaching agreement as to the distribution of responsibilities for juvenile justice services. With but a single agency being responsible for the definition and supervision of services for children who are wards of the state, the sheer number of distinctions to be drawn—and hence, of compromises to be reached—is reduced in comparison to those in existing, more fragmented systems. Fewer sets of standards, fewer agreements concerning conditions of service provision, and resolution of fewer areas of conflict are necessary to achieve the same level of coordination with this kind of partial centralization, based on children's services and crosscutting numerous interests.

For developing innovative programs, ensuring minimal quality and consistency of services, and creating a rational administrative structure, it seems most effective to house functions related to children's services in a single agency of the executive branch, having sufficient status to assure it access to critical executive and legislative officials. The recommendations of this standard also recognize that the creation of this type of juveniles' services agency is part of a national trend. In general terms, this trend manifests itself as a campaign to reorganize government at the state level in such a way as to reduce the proliferation of executive agencies and to recognize the commonalities among the existing providers of human services. At this writing, most states have adopted a comprehensive service agency for at least delinquency-related functions.<sup>35</sup> Thirty states have adopted centralized agencies having primary responsibility for delinquent aftercare and probation as well as correctional services. Some have taken the next step and also delegated the intake and detention functions to the same state level agency charged with post-adjudicatory services.<sup>36</sup>

Southern State's youth service agency, for example, has responsi-

<sup>34</sup> For a general discussion of client overlap among control agencies, see E. Cumming, *Systems of Social Regulation* 193-224 (1968). For a compendium of studies presenting evidence of overlap among juveniles, see "Juvenile Delinquency and the Family: A Review and Discussion" in President's Crime Commission, *Task Force Report: Juvenile Delinquency and Youth Crime* 188 ff. (1967).

<sup>35</sup> Rosemary Sarri, Robert Vinter, and Rhea Kish, "Juvenile Justice: Failure of a Nation" 31 (unpublished paper May 1974). (Hereinafter cited as Sarri, Vinter, and Kish.)

<sup>36</sup> Sarri, Vinter, and Kish, at 32.

bility for all services from intake through aftercare, and in addition has responsibility for setting standards and for supervision of local service delivery systems. Border State has organized a single agency around a functional area—generic services delivery for human services—including services to all juveniles. This agency, in addition to performing post-adjudicatory services for those children who are the state's direct responsibility, is mandated to perform social background investigations for the courts upon the request of the judge.

Though not as coordinated, Eastern State's approach is equally centralized. It has two agencies, each responsible for direct service provision to a portion of the children under state supervision, and an overarching agency for supervision of all children's services, approval of contracted services, and monitoring of children's needs and services. Less comprehensive in its scope is Western State's youth service agency, which, like Eastern State, has a monitoring and funding agency for juvenile services, including delinquency, PINS, and neglected children, but does not go beyond this.

Whatever specific form it may take, then, the common trend in each of these states has been toward centralizing administrative, supervisory, and innovative services, while generally abandoning the notion of centrally operated direct service provision. In fact, since their major reorganizations, all four states have adopted some form of substate regionalization for the provision of services, a trend confirmed in most other states as well. Since experiences in other states confirm the reporters' evaluation of the success of this structure in the four states, the following substandards are designed to provide the basis for similar administrative and operating organizations.

**B. Juveniles' services agencies should perform the following administrative functions: planning for services to juveniles; monitoring and evaluating the quality of services provided throughout the state; allocating state revenues dedicated to juveniles' services; setting standards for personnel practices and service quality; and conducting or administering experimental or demonstration programs and programs for the most difficult juveniles and those with special needs.**

### *Commentary*

This standard places responsibility for several functions of a social service network in the hands of a general purpose, highly centralized agency. The areas which are to become the responsibility of the juveniles' services agency are those which are most critical to the follow-

ing issues: provision of equitable services; establishment of sound personnel policies, especially an affirmative action hiring and promotion program; development of an effective service delivery system; analysis and dissemination of research data combined with protection of information about juveniles; and development of a process of institutional learning in juvenile justice.

Through its monitoring, allocation, standard-setting, and planning functions, the centralized juveniles' services agency would be the principal body in state government responsible for maintaining equity in the provision of services in the juvenile justice system. A central agency has several advantages over a specialized or local service agency. First, because it is central, the juveniles' services agency can employ its allocative powers to redistribute resources in an equitable fashion, both among regions of the state and among the groups of children who are served by the system. Second, it may be more feasible to develop a mechanism for protecting and attending to the interests of minorities at a central level. Minorities are typically concentrated in localities least able to provide services, and local power structures appear to be generally less motivated to adopt progressive measures to ensure the equitable allocation of services to minorities, or to include those who are affected by the system among their employees.<sup>37</sup> Finally, because a central agency can bring its supervisory power to bear in monitoring specialized services required by small groups of clients, it may be able to assure that regional agencies meet minority group needs.

In addition to its responsibilities for equity of service provision, the juveniles' services agency seems particularly well situated to ensure equitable and effective personnel policies. Both through its allocative responsibilities and its standard-setting powers, the juveniles' services agency can require that the system meet its responsibilities for fair employment practices including affirmative action to ensure equal opportunity for minorities and women. Because of the scope of its planning functions, it will also be able to provide reasonable projections of employment requirements, long-range employment costs throughout the system, and any other data needed for professional personnel management.

The development of an effective service delivery system is dependent on at least five conditions which the juveniles' services agency seems uniquely designed to foster through its planning and standard-setting function. A workable service system must provide an environment attractive to qualified employees; it must be able to establish

<sup>37</sup> See, for example, E. Cornwell, "Bosses, Machines, and Ethnic Groups" *The City in the Seventies* 92-96 (R. Yin ed. 1972).

and carry out policies which are realistically associated with its overall goals; it must be able to attract sufficient resources to accomplish its policies and allocate those resources efficiently; it must gather adequate information; and it must be able to evaluate itself.

Using the juveniles' services agency to generate policies which would encourage these five conditions should generate effective services, even though the central agency does not in general make decisions about day-to-day operation of the juvenile justice system. The effectiveness of this conception of a central administrative agency has been demonstrated in three of the four states studied, and at least one other midwestern state has been reported to have been highly successful with a similar approach.

Western State, in particular, has maintained a national reputation based on a system somewhat similar to the one proposed here. While its regional agencies are not elements of an overall statewide system, the agency has succeeded in making policies which draw personnel who are recognized to be national leaders in juvenile justice; it has initiated a new probation system, which is reported to have reduced the cost of juvenile justice considerably while providing high quality probation services; and its evaluative guidelines have been influential in the reform efforts of several other states.

Eastern State employs a more centralized model, but one which does assign similar responsibilities at the central office of its youth service agency. Because a set of programmatic reforms accompanied the development of the central agency, the results in this case are harder to assess. What is clear, however, is that if the central agency had not concentrated on administration, as contrasted with direct service delivery, the deinstitutionalization which occurred in this state would not have been possible.

It is important, however, to acknowledge the limitations as well as the capabilities of the juveniles' services agency as an administrative center for a service delivery network. As such, it acts only as a general policy-setting and supportive agency. It cannot directly control decisions about individual children; indeed, any central agency has only limited power to control the behavior of more decentralized agencies in the performance of their duties and to enforce its decisions with respect to standards for services or monitoring of agencies. Since Western State has operated an agency of this type for several decades, it provides examples of the limitations inherent in a juveniles' services agency, as well as the successes described above. First, when the agency attempted to develop comprehensive plans for the delivery of services to children under state supervision, it found that its ability to change the process by which services were delivered at the local



level was minimal—and achieved only through the indirect means of developing new “ideas in good currency.” Likewise, the agency attempted several versions of state subsidy of locally provided services and found that the quality of services did not improve as much as had been hoped, since only the most progressive local governments sought out the state-provided funds. Finally, agency personnel adopted a standard-setting and monitoring program, but found that it was often impossible to enforce their standards or the results of their monitoring process on local governments. This became an especially difficult problem since nonconforming service delivery systems often remained the only services available in an area—with the result that the juveniles’ services agency was faced with a choice of poor quality services or no services at all.

The final two areas of responsibility to be served by the juveniles’ services agency—the processing of information and the dissemination of ideas—are much less complex, both in concept and in prospect. This agency clearly has a role to play in the system’s handling of information, since all the other functions assigned to the agency involve processing large amounts of sensitive data. Both the ability to draw generalizable conclusions from that data and the capacity to supervise the protection of privacy are enhanced by central assignment of these functions.<sup>38</sup> This is especially true when a central unit is contrasted with the use of parallel decentralized units, which tend to have varying standards for the collection and security of information.

Finally, centralized planning, demonstration programs, and monitoring of the service system by the juveniles’ services agency may permit more efficient dissemination of the results of these activities and thus, a greater chance for the entire system to learn from its experiences. Western State provides a good example of a centralized agency operating with this purpose. Its juveniles’ services agency has depended heavily on achieving innovation through the use of centrally designed and conducted demonstrations and experimental programs. It also has as a primary goal the close monitoring of the system through its standard-setting and planning activities. As a result of this mode of centralized administration, much has been learned from its programs, and they appear to have become useful models for other states.

This central dissemination of ideas, then, may give a state greater ability to accomplish significant reform. As is the case with its other functions, the juveniles’ services agency does this without actually becoming involved in the process of direct decisionmaking about ser-

<sup>38</sup> Gilbert and Specht, at 175.

vices. Instead, the central agency provides a vehicle for defining and expanding the options available to more decentralized components of the statewide juvenile service system.

**C. Juveniles' services agencies should address the needs of all juvenile delinquents and neglected or abused juveniles. They may also have responsibility for all orphaned juveniles and all juveniles who by reason of physical, psychological, or emotional problems are regarded as being in need of direct care, custody, or supervision by the state.**

### *Commentary*

This standard does not mean that these groups of children must necessarily be treated in the same facilities or by the same agencies of direct service provision. Nor does it mean that their needs with respect to treatment have been or ought to be intermingled. It does not imply that the goals, priorities, strategies, and programs for all children have to be considered as a unitary problem. What it does mean is that a single agency should be responsible for the process of sorting out and allocating resources among programs, agencies of direct service provision, priorities for funding, and service strategies. All of these functions address a set of problems which have been empirically demonstrated to be interrelated by the nature of the client population from which each of these groups of children is predominantly drawn.<sup>39</sup> While it may be easy to determine the direct causes by which each of these groups of children becomes the responsibility of the state, and it might be appropriate to base service delivery on these distinctions, it is both administratively unwise and empirically unfounded to plan for each group under a separate agency, since it is clear that these groups can be shown to overlap considerably.

Indeed, in a system in which the decision to define a child as fitting one or another of these categories of client is inherently discretionary, this overlap among client groups is likewise inherent. For example, a juvenile who steals an automobile while away from school and whose parents also abuse him or her, clearly presents a case which has potential for overlapping jurisdiction. In Eastern State it is possible for a single child to be declared by three courts to be a delinquent, a PINS, and an abused child (or, as in one case related to the reporters, an abusive parent) at the same time and be treated in contradictory ways by the three child-serving agencies authorized to pro-

<sup>39</sup> Cumming, at 193-224; and President's Crime Commission, at 188 ff.

vide services to each of the three service categories. Further, inequities among Eastern State's several juveniles' services agencies create a situation in which the amount of money available to a child for clothing, for instance, varies depending upon whether the child receiving it is categorized as delinquent or in need of supervision. Only through the overseeing of the entire juveniles' services provision system by a single agency can these potential inequities and duplications be monitored and perhaps averted.

Further, for the purposes of developing plans, allocating resources, and fostering innovation in services to these children, a perspective which allows consideration of the accumulated needs of all these classes of children is inherently more effective than a piecemeal approach focusing on fragments of what is a complex social problem. Particularly in regard to resource allocation, it seems unwise for those whose concern is the most effective treatment of juveniles to continue to operate a state-level organizational structure which pits specialized child-service agencies against one another in competition for resources. At best, the result of such a structure is to minimize the total resources available to all these children. In addition, it may encourage agencies to select from among their clientele the most desirable of the children whose problems or actions bring them under direct control of the state. A central agency with a mandate to serve all these children cannot as readily justify refusing to deal with any of them, and has a better chance of creating a united and well-articulated program.

D. State legislatures should permit the geographically centralized provision of services to juveniles only under the following conditions:

1. regional juvenile justice service agencies responsible for the juvenile have attempted and failed to provide services within close geographical proximity to the juvenile's home; or
2. the juvenile is a member of a small group whose special needs are provided for through centrally operated programs which could not be provided in each region of the state and which can be demonstrated to be more effective than those programs administered locally.

### *Commentary*

The idea of a superagency at the state level which has direct control over decisions about individual juveniles as well as broader administrative functions is very attractive. According to one study, thirty states have authorized central superagencies to assume all or

some administrative responsibilities for aftercare and probation services. Thirty states also make staffing decisions and, sometimes, the total range of operating decisions at the state level.<sup>40</sup>

Centralized provision of services might be effective in instances when children present complex behavioral or situational difficulties. Within the resources available to localities or regions, it is quite possible that such children cannot be given necessary services. Under such conditions, it would be inappropriate to attempt to deal with the child's needs with manifestly inadequate services.

It should be evident that circumstances like this which permit centralized service provision ought to be construed most narrowly. The alternative is an invitation to the regional juvenile justice agencies and other primary agencies of juvenile services to avoid dealing with a large portion of their clientele, on the grounds that their needs are special. Moreover, since these children are diagnosed as the most disturbed or deemed guilty of conduct which is most censured by society, it is important that their treatment not be consistently provided by the same central agency which has been assigned the major role of monitoring and evaluation. With careful external controls, children with special needs can be handled, when absolutely necessary, in a central agency capable of channeling sufficient resources to their care or correction.

When centralized service agencies have been established, a number of drawbacks have been noted. The basis for placing such stringent conditions on centralized service provision is strongly evident in the history of attempts to operate such systems. Southern State provides a good example since it carried the notion of a superagency to great length. Under its reorganization plan for state government, the youth service agency obtained control of all aspects of juvenile justice from intake through probation and corrections to parole and aftercare. In the initial organization of the agency, all decisionmaking directed toward the individual clients of the agency was handled by a single central office. One result of this extreme centralization of decisionmaking and service provision was that the agency became badly overloaded and the process of decisionmaking was significantly delayed. Most important, the quality of services offered to juveniles was, according to the officials of the youth service agency, seriously impaired and the number of juveniles being brought into the system rose sharply. There was also reason to believe that there was a significant increase in the proportion of children being placed in secure settings and in those placements which were acknowledged to be overutilized and thus, inadequate.

<sup>40</sup> Sarri, Vinter, and Kish, at 31.

This experience illustrates several of the problems with highly centralized service provision strategies and supports the intent of this standard to minimize their use. First, such systems seem to increase the distance between the client and the services offered by the organization. In all but a few states, geographical centralization implies long distances between facilities and the juvenile's home. In addition, because decisions are made on a centralized basis, the decisionmaker cannot be expected to be familiar with the full range of the child's behavior or circumstances.

A more systemic problem is that because highly centralized agencies are larger, more complex, and hence, more fragile, they are more resistant to change. To produce reform on this scale is particularly costly. In fact, it is frustration of attempts to accomplish change at a large scale which has led places like Western State to abandon their attempts to accomplish change directly from a central authority.

Finally, centralized agencies may tend to have high levels of organizational conflict. Because of the larger and more formal structure of these agencies, misunderstandings may tend to arise between staff units—such as personnel, budgeting, or program development—and the line divisions providing direct services.<sup>41</sup> Because a centralized agency must create a sense of unity in order to accomplish its goals, conflict cannot serve a legitimate role as it may in a decentralized network of agencies.

## 2.2 Regional juvenile justice service agencies.

A. State legislatures should mandate the creation of regional juvenile justice service agencies as subdivisions of the juveniles' services agency. They should be organized at as great a level of geographic decentralization as is consistent with provision of an adequate range and quality of services.

### *Commentary*

This standard is intended to provide a decentralized structure for the state agency responsible for juvenile justice. The regional juvenile justice agencies would provide or directly supervise services delivered to juveniles who are wards of the state. For any one state, however, the selection of an appropriate regional size is difficult and still more so when assessing all states at once. The appropriate size can perhaps best be described as being large enough to provide an adequate variety of services for the variety of juveniles likely to be addressed by the agency, but small enough to give planners and administrators of the

<sup>41</sup>See J. March and H. Simon, *Organizations* 116-35 (1958).

juvenile justice agency an opportunity to build close relationships with the communities of the region and to understand their unique problems. In every state, then, the selection of region size and composition must be a compromise between closeness to the communities and adequacy of regional resources for juvenile justice services. In many instances, for example, a metropolitan government, or even a segment of a metropolitan area, might serve as an adequate region. In other areas, many counties might necessarily be accumulated to form a region.

Whatever the specific composition of the region, experience in Eastern, Southern, and Border States, each of which attempted and abandoned a centralized service provision system, lends strong support to the notion that centralized service delivery is less efficient and effective than are regional service agencies. In addition to having little knowledge about individual juveniles and the communities from which they are assigned, a centralized service system showed a strong tendency to become badly overloaded, to increase rapidly the number of juveniles incarcerated or subjected to secure treatment programs, and to assign large numbers of juveniles to facilities far from their homes. Following the introduction of regional service provision, however, each of these phenomena appeared to change, apparently tending toward more effective services.

While regional service units should work better than highly centralized agencies, there is still the question of whether they should replace local (city or county level) services. The presumption against relying strictly on the regional level is based on the inability of many localities to garner sufficient resources. Indeed, local funding of juvenile justice services may tend to place the greatest burden of the system on those localities with the least resources to provide adequate services—the inner cities of our metropolitan areas and the rural counties.<sup>42</sup> Largely as a result of the mismatch between the resources needed to deal with juvenile justice and the incidence of those conditions and behavior which call the agencies of juvenile justice to act, local funding may also result in inequitable distribution of services among those served by the system. Specifically, rural and inner city areas (from which most delinquents come<sup>43</sup>) may be unable to provide adequate services, especially in comparison with the services available through suburban counties or municipalities. As one Border

<sup>42</sup>U.S. Advisory Commission on Intergovernmental Relations, *State-Local Relations in the Criminal Justice System* 8 (1971).

<sup>43</sup>Based on residency data supplied by the four sample states. For comparison, see C.M. Kelley, *Crime in the United States, 1972*, 110-14 (1973), which provides a distribution of arrests of juveniles and strongly supports this argument.

State judge put it, "Juvenile delinquency cases are extremely frustrating. My hands are virtually tied; my county can't afford either the detention facilities [the state agency] requires nor the treatment facilities that I need. But if I send them to [the centralized agency], the kids wind up halfway across the state."

Not all services, of course, are to the same degree subject to limitations based on the resources available at a local level. In particular, detention, diversion, and probation may very well be available in sufficient diversity and quantity and at a relatively smaller scale than most post-adjudicative services. These services, therefore, can, where it is feasible, be provided directly at a subregional level, subject to the superintendency of the regional juvenile justice agency.

In general, however, this standard envisions a set of regional juvenile justice agencies which are explicitly organized as parts of the state-level juveniles' services agency (whether or not the juveniles' services agency has a broader mandate than the juvenile justice system). While this arrangement implies that the region will not be a political unit, it offers the benefits not only of funding at the state level, but also of strong monitoring functions performed by the juveniles' services agency.

Experience indicates that it is critical that regional service units be under this kind of central administrative control. In two of the states observed, the quality of services to juveniles was probably diminished by having regional agencies which were elements of an autonomous, general purpose substate level of government and thus had no strong central administrative superintendency.

In Eastern State, while the youth service agency had ostensible administrative power over several county training schools for status offenders, it did not have control over funding or over hiring and firing of personnel. Thus, for more than three years it was unable even to gain access to the grounds of its training schools, let alone determine the quality of services being provided. In a less extreme case, Western State, which has long operated on a strong county basis, is limited in its controls to issuing advisory standards since the counties fund and staff their own institutions. The counties can, if they choose, effectively ignore the directives of the state-level youth service agency.

**B. Regional juvenile justice service agencies should perform the following functions: direct provision of services or treatment, acquisition of services from a purchase of services system, superintendency of community-based services, and coordination with any county or local planning or operating agency in its geographical area. They may perform diversion, intake, or probation services.**

### *Commentary*

In this standard, all decisionmaking necessary to permit the placement of juveniles in appropriate post-adjudicatory treatment or service facilities has been assigned to the regional agencies. Though obviously critical to the role of regions as service providers, the first function, direct provision of services, has often proven surprisingly difficult to establish at the regional level. In fact, a major failure of several existing decentralized systems is that there tends to be an excessive concentration of power—both in the form of decisionmaking and in that of information about services—in the hands of centralized agencies or organizations unrelated to the regional juvenile justice service agencies. If regional agencies are to fulfill the mandate set out in Standard 2.2, they must have control at least of the process of contracting services from the purchase of services system, or of developing and operating their own service facilities and programs. A major failure in Eastern and Border States, for example, has been that the purchase of services system requires action by the central agency before a service contract can be completed. In addition to causing unnecessary delays, this process has stood as a major block to the development of diverse services, since a potential new service desired by the region must be unusually resilient to survive the delay in the contracting process and in payment.

Because no agency is more capable of projecting the future needs of the juvenile justice system than the one actually providing services, a second function of regions should be to carry out the major operations of day-to-day planning for service provision. In particular, it is important that the regional planning process produce regional service provision budgets, which should include all aspects of the cost of operating the regional service delivery system, with the possible exception of accounting for the costs of the few specialized services actually provided on a central basis.

Finally, it is strongly recommended that the regional juvenile justice agency also provide, or have direct supervisory control over, pre-trial services and alternatives to correction or post-adjudicative services. In particular, the regional agency should have supervisory responsibility over the subregional or local agencies which should perform or control the process of intake, since it is intake which determines the size and nature of the regional agency's clientele. This supervision is critical because the development of reliable projections of the flow of clients is a necessary prerequisite to effective planning. Control of alternatives to post-adjudicative services is also necessary to effective planning and management, both to gain stable expectations of client flows and to permit effective monitoring and evaluation



of the program being offered. Without these controls, post-adjudicatory service agencies may respond to change in demand for their services by altering the length or intensity of treatment, by refusing to accept difficult cases, or in other ways not appropriate to the children's needs.

**C. Regional juvenile justice service agencies should be mandated to provide services or treatment to address the needs or behavior of all juvenile delinquents, juveniles who would have been regarded as status offenders, and neglected or abused juveniles. They may also have responsibility for providing services for all orphaned juveniles and all juveniles who, by reason of physical, psychological, or emotional problems are deemed as being in need of direct care, custody, or supervision by the state.**

### *Commentary*

This standard is intended to fulfill two purposes: first, to reduce the likelihood that juveniles will be treated in three or more categories and thus that separate facilities and decisionmaking processes for each will be created; and second, to provide the most effective means for the state to deliver services to children who, because of their condition or behavior, are its primary responsibility. Clearly, without a unified organization at the operating (regional) level, the objective of removing barriers to co-mingling groups of juveniles cannot easily be achieved, since each agency with responsibility for some juveniles would develop separate procedures and services. Even if co-mingling were not a significant objective of these standards, however, it is true that a single agency would prove to be more efficient as a provider of services than would a strategy of coordinating several specialized agencies or of purposive duplication of services.<sup>44</sup>

A single agency is strongly recommended on the basis of the guidelines developed in Standards 1.2 and 1.3. Especially in light of the great overlap among the many categories of juveniles needing services from the state, attempts to coordinate a variety of agencies in a single geographical region would be a costly and ineffective way of meeting the service needs of these children. While purposive duplication may provide a wide diversity of services (and the purchase of services network recommended in Standard 2.3 does provide a mechanism for protecting this potential advantage), it is inappropriate as a means of making allocative and programmatic decisions (see commentary accompanying Standard 1.3).

<sup>44</sup> See commentary to Standards 1.2 A. and B. and 1.3 A. and B.

In addition to providing an efficient mechanism for decisionmaking, a single agency in each region seems to be the best way for the state to carry out its responsibility to provide services to children in its care. As a representative of the state, a single regional director is made responsible for the selection and subsequent monitoring of the services provided to children. Monitoring by the juveniles' services agency itself is also greatly simplified by this unified regional administration, and accountability to external monitoring groups is probably impossible without it. Finally, without a unified regional administration, effective planning for caseloads, personnel projections, and budget requests are impossible, and the juveniles' services agency would be seriously hampered in meeting its responsibility for overall system management and planning.

Experience in the four states seems to support these contentions regarding the need for a single agency at the regional level to be the state's service provider. Western State operates its juveniles' services agencies on a basis similar to that recommended here, though regions have separate sections, each responsible for one of the three categories of children recognized by the state as falling under its mandate to supervise. While the state-level agency does not provide services directly but rather operates as a supervisory agency, this regional structure appears to function efficiently enough to ensure services for all three categories of juveniles.

In contrast, Eastern State operates separate systems for delinquents, for PINS, and for other children who, for want of responsible parents, are under the state's supervision. At present, that system is in chaos. The delinquency system and the juveniles' services agency have funds; the PINS system has neither funds nor an official who is willing to acknowledge the responsibility for managing it. As a result, PINS are being held by the delinquency agency for forty-five day periods in pretrial detention and then either released, remanded to detention for another forty-five days, or reclassified as delinquents to at least give them access to the services offered by the delinquency system.

Both Border and Southern States have employed systems of the type recommended here. Because both recently decentralized the direct service provision process to regions, it is difficult to evaluate their success. Border State, however, has had some success with an even more radical increase in the scope of services offered within one regional service provision office. They have instituted a process in which regional social support services are provided through a central office which then breaks down its services into family and children's support and rehabilitative services. To date, the only complaint has been that the agency as now structured tends to ignore the needs of children who do not need rehabilitative services, but who are the vic-

tims of families, since nonrehabilitative services are offered as an element of family support services.

**D. Regional juvenile justice service agencies should be advised by a board composed of people concerned with and affected by the juvenile justice service agencies, but not employed by them.**

#### *Commentary*

The purpose of this standard is to enable the regional juvenile justice agency to fulfill its purpose of providing services at a level decentralized enough to be responsive to the unique problems of the communities of the region. The advisory board recommended by this standard could serve the purpose of providing feedback from those affected by the system to those who plan and operate services from the regional agency. The exact composition of the board and its means of selection—aside from the restriction stated in the standard—probably ought to be determined in light of the conditions of each state. A highly recommended approach is to create a board composed of representatives of the local juvenile justice boards (see Standard 2.4).

The precise power of the advisory board may vary according to the organizational structure of the state in which it is located, but in no event should it do less than to participate in the superintendency of ongoing services and review all plans for changes in service strategies or priorities. In any event, the board should have access to the records of the regional agency, except insofar as they reveal the identity of individual juveniles. These responsibilities seem to be the minimum which are consistent with the mandate that the board act effectively to provide a community-based perspective to the planning and operational decisions of the regional agency.

### **2.3 Purchase of services system.**

**A. The purchase of services system should be defined as any arrangement whereby public agencies pay for services rendered to juveniles by non-public agencies.**

#### *Commentary*

The purchase of services concept relates to the role of private (i.e., profitmaking) and voluntary (i.e., eleemosynary) sectors of economic activity. Use of purchased services formalizes what has previously been an ill-structured voluntary relationship between public agencies

responsible for services to juveniles and individual or private concerns.<sup>45</sup> Through an articulated purchase of services relationship, regulated by the juveniles' services agency, it may be possible to make clearer the responsibilities and opportunities for both the public and nonpublic (private and voluntary) parties involved. More accountability and stability should result from the clarification of the kinds of contractual or commercial relationships which might be involved.

Purchase of services has most often occurred in juvenile justice as a part of the recent trend toward deinstitutionalization of the system.<sup>46</sup> Thus, much of the experience with this approach to organizing a services system has been in the provision of correctional services. In this capacity, purchase of services has provided juvenile corrections agencies with alternatives to traditional state-provided supervision or incarceration. In Eastern State, for example, the youth service agency director closed the state's lockup facilities and replaced those institutions with services purchased from the already well-developed private and voluntary social service system. By doing so, he was able to accomplish nearly instantaneous deinstitutionalization without completely abandoning supervision and treatment of the children under the agency's custody. As additional benefits, at least initially, he was able to provide a wider range of treatment options than had been offered by state-run facilities, to circumvent the complexities of the state's civil service system, and to begin the process of geographical decentralization of services and decisionmaking.

While perhaps the best known use of purchase of services throughout a juvenile justice system occurred during the Eastern State deinstitutionalization process, it is an arrangement which has been employed widely, and in fact constitutes a major support of the voluntary sector, providing a not inconsiderable portion of the funds with which they continue to provide services.<sup>47</sup> A national survey found that of 407 sectarian agencies in twenty-one states, 71 percent were involved in some sort of purchase of services arrangement.<sup>48</sup> Since the Eastern State reform, purchase of services has become prevalent in juvenile justice systems as well, and it is now in use in three of the sample states; only Western State remains fully public. Widespread use of purchase of services, however, does seem to be

<sup>45</sup> President's Crime Commission, at 48.

<sup>46</sup> J. Martin, "The Creation of a New Network of Services for Troublesome Youth," and R. Foster, "Youth Service Systems: New Criteria," *Closing Correctional Institutions* 9-12, 33-39 (Yitzhak Bakal ed. 1973).

<sup>47</sup> Gilbert and Specht, at 105.

<sup>48</sup> B. Coughlin, *Church and State in Social Welfare* (1965).

geographically concentrated somewhat in the eastern half of the nation; states beyond the Mississippi seem to rely more completely on the state to provide social services through public facilities.

Purchase of services is not in any way a total solution to service provision problems (see Standard 2.3 B.-E.), but it is capable of providing several advantages over direct public service provision. It can provide a wider variety of services than is possible under public funding, if only because services can be purchased for one or two children with unusual needs (or who present unusual difficulties), while public facilities could not be provided for so small a client group.<sup>49</sup> The wider diversity may also be healthy for the juvenile justice system itself, since private providers of services can be more adventurous in adopting new ideas.<sup>50</sup> Generally, they provide a basis for a kind of pluralism in service delivery, since they can offer services as numerous and as different as the clientele of the system.

In addition to their diversity and potential tendency toward innovation, privately provided services may also increase an agency's flexibility in the face of change. Implementation of new programs is usually much faster under a purchase of services system, since private agencies are not subject to the complex civil service regulations and personnel processes which may delay implementation of public innovations.<sup>51</sup> Moreover, as need for a particular service declines, the state is not faced with an entrenched agency, but rather need only cut back the service or eliminate it. Under this model, flexibility is possible, especially because capital costs are automatically amortized by the nonpublic agencies providing services, and physical plants need not be built or purchased by the state.

For the providers of nonpublic services, too, there are some benefits to participating in purchase of services. It can provide them with a relatively stable source of income in the face of declining private philanthropy (though, of course, at the cost of some autonomy).<sup>52</sup> In this way, it may allow them a mechanism for continuing their service to society—a special benefit to many sectarian agencies which are faced with the economic consequences of declining religious activity.

<sup>49</sup> Gilbert and Specht, at 150.

<sup>50</sup> It should be noted that this argument holds if purchased services are compared to strictly publicly supplied services. However, there is some evidence that purchased services are not necessarily more advantageous than are strictly volunteer services. "To the extent that voluntary agencies are supported by government funds they forfeit some degree of autonomy." Gilbert and Specht, at 150.

<sup>51</sup> Gilbert and Specht, at 150.

<sup>52</sup> Gilbert and Specht, at 150.

**B. Regional juvenile justice service agencies should maintain a presumption against private, profitmaking agencies in obtaining services through the purchase of services system.**

*Commentary*

The purchase of services network is intended as a mechanism by which the state can make effective use of the greater flexibility of the nonpublic sector, its existing investment in facilities and expertise, and its ability to handle a wide range of service needs. It is not intended that the purchase of services network become a commercial marketplace in which services might become standardized and mass-produced on a profitmaking basis. The current concern about the quality of the services being provided by profit-making organizations (e.g., some agencies in the nursing home industry and the instances of abuse which have been identified in some commercial vocational training schools) suggests that in dealing with children in the juvenile justice system, the states might be generally unwise to turn to commercial establishments for services. This caution seems especially important because the services provided through juvenile justice agencies are such that they are particularly difficult to monitor and potentially very risky.

This presumption against private, profitmaking agencies, of course, should apply most strongly to those services directly related to the treatment of juveniles and to the provision of facilities to house children in the juvenile justice system. Consistent with Standard 2.3 E., for example, there should probably be an outright prohibition against provision of *secure* facilities by profitmaking organizations. At the other extreme, it is clear that this presumption should not be interpreted as requiring that, say, ice cream used in a facility serving juveniles need be purchased from a nonprofit dairy, or even that necessary medical treatment could be provided only through a nonprofit health facility. Specific interpretation of this presumption should constitute a portion of the standard-setting responsibility of the juveniles' services agency.

**C. No services should be provided through the purchase of services system or otherwise which would cause any juvenile to be removed from the territorial limits of the state.**

*Commentary*

The purchase of services network is conceived as a device for increasing the flexibility and range of services available to a juvenile

near his or her home. If employed properly, it should reduce the number of children removed from their communities to remote facilities serving statewide populations (*cf.*, Standard 2.1 D.). While there should be a *presumption* against moving a child from his or her region, it is clear that there must be a *prohibition* against removing children from their state. Even if one were to ignore the central objection that such removal would disrupt the children and their families, there are major administrative problems with out-of-state placement. There has recently been widespread questioning about the quality of services which are offered by those agencies that are so regularly willing to accept large numbers of children from remote states. In the face of strong doubts surrounding the nature of the services provided through these agencies, then, states should avoid employing out-of-state contractors within their purchase of services networks.

D. Regional juvenile justice service agencies (or the agency authorized by the juvenile justice service agency) should make services available through the purchase of services system under the following conditions:

1. that the purchasing agency would otherwise have to build new facilities in order to provide services required for correction or treatment of juveniles;
2. that a large number of specialized services are needed to meet individual needs of juveniles;
3. that a new program is best conducted as a demonstration or an experiment and does not fit a category unsuitable for purchase of services.

### *Commentary*

In each of these three instances, the state takes advantage of the ability of the nonpublic sectors of the economy to accumulate capital and allocate it efficiently. Condition 1. makes provisions for the state to use purchase of services to allow rapid conversion of capital from other purposes to the juvenile justice system. In this way, the system is not required to supply the full initial cost of capital for new services.<sup>53</sup> Thus, the agency can respond more quickly to sudden shifts in the size or composition of the population which the

<sup>53</sup>In effect, the private agency, through its endowment or debts, makes the commitment of capital investment. The state, then, through the purchase of services network, need pay only for the fraction of the capital costs associated with its use of the private agency's services.

agency serves and can bring temporarily into service facilities which the agency recognizes will not be needed permanently.

There are, of course, some dangers to using purchase of services for this purpose. Unless the agency purchasing services exercises caution, its power as a monopsonist may create a market for purchased services which rewards only a very narrow range of providers. Eastern State, for example, gave repeated indications that it considered "concept houses"—small, community-based group homes employing a positive "concept" aimed at improving the self-images of its participants—a preferred strategy. Rapidly, private services developed these concept houses and the result was a clear decrease in the diversity of services.

The quality as well as the range of services can be endangered by incautious use of the purchase of services system. There is evidence that the pressures of a monopsonistic market dominated by the juvenile justice service agency may, over the long run, drive out high quality providers of service. This tends to happen because lower-cost agencies, which may in fact provide less desirable services, appear, on the face of it, to be more efficient. In the absence of an effective monitoring and accountability system, it is difficult for the purchasing agency to ascertain the quality of services being provided. This is an especially critical problem since services offered by a wide range of providers are apt to vary more than those offered by a single state agency, and indeed may actually vary more in quality. Thus, there may be more potential inequities in the delivery of treatment and these may be quite difficult to detect.

In general, then, while very few contractors provide services which are inadequate and fewer still are engaged in attempts to defraud their clients, there does exist a risk that an unwary agency could be convinced to purchase services which are not necessary or are even harmful to the juveniles being served. Because private agencies are often represented by highly sophisticated professional personnel and offer technically complex services, they may have a great deal of power in the negotiating process. If purchase of services is to provide the benefits of diversity cited in Standard 2.3 D. 1., then it is critical that the purchasing agency have the procedures and the expertise to evaluate the range of services being purchased.

Condition 2. allows the agency to obtain services which are too specialized for it to provide in an economical manner through public facilities. In this way, the state takes advantage of the economies of scale obtained by the private sector by sharing the capital costs of specialized services with a larger clientele, including private clients of the service.



Condition 3., like condition 1., allows the state to use a service without making a permanent commitment to it. Here, the emphasis is not on diversity of services but on those experimental and demonstration programs which call for advanced and narrowly useful expertise, tied directly either to the process of innovation or the technology used by the program. Since such a program may well prove unsuccessful, it is to the advantage of the juvenile justice agencies not to make the permanent commitment to the resources which would be implied by setting up a new public program.

Purchase of services has a second advantage with regard to the experimental process. It allows a separation of the organization doing the innovation from that (i.e., the juvenile justice service agency) evaluating it. In this way, regional juvenile justice service agencies may obtain a more objective evaluation than were that separation not in effect. Because of the higher reliability and lower cost of innovation this system provides, the overall process of change in the juvenile justice system should be enhanced, since those funding the experiment or demonstration may have more assurance that their money is being used wisely.

**E. Facilities for secure detention or incarceration or intensive treatment should not generally be provided through the purchase of services system.**

### *Commentary*

The main reason to keep secure settings and intensive treatment out of the hands of the purchase of services system is that it is too difficult to assure the quality and consistency of services which perform these functions.<sup>54</sup> The need for intense monitoring is great in these services since the potential for abuse of juveniles is greatest; indeed, it is difficult to assure that monitoring is possible even when the state provides these services.

In terms of service quality, too, the advantages which the purchase of services system seems to have do not hold for these particular services. For example, diversity and experimentation are less valuable here than in other kinds of service. Indeed, they may even be danger-

<sup>54</sup> This is true for at least three reasons. First, secure and intensive care settings are closed, thus sharply reducing the number of people able to monitor them as private citizens. Second, the potential for harm is greater in more intensive programs. Third, they are not in any way community based—since they are physically isolated—and there is, therefore, no community of people who can act as a concerned client group.

ous as goals for these closed settings. A purchased service lockup in Eastern State provides an instance of this problem. Opened as an innovative alternative to the custodial incarceration institutions of the state, its staff has been charged repeatedly with behavior which is far more brutal than that in the old institutions, and its management has had to change under heavy pressure from the youth services agency on at least two occasions.

Moreover, it is not clear that even the best nonpublic agencies can provide high quality services for the most intractable clients of the juvenile justice system. Because of the market pressures on them, nonpublic agencies are prone to "cream-skim."<sup>55</sup> The danger, therefore, exists that were secure services provided on a purchase of services basis, the best nonpublic agencies would avoid these services in favor of more promising clients, leaving only the least successful to provide secure settings.

Similarly, community opposition to placement of facilities for the most dangerous (or the most "strange") of the juvenile justice service agency's clients often makes it very difficult for private and voluntary groups to obtain suitable sites for such facilities. In one Middle Atlantic state, for example, purchase of services contractors in a large city were encountering massive opposition to the placement of new homes for delinquent children.<sup>56</sup> A secondary effect of this situation is that many urban states of the Northeast have been purchasing treatment for their most disturbed and disruptive children from contractors located in remote rural areas of other states. The resulting service delivery system, when compared to state-provided secure facilities, may be more inequitable as well as less efficient.

Finally, just as the purchase of services may not ensure quality in the case of secure facilities, it also seems not to offer the economic advantages available in the case of open settings. In secure facilities both the population and the mode of treatment can be expected to remain stable long enough that the state can recover the capital it has invested.<sup>57</sup> Since personnel for state-run facilities of this type can readily be recruited and trained, the usually greater ability of the non-

<sup>55</sup> Rein, at 53-55.

<sup>56</sup> This problem was encountered, among other places, in Trenton, N.J. For a full account, see Barnardsville (N.J.) *Times*, February 28, 1974. A second example, in New York City, was reported by the *New York Post*, February 13, 1974.

<sup>57</sup> U.S. Law Enforcement Assistance Administration, *Sourcebook of Criminal Statistics-1974*, 140-41 (1975). The data in Tables 1.92 through 1.95 collectively indicate that these facilities have lower turnover rates, older physical plants, and closer compliance with projected capacities than do other kinds of juvenile institutions.

public sector to attract expertise is not as great an advantage as it is in other kinds of services.

F. The regional juvenile justice service agency (or other agency authorized to provide services) should conduct regular formal and informal evaluations of the quality of services being provided by non-public agencies.

### *Commentary*

The purchase of services system has acquired an image that it provides "honest results," in the words of one Southern State legislator. There seems to be some truth behind the image, since those services which have been evaluated have often proven to be more successful than more traditional modes of service provision.<sup>58</sup> This image, though, should not be permitted to lead the purchasing agency to neglect vigorous monitoring and evaluation (see the *Monitoring* volume concerning provision for public and private monitoring procedures).

Accountability is particularly difficult to maintain in the nonpublic sector. Monitoring a large number of small agencies, each with a different service to offer and a different approach to record keeping, is inherently more difficult than evaluating a system with but one provider of service and a narrow range of services. It is compounded, moreover, by the assumptions built up from the long-standing tradition of charitable immunity, which exempted charitable trusts from responsibility for dereliction of duty to clients.<sup>59</sup> Though it is possible to control charities in their provision of service, the assumptions carried forward from this history produce a system in which power appears to be dispersed to nongovernmental organizations without corresponding responsibility or effective state supervision. Without an aggressive monitoring and evaluation program, the process of planning is hindered by a lack of knowledge about the amount and quality of services available through private agencies. Clearly, since the regional juvenile justice agency is responsible for development of day-to-day planning for service delivery and for the formulation of annual budgets, it must understand the resources upon which it can

<sup>58</sup> A large literature to this point exists. Paul Lerman, "Evaluative Studies of Institutions for Delinquents: Implications for Research and Social Policy" 13 *Social Work* 55-64 (July 1968), offers a critical analysis of several of these studies.

<sup>59</sup> Gilbert and Specht, at 151.

draw, the quality of services it can expect, and the costs which it is likely to incur in meeting these responsibilities.

A comprehensive monitoring and evaluation process, then, is necessary both to avoid the appearance that the system is not being held responsible for the quality of its services and to give clear feedback to juvenile justice planners. To be effective, this monitoring and evaluation program must include not only formal accounting for funds and descriptions of programmatic content, but also process evaluation techniques. Unscheduled inspection visits, regular follow-up of children under the care of private agencies, and participant observation of agencies can all be used to provide clear feedback concerning the conditions which exist in the purchased services system.

Finally, this standard stresses that the evaluation process should be conducted not by a centralized agency such as the juveniles' services agency, but rather by the juvenile justice services agency. (External monitoring is also specified by Standard 1.3 A. of the *Monitoring* volume.) This requirement provides for feedback to go first to the agency responsible for the contractual relationship between the state and the nonpublic agency. Thus, it places the evaluations in the hands of those planners who are responsible for day-to-day operation of the system. Digests of the evaluation and monitoring reports, however, should be made available to all interested agencies, especially the juveniles' services agency, in order to encourage more informed planning and greater accountability at all levels of government.

**G. Standards for the purchase of services system should be developed by the juveniles' services agency and should be drawn from prior evaluation so as to control only those aspects of service provision found to be directly related to the success of the service offered.**

### *Commentary*

The principal intent of this standard is to provide a uniform, state-wide set of guidelines under which the purchase of services system is to operate. Without clear understanding of the nature and quality of services which are to be provided by the system, the monitoring procedures required in Standard 2.3 F. cannot be effective. Charitable agencies, moreover, are less likely to be willing to participate in the purchase of services system without having a clear notion of what is expected of them. The standard, however, also places restrictions on how these guidelines for purchased services should be developed so that they do not become a detriment rather than a protection to those involved in the purchase of services. In particular, it requires

that they be developed by the juveniles' services agency and that they be formulated so that they are directly related to the success of the service to be offered.

Since the region is charged with the responsibility for day-to-day planning and administration of juvenile justice services, the standards set by the juveniles' services agency should be constrained—consistent with equity and quality of services—by the need for maintaining maximum flexibility in decisionmaking at the regional level. Excessively rigid standards or standards not related to service quality could obviously detract from the quality of care available. In Eastern State, for example, the juveniles' services agency has caused serious difficulties for its regions (which directly provide services), by setting what appear to be arbitrary standards. Since many competent private agencies are unwilling to go through the complex process of meeting standards specifying such details as room layout, bed size, distance from the child's room to the nearest bathroom, etc., they refuse to offer their services to the state. In most cases, guidelines at so fine a level are neither necessary to the provision of services nor contributory to the flexibility which purchase of services offers.

**H. Providers of services through the purchase of services system should be reimbursed in a timely manner at a fair rate of compensation, as determined by negotiation with the juveniles' services agency.**

#### *Commentary*

The intent of this standard is to ensure that a wide range of charitable agencies participate in purchase of services and that even the smallest is not excluded because of lack of funds. Failure to establish a fair rate of pay by a brief, efficient process, for example, can seriously interfere with the delivery of services. In Eastern State, an especially complex set of processes for approving purchase of services contracts has been a serious inhibitor of innovation. At each step of this process, which requires approval by six agencies, services falling under a pre-existing category can be approved only after considerable delay. Those presenting a new approach have more serious problems. They must be negotiated individually, a process which, when accumulated over the series of six decisionmaking stages, can cause a delay of more than a year from the original agreement between the regional youth service agency and the contractor.

Because of its importance to the functioning of the purchase of services system, the responsibility for establishing a fair rate of ser-

vices offered by a nonpublic agency must be placed in the hands of the central administrative organization of the juvenile justice system. To decentralize would cause unevenness in rates; to involve other agencies would cause undue delay. In making rate setting decisions, however, the juveniles' services agency should adopt a policy of involving those planners from the region who are seeking to make a contract with the provider, both to facilitate the process of negotiation and to ensure that the region which must contract for the service agrees to the rate established.

Finally, timely payment of contractors is a basic necessity of the purchase of services system, but not all states appear to be prompt in making their payments. In one state, it is generally acknowledged that contractors must be ready to wait as much as two years before receiving funds. Since many of the participants in the purchase of services system are not financially stable in the first place, the delays now encountered greatly interfere with effective service delivery.

**I. At least 25 percent of purchase of services funding should be allocated to provide capital for formation of new agencies or new facilities created by existing agencies.**

### *Commentary*

Even with adequate funding and prompt payment, the purchase of services system can tend to promote an oligopolistic service provision market.<sup>60</sup> This tends to happen both because the larger agencies are more financially able to underwrite the capital needs of juvenile services and because purchasing agencies can more easily negotiate if they work closely with a few agencies. Thus, personnel in the purchasing agencies may have strong incentives to eliminate smaller providers of services from their contracting processes.

While it might seem that a larger-scale service provides the same services as a smaller agency but for less money, it should be observed that the economies of scale to be had in this kind of service provision are often minimal and readily offset by the high cost of management and coordination needed by a larger organization. Moreover, purchase of services is proposed particularly to make use of its special advantage in providing diverse and specialized services. An oligopolistic market, however, tends to reduce diversity greatly because participants tend toward a common, generally conservative strategy which cannot consider the quality of services to be offered.

<sup>60</sup>That is, a market in which only a few vendors offer services.

A 25 percent reserve dedicated to providing capital for new entrants to the purchase of services system, therefore, could offer a countervailing force to this tendency toward concentration of the market.<sup>61</sup> While the average cost of service may be raised somewhat by this provision, the benefits in terms of more diverse and creative service options would seem to more than compensate for the higher costs.

#### 2.4 Local juvenile justice boards.

A. State legislatures should provide for local juvenile justice boards in all cities and counties of each state.

##### *Commentary*

This standard provides a final organizational element in a process of decentralizing some aspects of juvenile justice services and planning. Standards 2.1 through 2.3 provide for a statewide juvenile justice system with centralized but open overall policy formation, regionalized responsibility for day-to-day planning and decisionmaking, and a diverse and decentralized organization for delivering services. This standard completes this juvenile justice system with boards at the local level which provide for participation by those most concerned with the consequences of the juvenile justice system.

The decision to design the local juvenile justice agency primarily as a representative board, rather than as a further geographical decentralization of the regional agency, reflects the emphasis this standard places on the *political* decentralization of the local board. While Standard 2.4 B. provides for operating and monitoring responsibility for the local board, the most critical functions served by the local board are bringing a measure of community participation to juvenile justice and attempting to build at the local level a constituency for change in the juvenile justice system.

#### B. Local juvenile justice boards should perform three functions:

1. monitoring agencies of the purchase of services network located in their geographical areas;
2. supervising or operating juvenile justice services provided at the subregional level;
3. initiating and reviewing proposals for revision of the system of service provision in their areas.

<sup>61</sup> This strategy was apparently used successfully in the Trenton, N.J., area. See Barnardsville *Times*, Feb. 28, 1974.

### *Commentary*

The local board is the most politically decentralized element of the juvenile justice system. It is, therefore, in theory the most accessible to the communities and individuals affected by the services provided to juveniles and is accordingly best situated to act as the principal internal monitoring agency. In particular, this standard is intended to give the local board and its staff the responsibility of observing the facilities of agencies providing services within the juvenile justice system, whether they are public or a part of the purchase of services network. Through this monitoring function, the local board should be able to provide informed advice to the regional juvenile justice agency concerning the quality of services being provided and any evident gaps in the kinds of services available.

In addition to its value as a monitoring device, the local board also gives an opportunity for direct local involvement with some community-based post-adjudicatory services. By placing these services directly in the hands of the local board, this standard is intended to make these services as much an object of local involvement and community participation as is possible.

Finally, this standard gives the local board power to initiate and review proposals for change in the juvenile justice services system early in the planning process. Since the local boards are, for the purpose of planning, the most effective agencies for directly involving those who are concerned with juvenile justice services, this standard provides them a clear role in the planning process, either as respondents to other agencies' proposals or as initiators of their own programs. While the effectiveness of these local boards in influencing the outcome of the overall state planning process depends, to a great extent, on the openness of the central and regional agencies to the initiatives and priorities of the community, they still appear to be the best opportunity to obtain any meaningful level of citizen involvement in juvenile justice planning. In Eastern State, for example, the attempts to secure local community participation in the planning process of its children's agency appear to be effective. Local community boards there have often been able to give central planners a clear agenda for program development which emphasizes local priorities, and have in several instances been responsible for promoting or rejecting specific programs.

C. Local juvenile justice boards should be composed of persons located within the geographical areas of the boards and who are concerned with or affected by the juvenile justice system but not employed by agencies involved in the provision of juvenile justice ser-



vices. Guidelines established by the juveniles' services agency should ensure adequate representation of those communities and groups most directly affected, and an open and equitable process for selecting members.

### *Commentary*

It is the intent of this standard to establish an effective community involvement mechanism at the most local level. The greatest difficulty in this process is to locate and identify a client or community from which to draw representation. Unlike many kinds of social service delivery systems, juvenile justice agencies have no obvious community of users who can act as an effective constituency for the presentation of the user's perspective. As a result, a mechanism must be created to generate and organize a body capable of providing that input to the planning and administration of the juvenile justice system.

The process for selecting membership to the local boards deliberately has been left to the discretion of the state juveniles' services agency, subject to the condition that an equitable process of selecting membership is mandated. This seems the best route, since there are several very complex issues surrounding the selection of board members, the most salient of which include the following: whether membership should be by election, appointment (and if so, by whom appointment should be made), or self-selection through voluntary participation; whether membership should include service providers as well as community representatives; what role local public officials should play; and how to insure adequate representation of minorities and groups with special interests.

The first issue—the overall mechanism by which members should be selected—is probably the most crucial to the effectiveness of the local board in bringing community participation to the planning process in juvenile justice. Without a selection process which has ensured a fair opportunity for those concerned with the juvenile justice process to participate, the legitimacy and thus the effectiveness of the local boards could be seriously questioned. Of the alternatives for selection, general election of representatives to the board has been probably most widely used. The experience of the OEO-CAP elections, Model City elections, and other attempts to create elected boards for special-purpose local government bodies, however, has been particularly discouraging.<sup>62</sup> Many fewer people participate in

<sup>62</sup> Daniel P. Moynihan, *Maximum Feasible Misunderstanding* 128 ff. (1970). (Hereinafter cited as Moynihan.)

these elections than in elections for general purpose local government officials, often falling to two or three percent of the eligible voters.<sup>63</sup> As a result, the representation process is often biased toward highly organized small groups with nonrepresentative priorities for the system.

Appointment by local officials is a second approach often employed for representative boards. While this policy is probably more efficient and can insure a close connection with the municipal or county general government, the board's independence and representativeness is apt to be less than with a more open elective process.

An approach used by Eastern State, apparently with some success, is the formation of a voluntary membership organization with formal ties to the most decentralized element of the state's children's agency. From the membership of this organization, an executive board is elected in annual open meetings. This approach appears to be somewhat less susceptible to inundation by small special interests, it retains greater independence from organs of local government without excluding its officials from the organization, and with appropriate guidelines, it can offer representation to diverse interests. It is also less expensive than other approaches and does not tend to create a new formal level of government.

Whatever mode of selection is chosen, the intent of this standard is not to provide a new, competing local board in the same geographical area as other neighborhood governments or general human services representative boards. In those areas in which neighborhood government, citizen participation boards, or other approaches to grass roots involvement in government are in existence, the intent of local juvenile justice boards could, in fact, be served by such an organization if it conforms to the guidelines proposed in this standard.

Finally, this standard places three specific restrictions on the composition of local juvenile justice boards: employees of service providers are excluded; the process of selection must be open; and representation must be adequate. Exclusion of service providers is based on the belief that an organization—in this case, the local board—responsible for monitoring the performance of other organizations must be administratively separate from those it is monitoring. Certainly, the credibility of the local boards depends in part on maintaining this kind of independence from the other agencies of the juvenile justice system. On the other hand, it may not seem harmful for officials of local, general-purpose government to participate, though the function of the local board to act as a device for citizen

<sup>63</sup> See, for example, Moynihan, at 137.

input to the planning process might, in fact, be better served if local officials were not made members of the board *ex officio*.

Representation of minorities and special interests can be accomplished in several ways—by prespecification of proportional composition of an appointed board, by district rather than at-large election, or by open participation. Publicizing and holding open meetings at times and places convenient to all constituent groups, of course, permits the broadest participation, including minority interests of all kinds. The precise way in which these groups are included should depend upon the composition of the juveniles treated by the juvenile justice system and on the general strategy for selecting board members. Special efforts should be made to include local parents and juveniles in the planning process as representatives of client or community interests.

**D. Local juvenile justice boards should be provided an executive director and adequate budget for the accomplishment of their responsibilities. Funds for these purposes should be allocated by the state legislature as a portion of the planning budget of the juvenile justice system.**

### *Commentary*

The local board, though it concentrates on activities which may be geographically related to a municipality or county, constitutes an important element in the planning process of the state juvenile justice system. As the main vehicle for citizen involvement and for feedback of information to the central and regional planning processes, the local board is critical to the process by which the juvenile justice planning takes place.

As a result of the central place of the local board in the planning process, it is also critical that the local boards be available throughout the state, but it is unlikely that full cooperation and adequate funding can be obtained from each city and county. It is necessary, then, that the state take full responsibility for the support of this function.

## **PART III: FUNCTIONS OF THE JUVENILE JUSTICE PLANNER**

The central function of the planner is to provide a rational approach to reform; yet formally mandated juvenile justice planning, as it presently exists, appears not to exert any major leverage for change.

In particular, planners for juvenile justice agencies have been unable to bring about a more coherent juvenile justice system. This lack of impact, while it is caused in part by the isolation of planners, can also be traced to the mode planners have chosen or have been constrained to employ—generating long-range plans for system maintenance at best, and often merely monitoring and gathering data about the existing operations of their agencies.

This part establishes new modes of planning, designed to respond more effectively to the condition of the juvenile justice system. These new modes place more emphasis on building a basic structure for a change-oriented planning process. Their focus is on creating the elements of a system which are now, by their absence, leaving the juvenile justice agencies fragmented and in conflict. They have been selected, too, to encourage the continuation of planning which is directed toward the more traditional function of maintaining and improving the existing agencies.

The modes presented in this part also reflect the planning profession's new conceptions of its techniques. They are intended to avoid some of the rigidities and inefficiencies produced by the techniques of planning currently employed in juvenile justice.

If successful, these modes of planning should be self-modifying, so that as an effective planning organization emerges, juvenile justice planners would alter the way they perform the functions proposed in these standards. Indeed, this part of the standards is organized in very general terms to insure its continued usefulness despite the change in planning techniques which its implementation will produce.

### 3.1 Definitions of planning modes.

A. Agency planning should be defined as the process of planning the allocation of resources within an agency and the monitoring of its performance to aid innovation of methods of accomplishing the mandate of the agency. It is the overall planning process primarily concerned with maintaining the continued organizational effectiveness of the agency and the process by which the agency alters its mode of operation to adapt to changes in its environment.

B. Advocacy planning should be defined as the process of building a constituency for juvenile justice and promoting the shared interests of that constituency in funding, programmatic, and other decisions affecting juvenile justice. As such, it is largely directed outward, focusing on the process of consciously pursuing the interests of juveniles with regard to services.

C. Program planning should be defined as the application of the planning process to innovation of approaches to juvenile justice.

It is a process cutting across agency and interest group constituencies and responsibilities and is not directed toward the maintenance of any particular organization.

### 3.2 Agency planning.

A. Agency planning should be employed by all juveniles' services agencies, regional planning units, and local boards, though it will be the dominant mode of planning only in the juveniles' services agency.

#### *Commentary*

This standard, by mandating all elements of the planning system to employ agency planning, is intended to establish this mode as the most central to effective planning in the juvenile justice system. When performed by the juveniles' services agency, it can constitute the "overall planning" referred to in Standard 9.3 of the *Corrections Administration* volume. In accord with this central, overall planning, however, each of the other elements of the system must also conduct agency planning, both because it is necessary if they are to perform their respective functions properly and because the juveniles' services agency will require the information and policy preferences provided by decentralized elements of the system in order to accomplish its overall planning.

The experiences of the four states underscore the importance of this standard. At present, those states share severe limitations in the information available concerning the intentions or even the current status of any of the organizations in juvenile justice, and they also all lack a network of communication among agency planners by which such information could be exchanged. This dearth of information can be quite costly. In Eastern State, for example, the lack of sound cost projections during the deinstitutionalization of its youth service agency resulted in a budget deficit of more than \$10 million and severe disruption of the functioning of several other agencies of the juvenile justice and children's services system. A system of agency planning such as that proposed here could have at least forewarned the agency director of the impending deficit and might have permitted corrective steps to be taken before a serious problem arose.

Implementation of this standard throughout a juvenile justice system does not, it should be emphasized, necessarily imply a large, professional planning staff in each organization. Nor is it intended that it will act to reduce political involvement in the process of decisionmaking in the juvenile justice system (nor, indeed, is it likely to do so). In regional juvenile justice service agencies and local juvenile justice

boards, planning should probably be regarded as an inherent part of the responsibility of the agency director. What is critical is that, as a part of the operating routine of the agency, someone systematically undertakes continuous evaluation of the performance of the organization, an assessment of the resource needs, and a statement of its goals. The purpose of this process should be to act as a mechanism for integrating a careful assessment of the agency's situation into the political process of decisionmaking about the agency.

**B. Agency planning should be recognized as inherently designed to reconcile the need for agency stability with the need for constant change and should be employed only as a part of a broader planning network.**

### *Commentary*

The intent of this standard is to insure that the planning system in juvenile justice is balanced between processes which reinforce and maintain existing agencies and those which foster change. The agency planning process, which is the predominant mode of planning in the juvenile justice system at the present time, is strongly oriented toward the efficient operation of the present system. Without a balancing influence from other modes of planning, agency planning can become a dead hand on the process of change.

The four states, to a degree, illustrate the implications of an unbalanced agency planning mode. In each instance, despite the fact that the states were selected as leading examples of change, the agencies formally mandated to produce that change were either largely ineffectual or, in some cases, actually opposed to change. Reform and innovation, then, arose in the four states largely from sources outside the formally mandated planning system. This standard is offered as a mechanism to prevent the planning process from becoming too concerned with conserving the existing set of arrangements in the juvenile justice system.

To eliminate agency planning on the grounds that it acts as a barrier to change, however, would be as faulty as to rely upon it as the only mode of planning for juvenile justice. Without the information generated by the agency planning process, reform efforts would be forced to choose between bold and imaginative but unfounded innovation or costly research which might tend to stultify the initiative of reformers. Moreover, in the absence of a well-thought-out plan for the maintenance of the existing system and its interrelationships, reformers would lack realistic and challenging alternatives against

which to test their proposals. Agency planning and the other two modes are each mutually benefitted by their interaction in a balanced system of planning.

**C. Agency planning should be organized to elicit continuous response from service providers and clients and should modify its goals, allocation decisions, and programs in such ways as to ensure the highest quality of services.**

### *Commentary*

This standard is intended to prevent the planning process from becoming isolated or rigid in the face of rapid change in the needs of the clients of the juvenile justice system and the conditions faced by its service providers. Because juvenile justice has such a nebulous clientele and so limited a public constituency, it is very important that those who plan for the efficient use of agency resources and the development of adequate facilities and services do not become isolated from the services for which they are planning. In particular, the overall planning for the system that takes place in the juveniles' services agency must be kept in contact with the reality experienced by the regional and local agencies and their clients. Otherwise, the planners in the centralized agency may come to see their long-range plans as the end of their efforts, rather than as a vehicle for improving services.

While all four states studied exhibited evidence that communications had broken down between central planners and remote operating agencies, Eastern State, despite its comparatively high degree of centralization, had more difficulty with this problem than the others. Two examples will serve to illustrate the importance of close feedback in the planning process. In the early days of the deinstitutionalization of Eastern State's system, the central planning staff of the youth services agency concentrated so exclusively on the process of closing the existing secure facilities of the state that they neglected strong indications from others (particularly juvenile court judges) who had direct contact with the clients of the system that, for at least a small number of juveniles, there was a continuing need for secure placements. The failure to note this feedback resulted in several juveniles being transferred to adult jurisdiction and incarcerated in the State's maximum security prison—a consequence that was clearly contrary to the initial intent of the reformers.

A second example, mentioned elsewhere in these commentaries, involved the process of deinstitutionalization in another way. The director of the youth services agency, in closing the secure facilities,

had assumed that the bulk of former employees would seek transfers to other kinds of jobs in the state civil service, rather than attempt to hold on to their now atavistic positions. Failure to seek or respond to indications that this assumption was faulty caused the agency to suffer a budget deficit of more than \$10 million.

While it is not clear that, in these instances, conflict could have been avoided by a modified approach to planned change, it does seem clear that at least some reduction in conflict could have been achieved, and in any event, the costs to the planning organization could have been reduced and the quality and efficiency of services for juveniles could have been increased by responding to altered conditions. It is to encourage such corrective action that this standard is proposed.

D. Agency planning should be visible and accessible to those who are not mandated to participate. All documents generated by the agency planning process should be available to the public. All meetings at which the formulation or modification of announced plans of the agency are to be discussed should be announced and open to the public. Agency staff and representatives of recognizable interest groups should be informed of plans and of meetings in which plans are to be discussed.

#### *Commentary*

This standard is offered neither in the naive hope that citizen participation will necessarily follow from procedural openness nor with the notion that major efforts for innovation will easily be accomplished through the agency planning process. Rather, an open process seems an effective mechanism for emphasizing the public responsibilities of the agencies of juvenile justice and for calling attention to the issues and problems they face. At the same time, the decisionmaking processes of these agencies, if made more open, should improve the quality of debate between advocates of conflicting policies and ideologies, and at least begin to surface the conflicts which must inevitably be resolved before any policies can be implemented. In more sophisticated agencies, it is possible that direct interaction between the agency planners and those who are part of their political environment will take place earlier than usual, before a formally recognized plan emerges. In general, this standard has the intent of producing policies about juvenile justice which are more realistic and more reflective of the diverse needs of the system than are those conceived in virtual isolation by agencies.

E. The agency planning process should be closely linked to the



principal operating decisionmakers of the agency, especially those responsible for the following areas of policy determination: budget development, personnel selection and training, operating policy selection, and legislative liaison.

*Commentary*

Since the main purpose of agency planning is the allocation of resources within the agency, it is critical that planners do not become isolated from the operating decisionmakers of the agency and therefore unable to make informed projections about the future priorities and needs of the agency. To a large extent, the process of planning and the day-to-day administration of the agency should be self-consciously linked, involving not only those who regard themselves as planners in a formally mandated sense, but also those whose responsibilities are defined in terms of their relationships to the day-to-day running of the agency.

It is intended that the linking of planning to other managerial processes of the agency—while admittedly requiring many difficult changes in the behavior of both planners and agency managers—accomplish several things at once. First, it should help encourage a constituency for change in the agency by involving in the planning process managers of the system and thus, if the process is well designed, demonstrating its usefulness to the agency. Second, by providing further encouragement to agencies to consider their priorities and needs more systematically, this standard should help correct the existing lack of sound programmatic data. For example, tying the budgeting and planning activities may offer a strong impetus for agencies to adopt program budgets, which have proven to be critical to the ability of agencies to monitor their own performance.<sup>64</sup> Likewise, better personnel information can be expected from linking planning activities and the programs of hiring and training personnel employed by the agencies. Finally, if managers can be brought into the change process as participants, they may be less likely to regard stability as the overriding goal of the agency.<sup>65</sup> Generally, then, linking planning and agency operation should not only result in improved planning but also in an overall increase in the quality of information and decisionmaking in the agency as a whole.

<sup>64</sup> See A. Schick, "The Road to PPB: The Stages of Budget Reform," *Planning-Programming-Budgeting* 15 ff. (2nd ed., Fremont Lyden and Ernest Miller eds. 1972).

<sup>65</sup> Schon, at 197 ff.

**F. Agency planning should be limited to decisions which clearly fall within the agency's power to implement.**

*Commentary*

The major failing of the formal planning agencies in the four states studied by the reporters is that they consistently formed plans for reform which encompassed functions performed well beyond the boundaries of their agency. For example, the youth service agency in Western State made a master plan for the treatment of all neglected, abused, and abandoned children, all PINS and all adjudicated delinquents, despite the fact that the agency had control of less than one-half of one percent of the total population for which they presumed to plan. Despite considerable effort put into the plan, and the promulgation of standards and guidelines for the agencies actually treating the children, no significant change occurred. The central problem was that while these policies might influence operating agencies, the youth service agency simply did not have authority to enforce—rather than merely influence—change.

A similar instance of this problem was observed in Eastern State, when the youth service agency sought to implement a total deinstitutionalization of the juvenile justice system, eliminating not only the locked facilities which it controlled, but also circumventing the post-Gault courts of the state. Though deinstitutionalization was temporarily achieved, the youth service agency had no mechanism for changing the policies of the courts. The result was that an abiding bitterness developed between the agency and the juvenile courts and went far to undermine even the reforms accomplished within the agency.

Implicitly, restricting this mode to decisions that the agency doing the planning can itself implement focuses agency planning on allocative and administrative decisions and seems to discourage more ambitious activities. In a more organized system, this focus might be viewed as a severe impediment to attempts at innovation. In the present circumstances of most juvenile justice systems, however, efforts at reform are frustrated more by failure to carry out agency planning even in the limited way it is defined here than by lack of vision or ambition. At the very least, a more focused agency planning process can be expected to improve the coherence and possibly the efficiency of juvenile justice programs and at this point in the development of juvenile justice planning these are the critical needs.

**G. Planners responsible for agency planning should have direct ac-**

cess to all data generated within the agency, subject to safeguards necessary to protect the privacy of individual juveniles.

### *Commentary*

It may be difficult to believe that this standard is needed. It is, however, true that in several of the agencies in the states we studied, planners were severely hampered by their lack of access to such basic data as detailed budget information, personnel assignments, and case status and flow reports. On occasion, this phenomenon seems to have been linked to the isolation of planners from other decisionmakers; in other instances, information necessary to the planning process was simply not kept by the agency in any regular and systematic way.

Implementation of this standard will require both a clear mandate for planners to have access to agency data, and in most instances a more effective information-gathering and reporting routine for the agency as a whole. Since these standards recommend that decisionmakers be more directly involved in the planning process, it should be relatively easy for planners and other agency personnel to develop procedures for accumulating and making accessible a suitable data base. It should be the responsibility of agency directors (with legislative encouragement or mandate, if required) to initiate and enforce the process of making data available for internal planning purposes.

### 3.3 Advocacy planning.

A. Advocacy planning should be incorporated into the planning responsibilities of juveniles' services agencies, regional planning units, and local juvenile justice boards, as a legitimate but informal element of the overall planning process.

### *Commentary*

Advocacy planning has traditionally been viewed as the process by which the interests of minority and other underrepresented groups can be represented in a planning process.<sup>66</sup> The advocate planner works, in this definition, in the same way as would a lawyer, presenting a case to the mandated planning agency or other authority and attempting to insure that it is heard fairly. This term has been adapted in these standards and is used somewhat differently to describe a critical kind of planning activity which needs to take place in

<sup>66</sup> For a traditional definition of advocacy planning, see P. Davidoff, "Advocacy and Social Concern in Planning," XXXI *Journal of the American Institute of Planners* 331-37 (1965), or L. Peattie, "Reflections on Advocacy Planning," XXIV *Journal of the American Institute of Planners* (March 1968).

the juvenile justice system. At this stage, it is clear that the interests of children require strong representation if juvenile justice is ever to have a constituency and thus, that they need an advocate. In this formulation, however, advocacy is being accomplished not only by an advocate planner external to the juvenile justice system, but also by those people who are *legitimized* to share the responsibility for juvenile justice planning in general.

The necessity of making advocacy planning a legitimate part of the overall planning process stems from the high priority of developing organized constituencies for change in the juvenile justice system. Without effective lobbying, litigative, experimental, and organizing activities, the juvenile justice system could continue to be invisible to major centers of public power. If the chief executives and legislators of the jurisdictions which provide juvenile justice services continue to disregard juvenile justice as an important political issue, other efforts toward planning to improve the system could be permanently frustrated.

Several advocacy planning efforts of the type proposed here have been successful, both in the states studied for this volume and in several other jurisdictions. Their tactics and constituencies are widely varied, but each is self-consciously attempting to make the needs of the juvenile justice system a visible political issue. In Eastern State, for example, major proponents of reform in the juvenile justice system formed a coalition with other child advocates to act as a unified advocacy organization during state legislative campaigns and during state budget hearings. The resulting coalition pressed major political parties very effectively for a strong pro-children platform and, in budget hearings, advocated increased resources for services to children.

In several states, including both Eastern and Western States, reform-oriented lawyers and social scientists have formed nonprofit organizations which press for specific reforms relating to children. They have conducted demonstration projects (under federal or private foundation funding and with cooperation of juvenile justice agencies) to prove the effectiveness of a series of strategies and programs they regard as having high leverage for change. Other groups have employed tactics ranging from court-watching to sit-ins and have gained considerable visibility and public interest. The efficacy of these kinds of efforts has not been adequately tested, but the results appear promising despite the fact that the advocates lack a formally mandated base and have often been neglected or underestimated.

Because these efforts are not as yet well evaluated and because the nature of advocacy planning is such that it is impossible to prespecify its detail to any significant degree, this standard includes advocacy

planning—as it is defined here—as an *informal* part of the planning process. In particular, the tactics used by advocacy planners to produce a constituency for change may depend extensively on the nature of the political processes of a jurisdiction and on the problems which the planner must address. Further, to specify advocacy as a separate element of planning would have the tendency to isolate it from the other processes of planning, a situation which would tend not only to give it undue emphasis, but more important, probably render it ineffective. For these reasons, then, the standard recommends that advocacy planning be an informal activity of planners and others concerned with change in the juvenile justice system, interwoven with their more formal planning responsibilities. In its simplest form, it calls the planners' attention to their constant need to be brokers and negotiators for juvenile justice as well as to engage in activities more traditionally associated with planning.

**B. The task of advocacy planning should be divided among juvenile justice agencies according to the following criteria:**

**1. the juveniles' services agency should have primary responsibility for constituency building with the governor, legislature, and other state agencies;**

**2. regional planning units should maintain day-to-day contact with direct service providers and other service agencies closely related to juvenile justice;**

**3. local juvenile justice boards should regard it as their primary mandate to create support for juveniles' services through direct contact with citizens and with other juvenile advocacy groups.**

### *Commentary*

This standard allocates the tasks implied by the definition and purpose of advocacy planning set out in Standard 3.3 A. among the agencies of the juvenile justice system on the basis of their comparative advantages in performing particular forms of advocacy. Two factors are dominant in selecting particular tasks for each kind of agency: geographical proximity to potential constituencies for juvenile justice, and the extent to which more formal planning modes are apt to consume the agency's time and resources.

On the basis of these principles, then, the juveniles' services agency is allocated principal responsibility for dealing with other elements of the central state government. This particular task of advocacy appears to fit well with the extensive agency planning assigned to this organization. In effect, it becomes primarily an advocate for its clients' in-

terests within the statewide allocative processes and thus closely merges its advocacy and agency planning activities.

The regional juvenile justice service agencies, on the other hand, are less deeply involved with the agency planning process and more concerned with the daily decisions about individual juveniles and direct negotiations with the service providers in the purchase of services system. This regular contact affords the regional agencies an exceptional opportunity to develop a constituency for improved juvenile justice services among the providers of those services and to provide that constituency with an accurate picture of the needs of the clients of the system. By building a self-conscious constituency at the regional level, too, these agencies can contribute to the efficiency of the whole system for example, by facilitating coordination among service providers on the basis of mutually perceived advantages to be obtained. Evidence generally appears to suggest that this approach is more effective than coordination by centrally planned mandate.<sup>67</sup> Finally, by stimulating the development of regional constituencies (rather than a single state-wide constituency) for juvenile justice, these agencies will provide the means for introducing the diversity of regional interests into the debate about the allocation of resources for juvenile justice.

The local boards bear the principal responsibility for constituency building through advocacy planning in the juvenile justice system. While both the juveniles' services agency and the regional juvenile justice service agencies have critical roles to fill with regard to governmental and private agencies, the local boards are the main vehicle for contact between the juvenile justice system and its clients—both the juveniles who are brought into the system and the communities which act as the system's long-range clients. For this reason, they are uniquely capable of building an informed and concerned constituency among those most directly affected by the operation of the juvenile justice system. This constituency is vital to the system because only if effective client-oriented advocacy is generated can there be a check against the power of the agencies providing services and critical analysis of the condition of services in the juvenile justice system. The necessity of this advocacy can be seen in the fact that, in most states which have accomplished partial deinstitutionalization, the main thrust for change has come from organizations of private citizens who have become involved in issues related to the quality of juvenile services and thus provided a political base from which legislators could work.<sup>68</sup>

<sup>67</sup> Rein, at 41.

<sup>68</sup> See, for example, Yitzhak Bakal, "Closing Massachusetts' Institutions: A Case Study," in Bakal, at 155-56.

### 3.4 Program planning.

A. Program planning should be the responsibility of the juveniles' services agency and should be accomplished through the establishment of temporary task forces, special project teams, or commissions composed of officials and private citizens representative of those most immediately concerned with a programmatic issue under study.

#### *Commentary*

Program planning is the process of addressing a commonly recognized issue in juvenile justice which by nature must involve a variety of agencies or interests and therefore cannot be addressed by any single agency. It is problem-focused and should be employed periodically in a juvenile justice system in response to the emergence of clearly defined problems. Clearly, the scope of a program planning process is defined by the problem or program being addressed. For example, a rising juvenile offense rate, recognition of the deterioration of a particular facility, passage of reform legislation (such as a PINS law), or controversy over development of a new treatment mode might be suitable topics for program planning.

Program planning must not be viewed as a luxury but as a necessary adjunct to agency and advocacy planning, since it takes into account the fact that these processes will necessarily consume the efforts of existing agencies and that they must usually displace research and innovation. It also responds to the fact that many problems crosscut the scope of juveniles' services agencies, regional planning units or local boards and thus, that they would be considered by none of these groups because of the scale of the issues and the expense involved in devoting resources to them.

The necessity of establishing program planning as a formal part of the planning process is demonstrated in the four states studied. In those states task force and executive or legislative commissions appear to have been the most effective strategy employed in dealing with issues that were system-wide, though well defined. For example, Western State introduced its innovative probation subsidy program as a direct result of a task force set up to consider ways of reducing commitments to state-run correctional facilities, which had become severely overcrowded. The recommendations of this task force were accepted by the legislature and implemented rapidly. Eastern State's legislature employed a commission to investigate the conditions in its youth service agency. As a result of its efforts, major changes were legislated in the structure of the agency, thus giving its director the power necessary to set massive reforms in motion. In Southern State, a select gubernatorial commission conducted a study of that state's

court and juvenile correction system, and the extensive recommendations they made were incorporated into an overall restructuring of the executive branch of that state. Finally, in Border State, the entire structure of social services was organized to provide generic services, at least in part because of the recommendations of a gubernatorial panel. The consistency with which these panels, commissions, and task forces succeed in facilitating innovation in juvenile justice suggests that they must be considered a major vehicle for planning in the juvenile justice system.

The success of the task force approach can perhaps be partly explained by examining the mechanism by which it works. By bringing together decisionmakers from a wide range of agencies affected by a condition which they all (or mostly all) recognize as a problem, this approach tends to create ideas in good currency—i.e., the prevalent set of ideas and relationships commonly understood to be among things “everyone considers important”—though in a number of different ways.<sup>69</sup> First, by the very act of establishing a commission, the convening authority establishes the topic of the commission as an important problem worthy of general recognition as such. Second, by appointing members of the commission, the convener conveys to them a measure of prestige, especially by establishing them as experts in the subject matter which is the topic of the commission.

The commissioners’ negotiations, too, are important aspects of the commission’s effectiveness as a device for change.<sup>70</sup> First, the members of the commission meet and must negotiate at least somewhat civilly—and as peers—with a number of others who have similarly been designated as experts. As a result, each commission member necessarily must alter at least marginally his or her perceptions of the problem and of those with whom he or she disagrees. To the extent that influential people are included as members of the task force, their altered perceptions, too, will in part be transmitted back to their constituency groups or agencies. Any networks of informal communication and negotiation that are set up in the processes of commission politics may endure after the commission has completed its work. Second, a solution (or set of solutions) has been adopted on a generally consensual basis, and the agencies and constituencies represented in the commission have a joint stake in the adoption of the outcome, so that a constituency for the change may be generated by the process itself. Finally, a report and supporting documents are made publicly available, providing a rationale for the commission’s decision and afford-

<sup>69</sup> D. Bell, “Comment: Government by Commission,” 3 *The Public Interest* 7 (Spring 1966).

<sup>70</sup> Bell, at 7.



ing a new official explanation of the reality surrounding the topic of the commission.

**B. Programmatic issues to be studied and developed by task forces or special commissions should generally be proposed by the juveniles' services agency, while the task force or commission itself should be appointed at the legislative, state executive, or federal level.**

*Commentary*

Of all the formally mandated planning agencies for juvenile justice, the juveniles' services agency, primarily because of its scope, has the greatest opportunity to define system-wide issues. Feedback from regional planning agencies and local boards, combined with its own data system should provide the agency with enough information to detect new pressures on the juvenile justice system, changes in the problems with which it must deal, and areas in which existing services appear to be inadequate. Certainly most juveniles' services agencies would not have resources or legitimacy to examine all these issues. But they can sort out those which seem to demand special expertise and propose the creation of task forces or special commissions to do research and make recommendations.

The idea that an executive or legislative body with direct authority in the topic area—rather than the juveniles' services agency—should actually appoint the commission or task force stems from recognition that, despite the potential strength of the commission to alter the official ideas about a problem in good currency, the need to get new policies implemented remains critical. It is probably true that the fewer the steps removing the commission from those with power to implement its recommendations, the better the chances are that programmatic solutions to problems will emerge and that there will be official action by the agency to incorporate these ideas.

**C. The specific agency and level of government which appoints program planners and to which the planners report should be determined by the specific programmatic issues to be addressed. The enabling body should have authority to generate and implement policy concerning the issues the program planners will examine.**

*Commentary*

The single major drawback to prior task force and commission activity has been that these groups have often been employed at too large a scale and with too broad a focus. United States presidential

commissions and task forces, for example, while providing definitive public statements on broad areas of public concern, have frequently produced very little substantive change in accord with their recommendations.<sup>71</sup> In the case of the President's Crime Commission, it is possible to demonstrate that one factor which prevented more widespread implementation of its recommendations was the scope of the commission's concerns. Because the Crime Commission attempted to develop public policy about the entire range of juvenile and criminal justice problems in the United States, many of its policies were necessarily too sweeping to be adopted. While their analysis apparently drew national attention to the social and psychological causes of crime, in order to satisfy the majority of commission members, the policies they drew from these theories of crime were necessarily overly broad and often internally contradictory. Thus, as vehicles legitimating new perspectives on a problem, broad-focused commissions are probably a useful device, but as agents of predictable institutional innovation, they are too broad and tend toward excessively diffuse and impractical recommendations.

The Crime Commission further illustrates the necessity of close connection between the convening authority's level of government and that of the agency responsible for implementing solutions to the problem which the task force or commission addresses. The Task Force on the Police, for example, adopted thirty-five recommendations, not one of which could be implemented by the federal government, nor for that matter in most instances, by the states. Understandably, since municipal police departments are in fact far removed from the authority of the President, who appointed the task force (and was therefore at least rhetorically committed to its conclusions), few of its recommendations have been widely implemented by the police.

**D. Program planning should be employed as the principal vehicle for *centrally* proposed innovation in the juvenile justice system. Fiscal incentives should be available to local boards and private groups to conduct their own periodic studies and experiments.**

### *Commentary*

The process of program planning outlined above should provide an efficient mechanism for making innovation in juvenile justice possible, in such a way that those most closely concerned with a problem are likely to take action. Further, it does allow agency and constitu-

<sup>71</sup> Bell, at 3-5.

ency representatives to interact as peers, creating one officially mandated vehicle of communication between them. As has been discussed more fully in Standard 3.4 A., however, this mechanism is not to be construed as a device for community participation, primarily since commission members, from whatever background, cannot function, at least formally, both as representatives of constituencies or agencies and as responsible members of a supposedly expert commission.

Further, while program planning is useful as an officially sponsored vehicle for planned change in the juvenile justice system, it certainly should not be regarded as a device to discourage innovation from other sources. Commissions must be regarded as creatures of the formal governmental system, capable of improving the quality of agencies by working within the structure and ideology of the mandated juvenile justice organizations. They are, however, neither a means for presenting public constituencies' points of view nor for assuring that the system is sufficiently leavened with new ideas that it can detect or correct its own mistakes. It is this second limitation of the program planning approach that provides some of the impetus to include Standard 3.4 D. in this volume (which emphasizes the necessity of making discretionary funds directly available to private agencies and to local or state agencies).

### 3.5 Plans.

A. "Plans" is employed in this volume to refer to the result of the planning process, whether or not it is formally promulgated, documented, or otherwise given a fixed shape.

#### *Commentary*

Plans have played a small part in the preceding definitions and standards relating to the planning process, in part because the word evokes an image of a highly refined and rigid (and indeed generally heavy) document. Historically, written plans have tended to become the primary product of many planning efforts, with either the preceding process or the question of implementing policies largely ignored.<sup>72</sup> This overemphasis on plans has unfortunately haunted planning efforts funded by LEAA, since a comprehensive *plan* is the primary prerequisite for a state's continued funding.<sup>73</sup>

In contrast, it is the perspective of this volume that planning is a process carried out in many places within the network of people and

<sup>72</sup> J. Freidman, *Retracking America: A Theory of Transactive Planning* xv-xvi, 9-11 (1973).

<sup>73</sup> National Urban Coalition, at 12.

institutions which focus on juvenile justice. Thus, the plan itself (as distinct from the institutional implementation of policies) may be of relatively minor importance. Since plans do provide a vehicle for discussing proposed policies, for systematically conveying ideas, and (as in the case of LEAA) for obtaining funding, the following subsection provides a set of minimal criteria for plans.

**B. Plans should adhere to the following characteristics:**

**1. Simplicity.** Plans should limit the number of changes proposed, the complexity of the process required for implementation, and the number of people whose participation or cooperation is needed for the plan to be accomplished.

*Commentary*

In general, the more complex a plan is, the more intricate is its process of implementation and the lower its probability of successful innovation.<sup>74</sup> It is important, then, that several aspects of plans be assessed for simplicity. First, plans should limit the number of legislative enactments required for implementation, and should avoid wherever possible making proposals which call for a large number of intervening steps between the present system and a desired future state. Second, the number of agencies and individuals required to take action should likewise be limited, since the coordination of these agencies is very difficult to insure by plan (*cf.* Standard 1.2 B.). Finally, care should be employed to avoid plans which try to accomplish changes in direct services to clients by altering the organization of the central administration of an agency. This approach tends to be risky, since it depends upon the doubtful principle that changes in administration will filter down to create predictable changes at the operating level.

The empirical evidence from the four-state study confirms the need to avoid complex plans. Eastern State's youth services agency, for example, developed a reform which required extensive approval by the legislature. It proposed a pretrial diversion program which needed legislative approval and which was presented as a package of sweeping alterations to the juvenile court law and the statutes mandating the work of the agency. While parts of the package were approved, the legislature withheld others, regarding them as too extreme. The resulting set of laws left pretrial jurisdiction ambiguous, thus inviting considerable abuse of juveniles' rights by police and court personnel.

<sup>74</sup> Pressman and Wildavsky, at 102-10, 147.

Western State began with a similarly ambitious plan. It expected to alter local arrangements for service provision by setting up centrally subsidized units offering superior services, in anticipation that local officials would want to adopt similar techniques when they were given the opportunity. The local agencies, however, consistently failed to follow the model introduced centrally. Similarly, though Border State implemented an administrative reorganization of all human services into generic agencies at a statewide level, the change appeared to have little effect on the quality of services offered at the local level; if anything, it has blocked the provision of previously useful services to several categories of clients.

**2. Focus. Plans should be limited in topic and clear in the procedures required for implementation.**

### *Commentary*

This standard runs counter to much past and current experience with comprehensive planning, particularly that required by LEAA guidelines. In accordance with LEAA requirements, most states have submitted plans which include programmatic changes spanning their entire criminal justice systems.<sup>75</sup> Western State's first comprehensive plan submitted to LEAA, for example, ran to seven volumes and many thousands of pages, though even at this extreme its plan was not uniquely broad.

This same approach to the scope and focus of plans is being encouraged by LEAA in administering the Juvenile Justice and Delinquency Prevention Act of 1974.<sup>76</sup> The scope of the plans being developed in participating states appears to be ambitious and far beyond the abilities of the state planning agencies to implement, or the funds provided by LEAA to support. Since feedback from LEAA had indicated that earlier plans had tended to be too lengthy, planners are pressured to make their recommendations as briefly as possible. The result is that the plans prepared under the Juvenile Delinquency Prevention Act of 1974 are attempting to cover much ground in a small space and are thus necessarily extremely diffuse.<sup>77</sup>

Experience has shown that plans of this scope, in the absence of a centralized authority with the power to implement them, are not only too unfocused and too unclear to be implemented directly but

<sup>75</sup> U.S. Law Enforcement Assistance Administration, *5th Annual Report* 3.

<sup>76</sup> P.L. 93-415, § 223.

<sup>77</sup> For a published example of this kind of planning, see U.S. Law Enforcement Assistance Administration, "First Annual Comprehensive Plan for Federal Juvenile Delinquency Programs."

also do not serve as effective guides to innovation. This is shown in part by the fact that funding patterns of states receiving LEAA money rarely reflect the content of the required plan.<sup>78</sup> Rather, funding decisions tend to be made on the basis of local and regional needs, without serious consideration of the statewide and system-wide priorities described in the plans.<sup>79</sup> While new LEAA guidelines appear to be moving in the direction of a narrower *geographical* focus in response to this shortcoming,<sup>80</sup> the intent of this standard is to move beyond these new guidelines by focusing plans not only geographically but also topically, and by requiring a specific implementation process.

3. Flexibility. Plans should be subject to continuous review and revision throughout the planning and implementation stage.

#### *Commentary*

Because planning is an interaction between the intellectual effort of the planner and the environment in which he or she plans, it is clear that the plan, as the embodiment of that intellectual process, must necessarily be under constant revision. Each attempt to implement a plan should provide information about the environment within which planning is occurring and the plan must change with the shifting social reality the planner confronts.

Long-range master plans rarely meet this requirement and are not recommended. The effort involved in producing a document of many hundreds or thousands of pages can produce in its authors a considerable emotional attachment to the document. In this way, planners become no longer advocates of rational allocation or innovation but rather advocates for their plan.<sup>81</sup> Thus long-range plans can become badly out of touch with the reality they are intended to address and develop into barriers to change rather than vehicles of it.

C. Guidelines intended to elicit plans which will enable the transfer of funds from one layer of government to another should specify only general themes to be developed in the plan. This standard applies especially to guidelines disseminated by federal agencies to states and localities, specifying the nature of plans for the allocation of federal funds.

<sup>78</sup> National Urban Coalition, at 12-15.

<sup>79</sup> National Urban Coalition, at 10-11.

<sup>80</sup> National Urban Coalition, at 10-11.

<sup>81</sup> See, among others, J. Kaufman, "Contemporary Planning Practice: The State of the Art," in Godschalk, 111-38; and, for a vivid example, see R. Goodman, *After the Planners* 20-22.

### *Commentary*

The history of intergovernmental transfer programs in juvenile justice as well as in other social services has been one of mutual misunderstanding and mistrust and has often led to failure of the reform efforts conceived by the granting authority.<sup>82</sup> The causes of this general lack of success can be traced in part to an overspecification of the purposes and procedures described by the funding agency. It would not be an exaggeration to say that agents of the two levels of government participate in a game in which plans submitted to the grantor are altered to meet all the criteria laid down by the grantor; at the same time, the grantee fully intends to use the funds for a closely related, but locally generated set of specific purposes. The operating agency then applies the funds to its own purposes, while making every attempt to describe the activity to the grantor in the terms originally set forth in the grant guidelines. As a result, the grantor learns little about the uses to which its funds are actually being put, the quality of the operational program being implemented may be impaired by whatever alterations were required to obtain the grant, and in the unusual event that a thorough investigation is made, the appearance of misuse of funds attaches to the project.

It would appear that both the central donor and the operating agency-recipient would benefit were funding guidelines addressed to more general policy themes that could then be further specified and implemented by the operating agency in accord with its own, more specific, planning process.<sup>83</sup> The activities of the operating agency could then be communicated to the donor agency for evaluation and as information in its own planning process. In effect, this model recognizes that the intergovernmental funding process should concentrate as much planning activity as possible in those agencies which will use the funds, while the role of the grantor is to set general priorities evaluating program effectiveness and indicate directions for innovation and reform.

## **PART IV: ROLES FOR EXTERNAL PARTICIPANTS IN THE JUVENILE JUSTICE PLANNING PROCESS**

The process of juvenile justice planning does not take place in any easily defined environment. Rather it is shaped and indeed, as we have discussed, often dominated by the actions of others who do not necessarily regard themselves as juvenile justice planners. Even with the organization proposed in Part II and the new modes of planning

<sup>82</sup> Schon, at 116-79. The following description is drawn from this source.

<sup>83</sup> Schon, at 147-79, esp. 147-48 and 176-79.

in Part III, these standards recognize that planning will continue to be shaped by the influences, both favorable and adverse, of these external participants.

This part looks in some detail at three major sources of influence on the juvenile justice planning process—the federal funding process, the governors of the states, and the legislatures, including state and local legislative bodies and the Congress. These are, of course, not the only external influences on the juvenile justice planning process; other major participants are considered indirectly elsewhere in this volume of standards (as, for example, are task forces and commissions) or are so integrally tied to one part of the juvenile justice process that they are more appropriately dealt with in one of the more specific volumes (the courts, for example). Standards are proposed both for actions which might be taken directly by these external actors and for approaches which might be used by juvenile justice planners to employ these external influences in support of their efforts.

These standards, like those of Part III, are designed with present conditions in mind. Both the identity of the external actors having the greatest influence and the actions which they ought to take in responding to the needs of juvenile justice may be highly conditional on the existing structure and problems of juvenile justice and should be constantly reexamined. Nevertheless, the basic principles embodied in Standards 4.1 through 4.4 appear to be of enduring usefulness, and these standards are offered as recommendations for action which appears to be appropriate even in the face of foreseeable changes in the political and organizational environment of the juvenile justice system.

#### 4.1 The federal role.

A. Federal policy in juvenile justice should be concentrated in two areas: the development of new ideas, both in the form of basic research and through the process of evaluating reform strategies; and the funding of states, localities, and private agencies in support of programs oriented toward innovation.

##### *Commentary*

In all areas of human service provision, the federal government has played a major role in guiding and subsidizing the efforts of the states to improve the quantity and quality of services. In juvenile justice, in fact, there has been a fairly lengthy history of federal initiatives, beginning at least with support of the delinquency prevention projects of the early 1960s and continuing in 1974 with the Juvenile Justice and Delinquency Prevention Act (P.L. 93-415). The bulk of



federal involvement in human services, and especially in juvenile justice and delinquency prevention, has been focused on the two roles proposed in this standard.

Continuation of this two-fold role, using federal initiative to assist in the process of shedding light on the problems of juvenile justice and of giving direct fiscal support for reform, seems critical. In the four states studied, the indirect effects of federally sponsored research and evaluation were clear. Many of the assumptions which guided reform efforts had indeed filtered down to the states from the recommendations of the Crime Commission or from federal evaluations of local programs. Even more important, federal funds for juvenile justice were often instrumental to the success of local reform efforts. In effect, there is great advantage in making use of the far greater taxing power of the federal government to focus on those aspects of the juvenile justice system which require either large amounts of funds in a specific place and time or the use of specialized resources not readily assembled by a single state.

**B. Federal policy concerning juvenile justice should be planned through a process which provides maximum opportunity for participation by the states and which reflects, insofar as possible, the needs of the states.**

### *Commentary*

Since juvenile justice is predominantly a state function, and the bulk of programs and services developed through federal sponsorship and initiative will be implemented by the state, this standard recommends that all federal juvenile justice-related programs develop mechanisms consciously designed to maximize feedback from the states. Its intent is to reflect the model recommended in Standard 3.5 C. and later in Standard 4.1 I., using this model to help insure that the full benefits of federal support are realized. First, through the feedback process, federal authorities can obtain a solid basis for recommending and implementing changes in their own programs and states can benefit from the experiences of other states.<sup>84</sup> In this way, the federal responsibility for developing new ideas will be greatly assisted by the very process of planning for federal programs relating to juvenile justice. Second, the direct value of federally supported programs to the states and their juvenile justice agencies will be increased to the extent that federal policy can reflect their diverse needs.

<sup>84</sup> Schon, at 161.

C. Federal programs directed to the development of new ideas should include at least the following:\*

1. a national research institute;
2. a continuing program of monitoring and evaluation of all federally funded programs in juvenile justice;
3. appointment of commissions and task forces to address salient issues in juvenile justice as they arise.

*Commentary*

In addition to its role as a source of funding for innovation in human service delivery at the state level, the federal government has achieved its greatest successes in producing change in criminal justice and other human service systems through the three modes proposed in this standard. Each has had the effect of advancing the state of knowledge in particular service areas. The national research institutes, operated in a large number of human service sectors, have spanned several areas of health and mental health, and have been proposed as a method for exploring problems in the juvenile justice system by the Juvenile Justice and Delinquency Prevention Act of 1974. In general, these institutes have proven to be valuable resources for basic research into the nature of human problems and the methods for their alleviation.

Monitoring and evaluation of programs funded by federal grants, including, when appropriate, the development of minimum standards for the provision of services, in addition to providing accountability for those funds, have contributed greatly to professional understanding of the efficacy of alternative strategies for juvenile justice administration and services. It is, for example, primarily on the basis of evaluation of ongoing programs that current knowledge of alternatives to incarceration has developed.<sup>85</sup>

\*The role of federal policy in juvenile justice should be concerned with the areas as outlined: the development of new ideas and the funding of public and private agencies to support innovative programs. However, federal policy should not be limited to these areas alone. It should accept responsibility for defining and monitoring minimum standards to safeguard the welfare of juveniles in all programs which it funds. The past failure to monitor and evaluate programs funded by federal grants reflects the failure of the federal government during recent years not only to achieve accountability for the use of tax funds, but to confront its responsibility for establishing minimal standards as a condition to making grants on which such monitoring and evaluation can be consistently based.

—Hon. Justine Wise Polier

<sup>85</sup>R.G. Hood, "Some Research Results and Problems" 159, in Radzinowicz and Wolfgang.

Finally, as is more extensively discussed in Standard 3.3, while commissions and task forces at the federal level have often not seen the implementation of their recommendations, they have, in fact, served a number of other functions. In particular, they have acted as a device for bringing together academic researchers, elected officials, and operating agency personnel, in an effort to provide understanding of a particularly difficult problem, and it is from these interactions that much of the impetus for further research and discussion has been derived.<sup>86</sup>

**D. Federal funds in direct support of juvenile justice agencies and programs should be administered and distributed by a single federal agency; other funds available to juveniles in the juvenile justice system should be planned and coordinated by that agency.**

*Commentary*

The structure of federal programs of grants-in-aid has been shown to have major influences on the structure of state government and services. Both inside the juvenile justice system, and more generally throughout the range of public services, states tend to organize the supervision of their service delivery systems to reflect, at least in form, the guidelines of federal programs. For example, all the states have created agencies meeting the definitions set up by LEAA for a state planning agency,<sup>87</sup> and the number and nature of preventive and corrective agencies in the juvenile justice system can be shown to change as the relative funding levels offered through LEAA and the YDDPA and its successors have varied.<sup>88</sup> In the four states studied, too, there was evidence that the state governments had made a conscious effort to construct agencies primarily for the purpose of receiving funds under the provisions of Title 4A of the Social Security Act of 1971 (which provided funds for direct services to certain classes of poor children).

While these federal programs are virtually the only external sources of support for juvenile justice in the states, their conflicting goals and guidelines have tended to fragment the system, generate a great deal

<sup>86</sup> For a pertinent example, compare the recommendations of the President's Crime Commission with the research program of the National Institute of Law Enforcement and Criminal Justice. The correlation is striking and strongly suggests a causal link.

<sup>87</sup> National Conference of State Criminal Justice Planning Administrators, *State of the States on Crime and Justice* 7 (1973).

<sup>88</sup> Levenson, at 17.

of organizational instability, and even produce inequities in services to juveniles. For example, in Southern State there are three separate chains of planning organizations, each funded by, and responding to, a separate federal initiative. LEAA supports an Office of Criminal Justice Planning, which reports to a centralized general-purpose state planning agency and which has a series of regional planning organizations reporting to it. Through YDDPA funding, an ad hoc committee on criminal justice is supported for the purpose of coordinating the efforts of local committees attempting to build a youth service system. Finally, the state has a centralized agency responsible for all social welfare services, which operates a planning division responsive to HEW social welfare funding guidelines. Each of the divisions of this general-purpose welfare agency, including the youth services agency, maintains a planning staff, funded apparently by state funds, but primarily responsible for acquiring federal money. Each of these three planning systems operates with virtual autonomy, and because of differing federal mandates, little coordination is possible.

The plight of Southern State is common to the other three states as well. Indeed, in the face of so few resources available for juvenile justice and thus, strong federal pressure to respond to the requirements of their funding programs, it is likely that most states are organized in quite similar ways. It is also clear that, in light of the power of federal programs to influence the structure of state government, it is most unlikely that less fragmented and internally conflicting juvenile justice systems can emerge in the states until the fragmentation of juvenile justice-related grants is lessened. Thus, this standard proposes that funding might be more effective if it is channeled through a single agency with a more coherent set of mandates and guidelines.

In addition to ending the tendency of federal funding to proliferate conflicting agencies in the state juvenile justice systems, a single federal juvenile justice agency could have greater impact on the content and quality of direct services to juveniles than is possible under the present piecemeal approach. At present, it is clear that because a large number of agencies are giving money for children's services and each has only a small amount to spend on juvenile justice, it is difficult for any to develop guidelines which insure that funding has any impact on the quality of services. In fact, in the four states studied, the evidence suggests that change generated by federal initiatives was superficial, at best—tending to produce restructuring of existing programs in ways that conformed to federal requirements and not a clear change in the content of those programs. In Border State, for example, all social services were consolidated along generic lines

(such as economic support, rehabilitative services), but their goals tended to remain the same, even in the face of a radical change in structure. In fact, at the level of the individual institutions and regional agencies delivering services, no substantive changes appeared to have taken place.

If the result were merely that only superficial change had taken place through federal funding of this type, it might be concluded that the problem is limited to the failure of the "federal carrot" to produce its desired impacts. In fact, it appears that in some cases, federal funding has produced unintended changes beyond superficial structural ones and has sometimes had the effect of deteriorating the quality of services to juveniles. In Eastern State, for example, the result of attempts to meet the requirements of the many federal programs has been the growth of a tangle of agencies, boards, and offices with overlapping responsibility and, most important, dissimilar standards for care and treatment of the children who enter the child-service network of the state. One private service provides contracts to supply facilities both for the youth service (delinquency) agency of the state and the child and family services agency (which serves non-delinquent wards of the state). Unfortunately, the two agencies, in responding to different federal funding guidelines, provide the juveniles living in these facilities with clothing and money for personal expenses at different times and in different amounts. Thus, juveniles in the same facility are treated differentially, depending on which agency is responsible for their care.

The strain that this kind of inequity in service provision places both on the juvenile clients and the staff of the programs is probably extensive. Yet, it is clear that these confusions and inequities result largely from the attempts of many federal agencies to improve the quality of services to juveniles and from the resulting proliferation of service providers and standards.

This standard, then, is intended to provide a mechanism by which the federal government can develop a coherent policy toward juvenile justice by assigning a single cabinet-level department responsibility for it. The standard is not intended to prohibit any internal organization of that department, including establishment of regional or functional subdivisions. In fact, such internal divisions, if developed in light of their potential impact on state level organizations, could provide positive incentives for improved state level juvenile justice services.

**E. Federal juvenile justice policy should encourage reduction of the number of agencies in each jurisdiction, innovation in services and organizational structure, and new approaches to decisionmaking.**

**Federal funding for juvenile justice should be allocated in such a way as to give incentives to states, localities, and private agencies to pursue these purposes.**

*Commentary*

In light of the current fragmentation of the juvenile justice system and the proliferation of agencies responsible for portions of the services delivered to juveniles, it is necessary not only that the federal government consolidate its own grant-in-aid process but that it take affirmative action to reduce the organizational fragmentation that has, in many states, resulted, at least in part, from the requirements of previous federal programs. It should provide the states with the concentrated resources required to innovate new services, organizational arrangements, and decisionmaking processes.

The history of change in the juvenile justice systems of the four states studied—especially in the reorganization of Border State and the deinstitutionalization of Eastern State—suggests that the process of making truly fundamental alterations in the purposes and practices of juvenile justice agencies is one which must be sustained by extraordinary expense over a period of years. Numerous other examples have occurred in the juvenile justice system, including the implementation of *In re Gault*, 387 U.S. 1 (1967) and the separation of status offenders from delinquents, both of which have taken major efforts and have still not been fully accomplished.<sup>89</sup> This standard tries to recognize and formalize the process observed in Eastern and Border State as well as in other jurisdictions of state agencies using federal funds to support large-scale efforts to reorganize.

**F. Federal funds for juvenile justice planning and service delivery should be allocated to an agency having authority to perform the function for which the funds are designated, consistent with the mandate of the juveniles' services agency.**

*Commentary*

The purpose of this standard is to consolidate planning and innovation in the juvenile justice system in the operating agencies responsible for delivery of juvenile justice services. In most states, the juveniles' services agency would be the principal linkage between state and federal activities. However a state might be organized, fed-

<sup>89</sup> L. Schultz, "The Problems of Problem Children," *The Nation* 427 (Oct. 29, 1973).

eral funds should be allocated so that the state's juvenile justice planning process is tightly integrated into the process of implementation and, hence, of action. Plans developed by an agency without the power to implement them are much more apt to be doomed to ineffectiveness.<sup>90</sup> Thus, funding awarded to agencies which merely act as conduits to other agencies is less likely to result in the level of impact intended by the funders.

Placing the planning and funding process of juvenile justice in a conduit agency rather than an operating agency appears to reduce the effectiveness of federal leverage in two major ways. First, a conduit agency has greater difficulty in observing and interpreting the details of how federal funds are being spent. Hence, joint monitoring of a federally funded project by the granting agency and an operating agency like the juveniles' services agency would probably result in a much greater level of accountability. Second, since a conduit agency cannot implement plans, it must negotiate with operating agencies to urge them to undertake planned reforms of the system.<sup>91</sup> Hence, the agency merely distributing funds is often forced to choose between what it would like to see accomplished and what it knows it can realistically expect a second operating agency to tolerate.

In the juvenile justice system, so far, this has proven to be a serious detriment to effective planned change. Since the amount of federal money available through the conduit agencies (such as the SPAs) is minor in comparison with the overall resources of the operating agencies, the latter have consistently held a dominant position in defining the scope and condition of work. In Eastern State, for example, approximately 20 million dollars is available in state funds each year for the juvenile service agency alone, yet the grants available from federal sources do not comprise 2 million dollars annually. Because the conduit agency in Eastern State has a strong stake in seeing that its money is spent but has relatively little to offer operating agencies, it is often forced to allocate funds not according to its plans, but in response to the operating agency's priorities.

This standard should not be construed as constituting a prohibition against funds being allocated to private organizations either directly by the federal granting agency, or through a state or local agency, nor is it intended to specify the federal or state agency which should participate in this process. The primary purpose is to eliminate the current practice of passing federal funding through a nonoperating comprehensive planning agency.

<sup>90</sup> National Urban Coalition, at 8, 10-11.

<sup>91</sup> National Urban Coalition, at 13.

**G. Federal funds should include money directly allocated for agency and program planning, and indirectly allocated to support advocacy planning through the funding of professional staff.**

*Commentary*

Perhaps the strongest contribution to current federal funding practice has been the initiation and development of a professional pool of people who act as juvenile justice planners. Even after a number of years of investment in juvenile justice planning and programs, however, there is still not a critical mass of staff to conduct agency or program planning in juvenile justice, nor is there a sufficient commitment to juvenile justice at the local or state level to provide support to hire and train staff for these purposes.<sup>92</sup>

Most juveniles' services agencies and regional planning units would probably need federal subsidy to attract and support those people with the skills to allocate the agencies' resources and to monitor their programs. Task forces created by these agencies to engage in program planning may be even more dependent on federal subsidy, since their work intentionally falls within no agency boundary, and since their staffs will change as a new programmatic issue is explored. Similarly, the primary prerequisite for the advocacy planning effort is the time spent by agency staff, who are able to act successfully as brokers and negotiators. Though (especially in smaller agencies and units) the same personnel may conduct agency and advocacy planning, it is still critical that federal funding priorities reflect the necessity of staffing sufficient to accomplish both functions.

Federal support for operating costs other than personnel expenses presents a more difficult set of issues. It is certainly likely that in most states some seed money will be necessary to create a new juveniles' services agency and new regional planning units. Especially in their early stages, these agencies will require some matching money from sources outside state operating budgets to assure that they can successfully accomplish even agency planning.

The funding of advocacy planning, however, should be attempted only on an indirect basis. Since advocacy planning is a fairly ephemeral process involving planners negotiating with other actors in the system, the specific components, participants, and timing of any advocacy planning effort cannot be predicted or perhaps even accurately described after the fact. It is certainly not clear what performance

<sup>92</sup> U.S. Law Enforcement Assistance Administration, "First Annual Comprehensive Plan for Federal Juvenile Delinquency Programs," 1.



criteria could be used by a federal funding agency to evaluate advocacy planning efforts. How can it be measured when a constituency has been built, a power base accomplished? Thus, probably the only indicator that could be used by a federal funding agency to monitor expenditure of funds for advocacy planning would be that a planner has been hired whose job description includes advocacy planning.

A second problem with funding advocacy planning is that this kind of planning must occur in part outside the formally mandated agencies and, in fact, more informal efforts at community participation may emerge with activities of the formal agencies. While it might be desirable to subsidize community participation in the juvenile justice planning process, it seems clear from prior experience with planning in other social programs—notably the Office of Economic Opportunity Community Action Program and Model Cities—that in most American localities and especially at the state level, the notion of *community* is inappropriate to describe the recipients of social services.<sup>93</sup> In the juvenile justice system, this notion seems particularly strained. Indeed, the necessity of advocacy planning is in part created because a first task of planning in juvenile justice is the development and organization of such a constituency.

Although the emergence of constituencies is central to reform in juvenile justice, it does not seem desirable that advocacy organizations receive federal funds for direct support of their planning efforts. It may be argued that it is inequitable and inappropriate for governmental agencies to support the work of groups, a central portion of whose activities are arguably political in nature. Were there no difficulty with governmental subsidy to something which approaches the structure of a lobby, moreover, the issue of which advocacy unit should be funded and which excluded would remain, especially given the difficulty of defining a juvenile justice community. It is, perhaps regrettably, better to force advocacy groups to seek outside funds for their planning activities.

**H. Priority for federal funding in the juvenile justice system should be placed in the following areas: planning and personnel to support planning, demonstration or pilot projects, and incentive awards for agencies to upgrade services or adopt innovations.**

### *Commentary*

This list of priorities is drawn in part from our observations of those instances in which federal programs have shown themselves to be particularly effective. To a considerable extent it confirms several

<sup>93</sup> Moynihan, at 131.

of the present emphases of the LEAA in its funding of state criminal justice agencies. In particular, as was discussed in the commentary to Standard 4.1 G., federal funds appear to have been most effective when committed to the process of building planning capacity at the state and substate levels. Likewise, this standard recognizes the fact that many of the more satisfactory innovations in juvenile justice have grown out of federally funded demonstration projects. It differs somewhat from present LEAA practice, however, in its recommendation for incentive awards to states and other participants in the juvenile justice system, and it takes a strong stand against use of federal funds to defray capital costs of new facilities or equipment, except insofar as they compose a necessary portion of a demonstration project or specific innovations for which the federal agency is providing incentive awards.

This standard, then, has as its central intent the notion that the federal government ought to concentrate its funding power on projects and activities that will not only improve the quality of juvenile justice and juvenile services but also provide useful information to planners throughout the juvenile justice system or support them in their attempts to plan and implement innovations. This intent arises both from the observation that federal programs that concentrate on innovation appear to be the most likely to achieve their ends and from the concern that federal funds allocated to support ongoing activities of state and local government or of non-public agencies are particularly difficult to monitor effectively and present the risk that federal funds would be used for inappropriate purposes.

While all three functions set forth in this standard are important, it should be stated that prior experience with each is not totally satisfactory, and that particular concerns arise in the use of each. Funds allocated to planning and planning personnel, for example, by themselves, cannot ensure that useful plans will emerge from the resulting process. Indeed, the history of the LEAA SPA's has been one of only sporadic success. As the instances cited throughout these standards suggest, SPA's have often been unable to implement their own plans or have been coopted into supporting others' changes, whether or not they met federal intentions. Consistent with this volume's approach to planning, however, it would be inappropriate to suggest imposition of complex guidelines to ensure compliance by the states; indeed, this has been the approach that appears to have contributed to (or at least not prevented) many of LEAA's shortcomings.

The proposed use of federal money for demonstration projects is the most thoroughly tested and most successful of the priorities suggested here. In addition to having a strong record of success, it offers federal officials the best opportunity to determine the outcome of

federally funded programs. By employing the process suggested in Standard 4.1 I., federal officials should be able to ensure that federal funds are meeting the highest standards of juvenile justice services and, indeed, be able to employ the demonstration projects as a vehicle for establishing a useful set of standards for such services.

The use of federal funds to provide incentives for specific innovations or improvements in the quality of services to juveniles is the least thoroughly tested of the three areas of priority, and what little information is available is contradictory. It is clear, for instance, that states respond quickly and very dramatically to changes in the structure of federal incentives. Several states, for example, restructured their juvenile justice systems to avail themselves of Title 4A funds, and others responded more directly to LEAA funding guidelines. The scant information available about substantive changes in response to federal funds, however, is more negative. Using the highly decentralized Western State as an analogy, for example, it is clear that its probation subsidy program, while highly effective in decreasing incarcerations in state facilities, appears to have failed as an incentive for local governments to improve probation services.

In addition to the limited experience with this approach to federal funds, there exists the difficulty that little is known about the relative effectiveness of alternative service arrangements. On the other hand, it is also clear that, once more is understood about services in juvenile justice, there would be an important role for federal funding in ensuring that worthwhile innovations are made available throughout the nation. Indeed, even with our present limitations of understanding, many of the recommendations included in these standards could be implemented through such an incentive program with fairly clear expectation that the resulting changes could be confidently regarded as reforms. Perhaps most important, it seems clear that, in the absence of federal incentives, there is a great risk that the more progressive states will continue to improve the quality of services they offer, while the less progressive and less wealthy will be unable or unwilling to do so.

**I. Federal funds allocated to state, local, and private agencies of juvenile justice should be allocated in support of locally planned and defined programs which respond to more general federally defined policy themes.**

### *Commentary*

A principal purpose of this standard is to integrate the federal funding process into the developmental model of state, local, and private

planning for juvenile justice provided through Standards 2.2–2.5 and to make federal guidelines more responsive to wide variations among the states. A major shortcoming of both the categorical and block grant techniques now used in federal funding is that they place too little emphasis on the funding process as a feedback mechanism by which the federal granting agency could learn from the experiences of the states and localities.<sup>94</sup> Categorical programs, by specifying, usually in great detail, the conditions under which a grant may be considered, provide a strong incentive for proposal writers and grant managers to alter their own notions of what they need so that they can conform exactly to the guidelines supplied by the federal agency. In many cases, this process of alteration is more feigned than real, and the real nature of the activity at the local level is largely screened from federal view. This problem—commonly enough reported both in scholarly literature and in the popular press as well—prevents the federal government from learning from innovations at the local level and thus, from refining programmatic requirements to accommodate the reality encountered by those who actually operate the programs.

While block grant programs place fewer constraints on the contents of programs employing federal funds, they still present barriers to the free flow of information from local governments to federal granting agencies. To the extent that very detailed restrictions are placed on block grant funds, the same phenomenon noted above can occur—the receiving agencies produce plans and documents which assure federal officials that the money is being spent in conformance with guidelines, while, to a lesser or greater degree, adapting the money to meet local conditions.

On the other hand, in cases (such as LEAA in its first years) in which block grants are given with too little specification as to the content of programs funded by federal grants, the influence of federal policy is significantly diminished, and funds are regularly coopted completely to local ends.<sup>95</sup> As an example, during the Eastern State deinstitutionalization, the federally funded planning unit of the state youth service agency was operated as a “flying squad” of administrators capable of taking control of recalcitrant or ill-managed units of the agency. Later, the agency was able to put together a mixture of LEAA and Title 4A funds to support itself in the face of massive budget overruns caused by the closings of lockup facilities. It can be argued that the agency essentially coopted the money for its own internal change agenda, with little regard for the original intent of the legislation authorizing the programs at the federal level. Worse, the funds did not afford

<sup>94</sup> Schon, at 153–55.

<sup>95</sup> National Urban Coalition, at 12.

the federal sponsors with any understanding of the process of change which they were supporting, since the federal level had little way of knowing what relationship its funds bore to the kind of reform that occurred in Eastern State.

A second, related, problem with present federal policy concerning both categorical and block grant funding is that they both seem to be too inflexible to respond to variations in state characteristics and needs. There is a great deal of difference, for example, in the capability of state and local agencies to respond to federal guidelines with enough apparent professional quality to be awarded funds, as well as in the actual agendas these agencies feel are of highest local priority. In the initial years of the LEAA, for example, several states were simply incapable of meeting the planning guidelines for state planning agencies and so were unable to use their allocations.<sup>96</sup> Similarly, the Juvenile Justice and Delinquency Prevention Act of 1974 places very severe requirements on state planning practice, organizational structure, and delinquency and status offender treatment services.<sup>97</sup> It seems likely in light of the limited quantities of money now available through the Act that only those states which have already largely filled the federal guidelines will be able to comply and thus qualify to receive funds. As a consequence, the states now most able to provide quality prevention and corrective services for juvenile delinquents may be the prime beneficiaries, while those states most in need of support to develop their planning capabilities may be less likely to receive that funding.

From our study, too, it is clear that federal programmatic and planning requirements which are very specific in regard to the planning process to be employed or the content of programs to be supported are simply too rigid to meet the structural and philosophical diversity observed among even relatively progressive states like Eastern, Southern, Border, and Western. These states range from highly centralized to decentralized; from urban to rural. Programs, such as the JJDP (now being administered by LEAA), which place very extensive, highly specified requirements on grantees may provide very limited opportunity for states to respond creatively in the face of their own organizational structures. For example, Eastern State cannot readily comply with the Act's requirement that much of the funds be given to local agencies, since there are no juvenile corrections agencies or courts organized on a substate basis. In effect, this pass-through requirement puts pressure on the state planning agency to bias the allocation of its funds toward municipal prevention pro-

<sup>96</sup> National Urban Coalition, at 5.

<sup>97</sup> P.L. 93-415, § 223.

grams, which in most cases will have to be developed just to take advantage of the opportunity provided by the funds.

These shortcomings might be avoided if federal funding were designed so that the planning agencies of state and local government and private organizations would participate in more of a feedback process with federal planners and grant administrators. (See Standards 3.5 and 4.1.) Insofar as possible, guidelines for federal grant-in-aid programs should concentrate on communicating the original *intent* of its legislation, but initially place very few restrictions on the recipients.<sup>98</sup> Hence, a program addressed to the development of alternatives to incarceration for juveniles could avoid restrictions unrelated to that task and also, as far as possible, avoid prespecification of the means to be employed or the particular structure of the agency which would be permitted to receive funds. Interested agencies should be encouraged to respond with proposals addressed to the policy theme (*e.g.*, alternatives to incarceration), but reflecting the conditions existing in the environment of the agency.

Thus, the notion is that the federal agency would determine the middle range ends of programs funded by this process, and that the means would be proposed by the receiving agency, and that through funding cycles, means and ends would be modified in response to the process of implementation. This is not intended primarily as a competitive process, but rather an interactive one—a chance for the grantor to learn from its investments. To this end, each agency funded through this process would be responsible for including an independent monitoring process and a proposal for an approach to evaluating its programs.

It is clear that this process anticipates the existence of a planning capacity in each organization responsible for a portion of the juvenile justice process. Thus, at least initially, planning funds may have to be allocated as often as grants for other purposes, and it is more important here than anywhere else that the funding process not be allowed to concentrate funds in the hands of a few able states. In fact, to the extent that it is consistent with Congressional intent, assistance in planning should be concentrated precisely in the hands of those states and localities that are now the least able to articulate a plan or a process for constructing one.

#### 4.2 State executive leadership.

A. Governors should employ the authority and influence of their offices to work toward improvements in the quality of juvenile justice planning, such as those outlined in these standards.

<sup>98</sup> This model is drawn from Schon, at 147 ff.

*Commentary*

Unlike many areas which fall under his or her auspices, juvenile justice is one in which the governor can usually exert an unusual amount of leverage. This is the case in part because state systems of services to juveniles have for a long period existed in a virtual political vacuum. In part, too, because the organization of juvenile justice services grows directly from ideology about the nature of delinquency and child welfare, it is particularly sensitive to the governor's own stance on these issues. For example, he or she might greatly change the juvenile justice system through appointment to leadership positions of people with strong philosophical stances toward the problems of juveniles and clear agendas for organizational change.

In the states studied, governors did play varying—but almost always strong—roles in the change processes of juvenile justice systems. In the states displaying the greatest degree of organizational change, the governor was consistently active in accomplishing the changes observed. Especially in those states in which there were not strong, formally mandated planning agencies, the initiative of the governor has proven to be a major factor in the accomplishing of change in areas of the juvenile justice system which are within the executive branch of government. Even in a juvenile justice system in which a very active planning process is developed, it is unlikely that governors will cease to become involved as critical actors in the planning process. In fact, if the planning process suggested in these standards is adopted, the role of the governor in juvenile justice, both as an advocate and as an official, should be increased, not reduced.

**B. Governors concerned with improving the juvenile justice planning process and organization need to discharge a variety of roles, which include the following: advocate legislation supporting organizational changes proposed in these standards; act as appointing authority for commissions and task forces; restructure lines of authority within their branch of government to conform to these standards; and exercise their overall budgetary control to ensure that adequate and appropriate resources are available for juvenile justice.**

*Commentary*

Gubernatorial action has proven to be one of the more consistent factors in change in the juvenile justice systems of the four states studied. In particular, the governor of Eastern State was credited by many observers of change in that system with having been the principal initiator of the sweeping changes that occurred there. He em-

ployed all of the strategies recommended in this standard, beginning by convening a task force to investigate conditions in the juvenile justice system, pressing vigorously for legislative reorganization of the juvenile justice functions of the state, and appointing a vigorous reformer as the director of the reorganized youth services agency. In each of the other states, governors employed at least one of the recommended strategies to good effect. In Western State, a gubernatorial task force was an important antecedent of a majority of the changes accomplished in its juvenile justice system. The Border State governor was able to accomplish considerable change solely by executive directives reorganizing existing agencies. In each instance, the strong administrative and public support given to reformers within the system by the respective governors was viewed by many observers as being crucial to the success of the reform efforts.

The power of governors to influence the path of reform in juvenile justice is unusually great for a number of reasons, not the least of which is that the area is in many states a virtual political vacuum. Because a strong constituency does not exist around any of the issues in juvenile justice, an active governor can move with considerable confidence to develop sweeping changes in the system without encountering significant opposition. Further, juvenile justice is, in most states, one of the most poorly organized human services systems, and thus is a prime target for gubernatorial action. For these reasons, this standard recommends that the development and advocacy of a strong legislative package of reorganization (along the lines proposed in these standards) and appropriation be one of the principal roles of governors.

In addition to employing a strong legislative strategy, a reform-oriented governor can effect changes in the juvenile justice system by active use of task forces and commissions to bring public attention and professional expertise to solutions to the problems of juvenile justice. Because juvenile justice does not have a strong public constituency, the use of task forces is more often a necessary strategy of change than would generally be the case, and it is more likely to produce effective reform. By acting as convener for task forces and commissions, a governor becomes an integral part of the planning process of juvenile justice; in effect he or she becomes the impetus for what is described in Standard 3.4 as program planning. As the commentary to that standard suggests, the governor is a particularly appropriate convening authority for this mode of planning, because of the strong executive authority built into many state governmental structures.

Finally, this standard recommends direct executive action by the governor. Each state, of course, grants its governor slightly different



powers, so the ability of each governor to take direct action to implement these standards varies widely. For some, the internal reorganization of the juvenile justice system into the three-level structure described in Standards 2.1, 2.2, and 2.4 might be feasibly accomplished unilaterally; for others, more indirect means of accomplishing change might be required. All governors, however, can influence at least some of the policies recommended above. For example, most governors can wield considerable influence over such policies as information distribution, the staffing of key positions in juvenile justice and the process of personnel selection at lower organizational levels, and standards of organizational behavior. All have considerable influence over the budgetary process, a particularly effective tool for organizational reform.

#### 4.3 Legislators and the legislative process.

A. Legislatures, both the Congress and those in the states and localities, should assign responsibility for administrative aspects and funding of juvenile justice to a single committee or subcommittee.

##### *Commentary*

Because of the fragmentation of the juvenile justice system and the low level of political saliency that juvenile justice receives in most legislatures, the agencies and courts which compose the juvenile justice system are often dealt with by a wide variety of committees. As a result, many legislatures may be ill-structured to consider the complex organizational issues which reform of juvenile justice will raise. Establishment of a juvenile justice committee or subcommittee could provide a vehicle for investigation and comparison of proposals for reform, and for monitoring and evaluation of existing services. Such a committee might be organized as a subcommittee of a judiciary committee and have responsibility for the complete range of juvenile justice issues, or it might be set up either as an independent committee or as a subcommittee of a human or social services committee. If it is not set up as a part of the judiciary committee, however, its mandate should be limited to service provision and organization of juvenile justice services, while issues of juvenile law, court organization, and procedure would be addressed by an element of the judiciary committee (or its equivalent).

A second benefit of unified legislative treatment of juvenile justice is that a single committee could probably contribute more to the provision of equitable treatment for all juveniles under the care of the state. At the federal level, for example, a single congressional committee having responsibility for all juvenile legislation might have

been more efficient at unifying federal service programs in this area. Certainly, the Senate subcommittee which reviewed the state of the juvenile justice system in 1971 through 1974 was instrumental in creating the present structure of federal juvenile justice programs.<sup>99</sup> A similar process in state legislatures should produce a similar increase in the coherence of legislatively mandated programs.

Finally, the existence of a single committee could be an impetus to some legislators to regard a commitment to juvenile justice as an important part of their political and legislative identities. The potential influence of a legislator with a strong commitment to juvenile justice is illustrated by the history of reorganization in the Southern State youth service agency. A single state senator, who had a well-defined platform for change in the system and an appropriate committee assignment was (according to most observers in the state) instrumental in planning and gaining support for the reorganization of the juvenile corrections system.

**B. Planners in the juvenile justice system should develop a three-part legislative strategy, including the following steps: identification of existing legislative support for reform and strategies for the development of broader support; development of legislative proposals and provision of information concerning the findings and research on which their proposals are based; and support of legislative and public coalitions for change in juvenile justice.**

### *Commentary*

This three-part program is proposed recognizing that reform of juvenile justice most often suffers in the legislature not from concerted opposition, but from extremely low visibility. Thus, the process of making policies about juvenile justice seems to receive infrequent and very fragmented attention in many legislative bodies. This is true in part because the nature of the juvenile justice system is unclear even to those who would support its reform and because there is no clear voting constituency for the system. As a result, the issue of planning for juvenile justice is not among those typically producing either strong political divisions or strong loyalties.

As the Southern State reform process illustrated, however, there is every likelihood that, especially in the early stages of reform, a great deal of impact can be achieved through the efforts of small groups of committed legislators. Hence, in the constituency-building phase of the juvenile justice planning process, development of a core of legis-

<sup>99</sup> Levenson, at 14 ff.

lative support is likely to be a highly efficient (and probably necessary) initial step.

However, if the political issues of juvenile justice do grow in saliency, and resources are called for in the process of reform, this initial small group of committed legislators will probably face increasing opposition. Thus, support will probably be required from other interests beyond the juvenile justice system itself. One clear strategy for coalition is to adopt a general child services constituency. As was demonstrated in the case of Eastern State, a political and legislative program launched by advocates supporting children's services can be an effective device for focusing attention on an issue which has both high leverage and a generally positive image. While delinquents and perhaps even status offenders are not either very visible or particularly appealing as a political rallying ground, children, as a whole, tend to be both.

#### 4.4 The courts.

##### *Commentary*

No standards are offered for the actions of the courts with regard to the reform of the juvenile justice system. Partly, this is a recognition of the dual role of the courts—both internal to the juvenile justice system in their adjudicatory and appellate functions and external in the role they play as monitors of the system and of the processes by which juveniles are adjudicated and otherwise processed. Both of these roles are dealt with at length in other volumes of standards. Partly, too, the absence of standards for the courts in this volume reflects the relatively minor role which appears to be played by many courts in the process of reorganization and reform of the juvenile justice system. Remarkably, in none of the four states observed did federal or state courts play a significant role in reform, even of the juvenile courts. Aside from procedural changes mandated by *In re Gault*, 387 U.S. 1 (1967) and its progeny, the courts have seemed to maintain a relatively low level of involvement in reform. Finally, even in the areas of procedure in which the courts have made landmark decisions, implementation of changes has been slow and their impact on the system as a whole are yet to be measured.

Though they have not been as active as other parts of the juvenile justice system, the courts have undeniably had an influence on its reform. Both in Eastern and Border States, the judiciary acting as interested parties to the debate about the appropriate form for post-adjudicatory treatment have been influential in determining the

structure of the youth service network of these states. In Eastern State, juvenile court judges have acted as catalysts and spokespersons for those concerned about the absence of secure detention and treatment facilities following deinstitutionalization. The courts in Border State have been less successful in changing the structure of the system, but they have remained the major force opposing the centralization of service decisions and the closing of facilities.

For reformers, then, the lack of strong involvement by the courts (in their judicial capacities) does not necessarily suggest that they are not an important element in the development of a working planning system. It does suggest that the primary role of the courts may be to bring their influence to bear in the process of public decision-making and constituency formation by presenting the concerns which they regard as central to the juvenile justice system.

That the courts have not been decisive decisionmakers in the particular reforms of four states does not argue persuasively for their inability to do so. For issues surrounding the quality of justice and the equity of particular service decisions, the courts are probably uniquely able to initiate and pursue reform. In this capacity, however, the courts have less to do with the organization and planning of the juvenile justice system than they do with the processes of direct intervention with individual clients, a process properly addressed in other volumes.

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