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THE DEINSTITUTIONALIZATION OF JUVENILE STATUS OFFENDERS:
NEW MYTHS AND OLD REALITIES

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ABSTRACT

Claims are being made for deinstitutionalization that obscure some of the lesser known, negative effects. Within the juvenile justice system, for example, many juveniles who were previously institutionalized as juvenile status offenders are being relabelled and institutionalized as juvenile delinquents. In the state system studied in this report, the total number of juveniles in institutional programs did not decrease during the period of "deinstitutionalization."

Fairness and justice in the administration and execution of the law are concepts that are central to the foundations of the American legal system. While it is widely recognized that inequities in the administration of justice do exist and are perhaps inevitable, our commitment to striving toward those ideals has resulted in almost constant revision of our criminal and juvenile codes. Hardly a year passes that major new legislation does not find its way into these bodies of law for the purpose of improving conditions or providing for more equitable solutions for those persons affected by the administration of justice.¹

During the past two decades we have become increasingly aware of certain inequities in the juvenile justice system. First of all, it was acknowledged that there were large numbers of children who were not charged with any criminal conduct being kept in juvenile correctional institutions.² To make matters worse, most of the data indicated that these so-called juvenile status offenders were being detained longer in such correctional facilities than their more seriously delinquent peers-- in some cases, twice as long.³ The severity of handling of juvenile status offenders seemed to indicate "that society is more concerned about a juvenile's willingness to go to school, mind his parents, and refrain from experimenting with alcohol or sex than about his tendency to commit rape, robbery, or assault."⁴ There is evidence, however,

that the general public actually believes status offenses to be less serious than almost all other deviant behaviors. In one study, respondents ranked refusal to obey parents, truancy, and running away as 130th, 136th, and 137th in seriousness, respectively, out of 140 possible offenses.⁵

Various proposals were made by concerned individuals and organizations to provide for differential handling of juvenile status offenders--handling which would recognize their status and their needs as being different from those of other juvenile offenders who were guilty of violations of the criminal law.⁶ Calls for reform culminated in the Juvenile Justice and Delinquency Prevention Act of 1974.⁷ In addition to providing funds for diversion and other community-based programs, this act prohibited the holding of status offenders in training schools, detention facilities, and jails. Within the State of Arkansas, Act 509 of the 71st General Assembly (Regular Session, 1977) declared:

"That in cases of non-criminal acts committed by juveniles in Need of Supervision, the juvenile shall be treated not as a criminal, but as mis-directed, misguided, in need of aim, encouragement, assistance, and counseling; and if such juvenile cannot be properly cared for in his own home, that he be placed in a suitable home, agency, or other facility where he may be cared for, helped, educated and equipped for useful citizenship."⁸

The Act further required that on or before August 1, 1977, any juvenile charged with offenses that would not be criminal if committed by an adult "shall be released from all 'Secure Detention' facilities."⁹ This Act, passed by the legislature as "emergency" legislation on March 15 and approved by the Governor three days later, gave the training schools approximately four and one-half months to find alternative placements for their status offender residents. Juvenile courts, who were accustomed to committing status offenders to the training schools, had the same short period of time to develop alternate methods for handling status offenders.

The new myth created by the legislation is that juveniles who have committed no criminal act should not be maintained in secure facilities, but should be offered appropriate treatment in an open setting. The old reality is that these youth will probably continue to be incarcerated in detention facilities, training schools, and jails for some time to come. Considering the large number of juveniles maintained in

these kinds of facilities (616,766 in 1973),¹⁰ it will take more than a few simple changes in the law and a few million dollars in federal "seed" money to accomplish such a feat.

The magnitude of the problem of deinstitutionalizing status offenders was awesome. The latest data available indicated that 38% of the 777 commitments in 1974 were status offenders. Twenty-five percent of the males committed and seventy-seven percent of the females were status offenders. Not only would a large number of alternative placements be needed, but the overall role and function of the training schools might be expected to change dramatically due to a predicted decrease in population. If status offenders were incarcerated for up to twice as long as other juvenile offenders, then the removal of the 38% of the resident population who were status offenders should have lowered the school's population by over fifty percent. The fact that the number of status offenders committed to the State's Reception and Classification Center fell dramatically in 1977 is illustrated in Table I.

TABLE I

Commitments to the Reception and
Classification Center, 1974-1977

Year	Total Commitments	Status Offender Commitments
1974	777	295
1975	912	310
1976	944	181
1977*	425	22

*January 1 through June 30.

A grant for \$1,232,000 was received in January, 1976 from the Law Enforcement Assistance Administration for the purpose of removing juvenile status offenders from the training school and developing community-based alternatives to training school placements. At the same time, all of those agencies responsible for providing services to juvenile offenders were reorganized into the newly-created Division of Youth Services in order to redefine and coordinate all of those functions previously performed by the Training School Division, Social Services' Aftercare Section, and Rehabilitation Services.

Status Offender Commitments

A further breakdown of status offender commitments is presented in Table 2. While there was a dramatic decrease in such commitments from

TABLE 2
Status Offenders Committed to the
Reception and Classification Center
January 1 - June 30, 1977

Month	Number of Status Offenders	Total Number of Commitments
January	5	28
February	9	54
March	5	80
April	0	62
May	3	79
June	0	122
Total	22	425

1974 to 1977, there was an equally significant reduction in such commitments in the first six months of 1977. During the first quarter of this year, 19 status offenders were committed to the Reception and Classification Center. During the subsequent quarter, however, only three status offenders were committed -- all of them in May.

If we can assume that the number of status offenders and delinquent (non-status) offenders remained relatively stable over the period from 1974 to the present, then the result of deinstitutionalizing status offenders should be a dramatic reduction in the institutional populations. The Division of Youth Services' best estimates indicated that 38% of all juveniles in training schools were status offenders¹² and other sources indicated that they were detained for up to twice as long as other incarcerated youth.¹³ A conservative estimate of the effects of deinstitutionalizing status offenders might predict a cut in the institutional population by at least one half! That obviously did not happen in this case, as shown in Table 3. Instead of a dramatic reduction in

TABLE 3
Institutional Populations on January 1,
1974-1977

Year	Total	Delinquents	Status Offenders
1974	401	221	180
1975	470	287	183
1976	338	237	101
1977	399	380	19

the institutional population, the total number of children held there remained about the same, while the number of delinquents increased and the number of status offenders decreased.

There are many possible explanations for this situation, including an increase in overall delinquent behavior. Additional delinquents

might now be placed in some of those slots which were previously occupied by status offenders. According to police reports, however, reported criminal (and delinquent) activity remained almost constant during this period.¹⁴ An alternate explanation might be that part of those juveniles who were previously institutionalized as status offenders are now being institutionalized as delinquents. Some data is available from the courts and the police. Approximately forty (40%) percent of all juvenile offenders processed by the Reception and Classification Center were officially charged with more than one offense. Furthermore, an inspection of a substantial number of court records revealed that in most cases juveniles could be charged with additional offenses that are not mentioned in petitions, commitment orders, or other official records.

TABLE 4

Delinquency Offenses of Status Offenders
for 1975 and 1977 in Three Courts*

	1975	1977	Total
Number of Status Offenders with Delinquent Behaviors Mentioned in Case Records	24 (27.9%)	3 (6.1%)	27
Number of Status Offenders with no Delinquent Behaviors Mentioned in Case Records	62 (72.1%)	46 (93.9%)	108
TOTAL	86	49	135
*January through June, both years			
$\chi^2 = 9.26, p .01$			

Table 4 indicates that there is a significant difference between status offenders in 1975 and 1977 in the proportion of case records which reflected delinquent behaviors not officially charged against these youth.

(The data was obtained from a random sample of case records in three of the State's largest juvenile courts.) This would seem to lend further support to the argument that the decrease in status offenders coming from the courts is at least partly due to the court's application of a new label. As the number of status offender commitments to the Reception and Classification Center decreased (Table 1), the number of delinquency cases processed by the courts increased, and their status offender cases decreased (Table 5), Whereas the courts previously had

TABLE 5
Official Cases filed in Juvenile Courts
1975-1977*

	1975	1977
Status Offenders	1,348	605
Delinquents	3,827	4,952

*January through June for both years, 32 reporting courts

a choice in the labels which they chose to apply to juvenile offenders whom they sent to training schools, the only way under the present law to remove a troublesome youth from the community is to apply the delinquency label.

What happens to those troublesome youth to whom the delinquency label cannot be legally applied, i.e., true status offenders who could have been removed from the community before August 1, 1977? The largest juvenile court in the state admits to keeping juvenile status offenders who can no longer be sent to the training schools in its own detention facility, despite the fact that Act 509 requires juvenile status offenders to be released from all "secure" detention facilities after August 1.¹⁵ Other courts are undoubtedly doing the same.

Conclusion

The last wave of reform efforts in the juvenile justice system resulted in an officially sanctioned plan to deinstitutionalize status offenders. While the data does on its surface indicate that such deinstitutionalization is now a fait accompli, it is highly improbable that the majority of the youth who were the objects of this reform effort are not presently incarcerated. First of all, many of those juvenile "status offenders" were really delinquent youth. Courts were simply following a somewhat more humane policy in applying the less severe label to them before sending them to the training schools. Now the only course of action left is to label them as delinquents before incarcerating them.

Many of those youth who are true status offenders will probably be placed on probation by those courts which have no alternative placements. The "catch 22" in Act 509 is a provision which defines a juvenile's violation of the conditions of probation as a delinquent act, thus re-opening the possibilities of incarceration for that juvenile. There is no evidence that the total number of institutionalized youth has decreased as a result of the legal proscriptions against incarcerating status offenders, nor that conditions within the institutions have been improved. It would appear to be more fruitful to concentrate on making substantive changes within the juvenile justice system than to dwell on procedural changes such as switching the labels which may be applied to juveniles sent to secure detention programs. We should not delude ourselves into believing that we have accomplished a major reform by preventing "status offenders" from being incarcerated. This type of "name game" is not likely to fool anyone.

Using a framework for organizational analysis which moves latent functions from the periphery to the center, one realizes that juvenile courts and juvenile training schools are being used as resources by other organizations which are more concerned with their problems of removing troublesome youth from the community than with the attainment of objectives set forth in the deinstitutionalization statutes.¹⁶ Perhaps the most fruitful way of approaching this problem would be to provide appropriate decentralized services to both status offenders and delinquents. Then there would be fewer incentives for switching labels as a way of justifying our "helping" strategies.

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