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## Juvenile Justice in Florida: Bringing Rehabilitation Back Into Style

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## **Abstract**

As is the case nationwide, Florida is experiencing a philosophical and fiscal tug-of-war over the issue of juvenile justice.

**KEYWORDS:** florida, rehabilitation, juvenile

# Juvenile Justice in Florida: Bringing Rehabilitation Back Into Style

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## I. Introduction

As is the case nationwide, Florida is experiencing a philosophical and fiscal tug-of-war over the issue of juvenile justice. The continuous struggle between rehabilitation and punishment has resulted in major statutory revisions in four of the past five years. In budgetary terms, the state is attempting to pay for both treatment and punishment and this dual emphasis hampers the potential for rehabilitative success. This article is written with a dual purpose: to dispel several juvenile justice myths and to present a factual account of Florida's juvenile justice program as it currently exists. It is hoped that this information will give elected officials and their concerned constituents the impetus to improve the ways we handle young persons who get into trouble. During the decade of the 1970s Florida played a leadership role in national juvenile justice reform, but our status as the model state is slipping. Only if certain statutory and budgetary changes are made can Florida reclaim its position as the exemplary provider of justice to children and their families.

## II. Juvenile Crime in Florida: Myths and Facts

In 1982, approximately 76,000 youths aged seventeen and under were arrested in Florida<sup>1</sup>—a decrease of twenty-one percent over the past five years.<sup>2</sup> Less than seven percent of all arrests of juveniles are for crimes of violence.<sup>3</sup> Despite these facts, a mythology has developed

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1. FLA. DEP'T OF LAW ENFORCEMENT, CRIME IN FLORIDA 88 (1982) [hereinafter cited as CRIME 1982].

2. FLA. DEP'T OF LAW ENFORCEMENT, CRIME IN FLORIDA 104 (1978) [hereinafter cited as CRIME 1978].

3. CRIME 1982, *supra* note 1, at 88.

which tells tales of “the rising tide” of youth crime. A perception that our state and nation are in the midst of a juvenile crime wave is fueled by shocking reports of isolated serious crimes perpetrated by young persons. The justification for this perception is due in part to an actual and significant rise in the crime rate of the eighteen to twenty-five year old age group.<sup>4</sup> The resultant outcry to “get tough on kids” has been scattershot, however, and these calls for “toughness” have been misdirected at a younger class of juveniles. It is helpful to look at the following popular myths and the true facts concerning those issues:

**Myth 1.** The number of juvenile arrests is increasing and represents a juvenile crime epidemic.

**Fact:** The number of juvenile arrests in Florida has declined twenty one percent over the past five years, from 97,433 in 1978<sup>5</sup> to 76,381 in 1982.<sup>6</sup>

**Myth 2.** Florida’s juvenile arrests account for a large and growing proportion of total arrests.

**Fact:** Juvenile arrests account for a *decreasing* proportion of total arrests. In 1978, juvenile arrests represented 25.8% of total arrests.<sup>7</sup> In 1982, juvenile arrests accounted for 14.6% of total arrests.<sup>8</sup>

**Myth 3.** The number of juvenile arrests in Florida for violent crimes is dramatically increasing.

**Fact:** The number of juvenile arrests for the four most serious violent crimes (homicide, rape, armed robbery and aggravated assault) has *decreased* approximately eighteen percent since 1979.<sup>9</sup> These crimes account for less than six percent of all juvenile arrests.<sup>10</sup>

**Myth 4.** Juvenile crime is increasing most significantly in Florida’s major metropolitan areas.

**Fact:** From the period of 1976 through 1982, juvenile arrests have decreased in each of the fifteen largest metropolitan counties of

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4. *Id.* at 89.

5. CRIME 1978, *supra* note 2, at 105.

6. CRIME 1982, *supra* note 1, at 88.

7. CRIME 1978, *supra* note 2, at 104.

8. CRIME 1982, *supra* note 1, at 88.

9. FLA. DEP’T OF LAW ENFORCEMENT, CRIME IN FLORIDA 112 (1979).

10. CRIME 1982, *supra* note 1, at 88.

Florida.<sup>11</sup>

The explanation for the significant decrease in delinquency referrals over the past five years cannot be based on a demographic shift in Florida's population. In fact, the number of juveniles aged four to seventeen has not appreciably changed over this period.<sup>12</sup> Amendments to Florida's delinquency laws cannot be used as an explanation for the decrease in crime since the decline in juvenile arrests has been steady all through the years of numerous statutory changes. The 1981 legislative changes which increased the use of secure detention and escalated the adult court transfer rate were preceded by a year of markedly declining juvenile arrest rates.<sup>13</sup> In actuality, the decrease of juvenile arrests is a national trend. There has been a steady decrease in juvenile arrests since 1974, attributable, in part, to a concomittant decline in the national youth population.<sup>14</sup>

Demographics aside, the year 1974 saw a significant effort at the federal level, through the Juvenile Justice and Delinquency Prevention Act,<sup>15</sup> to decriminalize status offenses and place restrictions upon certain harsh treatments of minor juvenile offenders; for example, jailing juveniles with adults. It may be argued that the improved juvenile crime statistics are a result of a more enlightened approach to the handling of less serious offenders. Growing emphasis on the prevention and treatment of child abuse, and a recognition that status offenders are not offenders but victims, may be the most significant explanations for the declining juvenile crime rates nationwide.

### III. Policy Directions in Juvenile Justice

It is the responsibility of elected officials in the executive, legislative and judicial branches of government to guarantee to the public that policy and budgetary decisions in the realm of juvenile justice are based upon fact, not myth. Florida's delinquency statute and the range

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11. *Id.* at 106.

12. Compare FLA. DEP'T OF EDUC., STUDENTS IN FLORIDA PUBLIC SCHOOLS 2 (1980-81), with FLA. DEP'T OF EDUC., STUDENTS IN FLORIDA PUBLIC SCHOOLS 2 (1976-77).

13. Compare FLA. DEP'T OF LAW ENFORCEMENT, CRIME IN FLORIDA 110 (1981), with FLA. DEP'T OF LAW ENFORCEMENT, CRIME IN FLORIDA 107 (1980).

14. B. Krisberg & I. Schwartz, Rethinking Juvenile Justice 9 (June 9, 1982) (unpublished manuscript from University of Minnesota).

15. 42 U.S.C. § 5601 (1976).

of juvenile justice programming should reflect a clear view of the youth crime issue, and project a clear vision of how to improve the system. In October 1983, the Governor's Office of Planning and Budgeting released a report which documents the strengths of Florida's juvenile justice system, and points to those areas which require reform.<sup>16</sup> It emphasizes the relative cost-effectiveness of current delinquency services. If heeded, the report can serve as an outstanding planning document for all branches of government. What follows is a summary of Florida's juvenile justice program with accompanying recommendations for improvement.

### A. Diversion Programs

In 1978, the Juvenile Alternative Services Project (JASP) was piloted in three districts of the Department of Health and Rehabilitative Services (HRS). The Juvenile Alternative Services Project is a court diversion program which provides services and sanctions such as arbitration, restitution, family counseling and community work service to non-serious juvenile offenders. After initial evaluations reported less than twenty percent recidivism,<sup>17</sup> JASP has been expanded to serve all eleven HRS districts. In 1982-83 16,000 clients were served, more than 300,000 hours of community work were performed, and restitution payments totaled over \$228,000.<sup>18</sup> The cost for providing JASP services averages \$170.00 per client,<sup>19</sup> whereas traditional judicial handling costs average \$1,000.00 per case.<sup>20</sup>

Notable criticisms of service-oriented diversion programs focus on their "net-widening" aspect.<sup>21</sup> It has been asserted that the volume of offenders served by JASP-like programs does not represent true diver-

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16. EXECUTIVE OFFICE OF THE GOVERNOR, OFFICE OF PLANNING AND BUDGETING, THE PAST, PRESENT AND FUTURE OF THE FLORIDA JUVENILE JUSTICE SYSTEM: A MULTIAGENCY POLICY ANALYSIS (1983) [hereinafter cited as POLICY ANALYSIS].

17. HRS, RESEARCH REPORT NO. 6816, EVALUATION OF THE JUVENILE ALTERNATIVE SERVICES PROJECT 30 (1981).

18. Telephone interview with Mr. Lee Stapp, HRS, Children, Youth and Families Program Office (Aug. 1983).

19. POLICY ANALYSIS, *supra* note 16, at 7.

20. *Id.*

21. See T. BLOMBERG, *Widening the Net: An Anomaly in the Evaluation of Diversion Programs*, in HANDBOOK OF CRIMINAL JUSTICE EVALUATION (M. W. Klein and K. S. Teilman, eds., 1979) and C. FRAZIER, P. RICHARDS & R. H. POTTER, *Juvenile Diversion and Net Widening: Toward a Clarification of Assessment Strategies*, in 42 HUMAN ORGANIZATION *passim* (1983).

sion because these individuals would not routinely receive court attention due to the minor nature of their alleged offenses. Basic to this criticism is the argument that ninety-five percent of all adolescents commit delinquent acts but are not apprehended, receive no sanctions, and eventually mature out of their misbehavior. Opponents of diversion services argue that this method widens the net of arrests, brings unnecessary formality to the diversion process, and may actually serve to label the child as a delinquent without court adjudication.

Despite the proliferation of JASP, the judicial handling of juveniles has steadily increased in Florida. From 1976, when approximately one-third of all juvenile delinquency referrals were brought to court for adjudication, the rate increased to fifty-four percent in 1982.<sup>22</sup> The phenomenon, brought about by increased filings by the state attorneys, reflects a public perception that "nothing happens" to youths who are arrested. Court processing is viewed as concrete evidence that "something happens."

In order to establish the cost-effectiveness of Florida's diversion programs, evaluative studies must be undertaken to determine if JASP clients are truly being diverted and whether these youths would be subjected to court processing if the diversion service did not exist. Judicial handling should be reserved only for violent or chronically delinquent youth. Because so few juveniles who come to court are such serious offenders, it is more appropriate to substitute the dollars which now go into the bulk of court processing with diagnostic services, special remedial education, and employment training. By reducing the judicial handling rate from fifty-four percent to thirty percent, the state could realize a savings in excess of fifteen million dollars annually. This amount could then be directed to a range of appropriate family support and skills training services.

## B. Detention Programs

Florida has the highest pre-adjudicatory juvenile detention rate in the nation.<sup>23</sup> During fiscal year 1982-83, 25,089 youths were admitted to secure detention—over one-third of all delinquency referrals during that period.<sup>24</sup> The total average daily population in Florida's twenty

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22. POLICY ANALYSIS, *supra* note 16, at 8.

23. *Id.*

24. CHILDREN, YOUTH AND FAMILIES PROGRAM OFFICE, HRS, DETENTION POPULATION ANALYSIS (fiscal year 1982-83) [hereinafter cited as POPULATION ANALYSIS].

regional detention centers was 1,016 in 1982-83, with an average length of stay per child of 12.7 days.<sup>25</sup> During that same time, over 400,000 child days were spent in secure detention.<sup>26</sup> Funding for secure detention represents one-quarter of the state's total budget for delinquency services.<sup>27</sup> Due to the detainees' pre-adjudicatory status, the detention program is not intended to offer any treatment services, just custodial care. The cost of this care totals \$1,200 per child per month.<sup>28</sup>

In 1981, the Florida Legislature amended section 39.032, Florida Statutes, which governs the detention decisionmaking process. Under current law, the criteria for admitting a child to detention excludes only the first-time accused misdemeanor, and even that child may be admitted if there are reasonable grounds to believe that he will fail to appear at any hearing.<sup>29</sup> In addition, the role of law enforcement and the state attorney in making the detention decision was significantly broadened by the 1981 statutory change.<sup>30</sup> This legislation was passed in direct reaction to a change enacted in 1980 which had restricted the use of detention. The 1980 criteria created a storm of protest from the law enforcement community. Specific cases of juveniles who were arrested for certain crimes but could not be detained caused enormous frustration. The perspective that "these youths must learn a lesson by being locked up" was heard statewide. The fact that detention is not to be used as punishment, that due process prohibits the arresting officers from assuming the role of judge, and that the "lesson" learned in detention may not be corrective but, on the contrary, destructive were not considered. The 1980 change was depicted to the 1981 legislature as promoting criminal behavior yet the facts did not justify this depiction.

During the 1980-81 year, detention populations were reduced by twenty percent without any significant negative effect.<sup>31</sup> During that period, the number of arrested juveniles who were released pending adjudication increased less than one half of one percent, rates of appearance at scheduled hearings were equal to previous years, and total ar-

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25. *Id.*

26. *Id.*

27. FLA. DEP'T HEALTH & REHAB. SERV., PUBLIC HEARINGS MANUAL 79 (1983) [hereinafter cited as HEARINGS MANUAL].

28. *Id.*

29. FLA. STAT. § 39.032 (1981).

30. *Id.*

31. POLICY ANALYSIS, *supra* note 16.

rests of juveniles dropped by ten thousand.<sup>32</sup> According to the 1983 Governor's Office policy report:

[T]he 1980 detention criteria, which were designed primarily to reduce the detention rate for juveniles charged with victimless offenses and minor property offenses, achieved their intended purpose and should be considered a successful experiment in the effort to increase the cost effectiveness (reduce the number detained without increasing the juvenile crime rate) of detention practices.<sup>33</sup>

After the criteria were expanded in 1981, the detention rate increased forty percent.<sup>34</sup> As a result, the need to expand existing centers and to build new facilities has become a major fixed capital and operating budget issue. The 1981-82 state budget contained \$8,000,000 of fixed capital for secure detention centers, and a biennial operating cost of nearly \$35,000,000. The 1983-84 operating budget for detention services is \$20,400,000 and an additional \$2,500,000 for fiscal year 1984-85 is being requested by HRS.<sup>35</sup> Detention has become one of Florida's major child-intensive growth industries.

Contrary to the intent of the federal Juvenile Justice Act of 1974,<sup>36</sup> the clientele of Florida's secure detention centers now includes a population of status offenders—youth who are held in contempt of court for violating dependency orders. These orders stem from truancy, runaway, or similar non-criminal behavior. Surveys of Florida's secure detention centers during the past two years have revealed as many as ten percent of those detained were status offenders serving specified sentences by order of the court.<sup>37</sup> These youths remain in detention twice as long (24.8 days average) as the youths held pending delinquency hearings.<sup>38</sup> Secure detention certainly curtails status offense behavior during the term of incarceration. The child cannot run through the concrete block walls or steel doors, there are no parents to disobey, and attendance at the detention school is mandatory. Such confine-

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32. *Id.* at 10.

33. *Id.* at 10-11.

34. *Id.* at 11.

35. FLA. DEP'T HEALTH & REHAB. SERV., SUPPLEMENTAL BUDGET REQUEST 4 (fiscal year 1984-5).

36. 42 U.S.C. § 5601 (1976).

37. POPULATION ANALYSIS, *supra* note 24.

38. COMMITTEE ON HEALTH AND REHABILITATIVE SERVICES, FLA. HOUSE OF REP., BILL ANALYSIS PCB 3 (relating to status offenders, 1983) [hereinafter BILL ANALYSIS PCB 3].

ment, however, operates to inflict harm by aggravating the complex problems which gave rise to the original status offense behavior. Due to family, school and court frustration, and the dearth of appropriate treatment resources, incarceration has become the expedient option. But detention of behaviorally dependent children is an expensive mistake, one which reduces the chances of resolving those children's real problems.

An alternative to secure detention, the non-secure detention program, has been established in each of the regions now served by a detention center. Non-secure detention provides intensive supervision to those youths who are in pre-hearing status at one-third the cost of secure detention placement. These youths remain with their families, are required to maintain regular school attendance, and adhere to defined activity limitations. During 1982-83, 5,873 youths were placed in non-secure detention status, averaging 364 youths on a daily basis.<sup>39</sup> The success of this alternative to secure confinement is well documented.<sup>40</sup> Most youths appear at their hearings and are not accused of additional offenses in the interim. Due to budget constraints and a longer length of stay required in non-secure status, 21.4 days versus 12.6 for secure, the program continually operates at capacity.<sup>41</sup>

With minimal modification, the state should re-adopt the set of detention criteria passed by the 1980 Florida Legislature which restricted the use of secure incarceration while not presenting any significant threat to the integrity of the court process. Currently the non-secure detention program serves one-quarter of the total average daily population of youth in detention status.<sup>42</sup> The program should be expanded to serve one-half of all detained youths as a cost effective alternative to secure confinement. This shift of resources would effect an operating savings of some \$5,000,000 in addition to removing the necessity for capital construction for expanded and new detention facilities. The practice of utilizing secure detention as punishment for repeated status offense behavior should be curtailed. The fiscal cost of this practice is overshadowed only by the human cost to the child. Expansion of well-staffed non-secure shelters at which behaviorally dependent youth receive diagnostic and therapeutic services is the most cost-

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39. CHILDREN, FAMILIES & YOUTH PROGRAM OFFICE, HRS, KEY INDICATORS REPORT (1982-83) [hereinafter cited as KEY INDICATORS REPORT].

40. *Id.*

41. POPULATION ANALYSIS, *supra* note 24.

42. 42 U.S.C. § 5601 (1976).

effective alternative to detention incarceration.

### C. Community Control

Community control is a court-ordered non-residential supervision program. A youth is required to perform specified tasks such as community work service or payment of restitution and adhere to certain behavior limitations such as observing curfews and attending school or a job training program for a period of time designated by the court. Failure to obey the community control order results in the commitment of the child to HRS.<sup>43</sup> Each year less than ten percent of the clients supervised on community control have failed the program and received commitment status.<sup>44</sup> During 1982-83, 22,320 youths received community control sanctions at a per client cost of approximately \$350.<sup>45</sup>

Since 1980 the community work service and restitution components of the program have been expanded. During 1982-83, more than 150,000 hours of community work service, and \$500,000 of victim restitution payments were generated by community control clients.<sup>46</sup> The program operates at a per client cost which averages one-tenth of the costs of the residential program, a clearly cost effective alternative.

The community control program's direction toward expansion of work service and restitution should be continued. The caseworker's role in this regard should involve creative involvement with the private business sector in each community. Employment skills training, job development and placement services should become primary functions of the community control program so that clients can achieve economic and personal success when their supervision is completed.

### D. Commitment

The percentage of juveniles who are committed by the court to HRS for treatment services is eight percent of all youths who are referred to HRS for alleged delinquency.<sup>47</sup> This is double the commitment percentage of five years ago.<sup>48</sup> Since the early 1970s the array of

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43. POLICY ANALYSIS, *supra* note 16 at 12.

44. *Id.*

45. Telephone interview with Mr. Dix Darnell, Department of Health and Rehabilitative Services, Children, Youth and Families Program Office (Nov. 1983).

46. *Id.*

47. POLICY ANALYSIS, *supra* note 16 at 15.

48. POLICY ANALYSIS, *supra* note 16 at 25.

programs available as commitment options has expanded to a remarkable degree. Fifteen years ago all youths committed for treatment in Florida were sent to training schools.<sup>49</sup> In 1982, training schools admitted approximately thirty-two percent of all committed youth.<sup>50</sup> The remaining two-thirds were served by numerous alternative programs ranging from non-residential special intensive groups and marine science institutes to residential wilderness programs, halfway houses, group treatment homes, and START centers.<sup>51</sup> During 1982-83, approximately 3,200 youths were committed to community alternative delinquency programs. These youths were served at less cost and with a higher degree of success than those committed to training schools.<sup>52</sup>

Florida operates three training schools: the A.G. Dozier School in Marianna, the A.D. McPherson School in Ocala, and the Florida School for Boys in Okeechobee. The latter institution is operated by the Jack and Ruth Eckerd Foundation under contract with the state. During 1982-83, the training schools housed a total average daily population of 1,016 youths.<sup>53</sup> The average population over the third quarter of 1983 has been reduced to approximately 850 per day.<sup>54</sup> The cost per client of an average six-month stay in training school is \$6,280.<sup>55</sup> Although training schools are perceived to be the "deep end" of the juvenile justice system, housing only serious offenders who have been through numerous other programs without success, statistics point to a different reality.

Over the past three years, as many as forty-five percent of training school admittees were youths who had never received treatment in an alternative program.<sup>56</sup> Currently, one-third of training school clients are first commitments.<sup>57</sup> Fewer than fifteen percent of the juveniles in training schools have been committed for violent offenses.<sup>58</sup> Three-fourths of them are not significantly different in terms of commitment

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49. CHILDREN, FAMILIES & YOUTH PROGRAM OFFICE, HRS, COMMITMENT PROGRAM DATA ANALYSIS (1982).

50. HRS, CHILDREN, YOUTH AND FAMILIES, STATISTICAL PACKAGE (1982).

51. *Id.*

52. *Id.*

53. KEY INDICATORS REPORT, *supra* note 39.

54. *Id.*

55. *Id.*

56. CHILDREN, FAMILIES & YOUTH PROGRAM OFFICE, HRS, COMMITMENT PROGRAM DATA ANALYSIS (1982).

57. POLICY ANALYSIS, *supra* note 16, at 24.

58. *Id.* at 16.

offenses and offense histories from those juveniles who are placed in community programs.<sup>59</sup> Although state policy prohibits the placement of misdemeanants in a training school, waiver of this policy occurred over a hundred times during 1981-82.<sup>60</sup> This evidence points to the randomness of placement practices which are more dependent on space availability than on an individual client's history or specialized need.

The 1983-84 training school operating budget is \$12,800,000.<sup>61</sup> Unfortunately, little of this expenditure relates to appropriate mental health services or even basic supervision. Psychologists' caseloads are at a 1:200 ratio and general supervision is the responsibility of cottage parents who earn less than \$9,000 annually.<sup>62</sup> Additionally, the history of treatment in the training schools has not been the provision of care "which will best serve the moral, emotional, mental and physical welfare of the child."<sup>63</sup> Corporal punishment was a prevalent practice until its use was discontinued in the mid 1970s. Physical beating to discipline children who have often been victims of child abuse over much of their lives serves neither the client nor the program. To create a system of violent punishment is tantamount to ignoring all but the toughest clients. The dilemma of training schools is whether rehabilitation will ever be feasible in an environment that houses four hundred youths in a rural setting which completely cuts off the realities of home and community.<sup>64</sup> Nearly half of training school clients are age fifteen or younger. Housing several hundred young adolescents in a closed environment serves only to exacerbate emotional disturbance and to promote violent behavior.

Clear distinctions must be made between the treatment needs of serious violent youth offenders and less-serious committed youth. Departmental screening procedures should be developed which diagnose those youths with special needs such as emotional disturbances and developmental disability. Appropriate treatment resources should exist for these individuals. Violent and repeat offenders, who represent less than fifteen percent of all youths committed by the court, should receive in-

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59. *Id.*

60. Letter from Melvin Herring of HRS Children, Youth, & Family Office to author (Sept. 1982).

61. HEARINGS MANUAL, *supra* note 27, at 45.

62. SELECT COMM. ON JUV. JUSTICE, FLA. HOUSE OF REP., OVERSIGHT REPORT ON FLORIDA'S TRAINING SCHOOLS 48 (1981).

63. FLA. STAT. § 39.001(2)(c) (1981).

64. HRS, CHILDREN, FAMILIES & YOUTH PROGRAM OFFICE, STATISTICAL PACKAGE (fiscal year 1981-82).

tensive therapeutic treatment in relatively small, secure programs of twenty-five to thirty beds. If proper client evaluation and specialized treatment services were available, large training schools would become an unnecessary component of the delinquency program.

### E. Adult Correctional Admissions

Since 1978, the number of juveniles admitted to adult prisons has tripled from 257 in 1977-78 to 771 in 1981-82.<sup>65</sup> Of the 771 juvenile admissions in 1981-82, forty percent were aged sixteen or younger.<sup>66</sup> Statutory changes enacted in 1981 permit the transfer of sixteen and seventeen year-olds for criminal prosecution as adults at the discretion of the state attorney.<sup>67</sup> The sole criterion for this transfer is a felony charge; no prior record needs to be in evidence.<sup>68</sup> Although it is assumed that adult court transfer should be limited only to those juveniles who are accused of violent crimes or have proven themselves not amenable to juvenile court handling, the statutes do not set such limitations on prosecutorial discretion. Under current law, a sixteen year-old accused of grand larceny (theft of property valued at \$100 or more) may be tried as an adult, subjected to six months in jail pending trial, and be incarcerated in the adult prison system if found guilty.<sup>69</sup>

Of the juveniles sentenced to the Florida Department of Corrections in 1981-82, twenty-five percent had no prior arrests on record. The median sentence for these juveniles was three years with a majority of them having been found guilty of non-violent property offenses.<sup>70</sup> Burglary accounted for forty-four percent of these commitments.<sup>71</sup> By placing a sixteen year-old burglar in prison for three years, the state pays an initial \$30,000 installment on a long-term debt. According to the *Youthful Offender Program Evaluation*, these inmates are frequently the target of severe exploitation and abuse by older, stronger inmates.<sup>72</sup> Prison, especially for the young, is a violent environment in which the powerful prey upon the weak. A victimized offender cannot

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65. *Id.*

66. POLICY ANALYSIS, *supra* note 16, at 25.

67. FLA. STAT. § 39.04(2)(e)(4) (1981).

68. *Id.*

69. *Id.*

70. POLICY ANALYSIS, *supra* note 16, at 25.

71. *Id.*

72. EXECUTIVE OFFICE OF THE GOVERNOR, OFFICE OF PLANNING AND BUDGET, *YOUTHFUL OFFENDER PROGRAM EVALUATION* (1981).

be rehabilitated, and our prisons are producing hundreds of youthful victims each year who will return to their communities worse off than they were before being sent away.

The authority to transfer a juvenile to criminal court should be a judge's decision, after the facts have been presented in a waiver hearing. The waiver process should only be utilized for those juveniles who commit serious crimes or whose records indicate that previous attempts at juvenile court sanctions have failed. The Department of Corrections should develop specialized programs which emphasize vocational training for juvenile inmates ages seventeen and under. No inmate who is diagnosed as developmentally disabled or mentally ill should be incarcerated in mainstream prison environments.

#### IV. Juvenile Justice and the Educational System

In examining the problems of youth who enter the juvenile justice system, the role of the school cannot be ignored. Sporadic attendance, misbehavior and educational failure are all characteristics of young people who get into trouble with the law. Although schools are responsible for the enforcement of compulsory attendance laws, few school districts in Florida have effective programs to respond to the complex reasons for a student's non-attendance or misbehavior. The misbehaving child is viewed by school administrators as a discipline problem who requires punishment. In the 1981-82 school year, over 180,000 public school students in Florida received corporal punishment on single or numerous occasions.<sup>73</sup> Actual incidents of corporal punishment may number a half million or million annually. In the 1981-82 school year, over 83,000 Florida students were suspended from public school.<sup>74</sup> In the 1980-81 school year, over 40,000 students dropped out of Florida's public schools,<sup>75</sup> and another 112,000 were not promoted to the next highest grade.<sup>76</sup> Each year, for every two graduates of Florida's schools, a third child is a dropout.

The discipline statistics are especially severe for black students. In the 1980-81 school year, black students comprised twenty-three percent of the Florida public school population but represented thirty-three percent of the non-promoted students, thirty-seven percent of the corpo-

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73. FLA. DEP'T OF EDUC., STUDENTS IN FLORIDA PUBLIC SCHOOLS 29 (1981-2).

74. FLA. DEP'T OF EDUC., STUDENTS IN FLORIDA PUBLIC SCHOOLS 28 (1981-2).

75. *Id.* at 23.

76. *Id.* at 24.

rally punished students, thirty-eight percent of the suspended students and forty-three percent of the expelled students.<sup>77</sup> In 1979, the federal Office of Civil Rights released a study which ranked the nation's one hundred worst school districts for overrepresentation of black students among those who were corporally punished, suspended or expelled. Ten Florida school districts were among those one hundred. These districts are ten of the twelve largest Florida school districts, encompassing nearly sixty percent of the state's public school population.<sup>78</sup>

The Florida Alternative Education Act was established in 1978 to promote educational services which are "positive not punitive" and are directed to provide special help to the disruptive and unsuccessful student.<sup>79</sup> A majority of Florida's school districts have implemented alternative education programs. An evaluation of these programs by the Governor's Office of Planning and Budgeting in 1981 revealed that most district programs offered little in the way of specialized instruction or support services.<sup>80</sup> The majority of districts operated in-school suspension and detention programs, without any cooperative planning within districts, across districts, or with the Department of Education.<sup>81</sup> Without the proper implementation of the Alternative Education Act, the punitive and exclusionary practices of Florida's public schools have continued to generate drop-out rates and a population of under-educated, unskilled, frustrated and desperate young people. Additionally, the 1983 Florida Legislature's initiative in passing the RAISE Bill, aimed at making graduation requirements more stringent, may result in even higher drop-out rates. RAISE ignores the special needs of a large population of students who are failing under current educational standards.

After five years, the Alternative Education Act should begin to show a positive impact on exclusionary discipline practices. To that end, clear performance measures for district alternative education programs should be developed by the Department of Education and utilized for evaluation purposes. The practices of corporal punishment and suspension should be limited by statutory amendment. It is not in the

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77. *Id.*

78. OFFICE OF CIVIL RIGHTS, U.S. DEP'T OF HEALTH, EDUC. AND WELFARE, ELEMENTARY AND SECONDARY SCHOOLS CIVIL RIGHTS SURVEY (appendix and tables, 1979).

79. FLA. STAT. § 230.2315 (1981).

80. EXECUTIVE OFFICE OF THE GOVERNOR, OFFICE OF PLANNING AND BUDGET, ALTERNATIVE EDUCATION: AN EVALUATION (1981).

81. *Id.*

best interest of either the child, the school, or the state to continue to over-utilize these ineffective punishment methods. The emphasis of the RAISE improvements should be expanded to include increased counseling and guidance services and expanded remedial education components. Unamended, the RAISE initiative will result in higher drop-out rates than presently exist. An enhanced career education program should be developed utilizing the technical expertise of private business and community agencies to promote improved job training and employment opportunities for Florida's student population.

## V. Conclusion

The purpose of Florida's juvenile justice system is appropriately stated in section 39.001, Florida Statutes, as the intent "to protect society more effectively by substituting for retributive punishment, whenever possible, methods of offender rehabilitation. . . which are consistent with the seriousness of the offense. . . ."82 This state has established, through statutes and programs, a proper framework for the achievement of that rehabilitative purpose. Certain needed adjustments, such as those suggested in this article, would bring our system more expediently toward this rehabilitative goal.

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82. FLA. STAT. § 39.001 (1979).