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EXECUTIVE SUMMARY

Concerns over detention practices in Utah resulted in the Utah State Legislature ("Legislature") directing the Utah Commission on Criminal and Juvenile Justice ("UCCJJ") to study detention overcrowding and other related issues. House Bill 336, item 18, declared that: "[i]t is the intent of the Legislature that the Commission on Criminal and Juvenile Justice conduct a study of the State juvenile detention system."

The UCCJJ formed the Detention Study Committee ("Committee"), which was comprised of nineteen members. The Committee members concentrated their efforts on what they considered to be the most critical issues regarding detention. These included the following: 1) Admission practices and the use of detention; 2) Alternatives to detention; 3) Ethnic minority over-representation in detention; and, 3) Purpose of detention.

The Committee hopes that the recommendations will assist the Legislature, and state and local officials in solving detention problems and issues.

Summary of Committee Findings

- The number of youth at risk for delinquency in Utah is at an all time high. Currently, there are approximately 290,000 youth in Utah from the ages of 10 through 17.
- Overcrowding is a problem in a number of Utah's detention centers. The *Salt Lake Detention Center* and *Moweda Youth Home* account for 58% of all detention admissions statewide. Overcrowding occurred in the *Salt Lake Detention Center* 98% of all nights and the *Moweda Youth Home* 51% of all nights during FY 1993.
- Youth placed in detention for warrants of arrest/pick-up orders in FY 1993 had an average of 12.4 convictions.

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- Youth committed to detention during FY 1993 had an average of 10.3 convictions.
- Youth placed in detention for felony charges had an average of 8.2 convictions in 1993. Youth charged with misdemeanors had an average of 9.0 convictions.
- An analysis of the reasons for the number of admissions to detention and corresponding days of care reflect the following percentages:¹

	Number of Admissions(%)	Days of Care(%)
Warrants of arrest/pick-up orders	30%	26%
Judicial commitments	25%	21%
Felony charges	22%	27%
Misdemeanor charges	11%	10%
Awaiting placements ²	8%	14%
Other	5%	4%

- Ethnic minorities are over-represented in juvenile detention admissions. Hispanics account for 4.3% of Utah's school age population and 16.3% of all admissions to detention in FY 1993. Youth of color account for 8.2% of all youth in Utah and 27.5% of statewide detention admissions.
- Youth of color stay in detention longer than Caucasians. African American youth stay one and a half days longer and Hispanics one day longer than Caucasians.
- With the exception of Native Americans, the number of

¹ Percentages are relative to the reasons for admissions. Days of care reflect actual data collection and reporting practices conducted by the Juvenile Court and DYC during FY 1993.

² The percentage of youth that fall under this category may be underestimated because disposition may have been postponed.

convictions prior to detention does not differ by ethnicity. On average, Native Americans placed in detention have fewer prior offenses than other ethnic groups.

Ethnic minority staff are under-represented in juvenile detention centers and do not reflect the ethnic characteristics of the population they serve. For example, Hispanic youth account for 16.3% of detention admissions but only 7.4% of detention staff are Hispanic.

Summary of Committee Recommendations³

1. Alternatives to Detention

Recommendations:

- a) Increase funding to develop and enhance alternatives to detention in order to: 1) reduce overcrowding in detention facilities across the state; 2) decrease the need for the construction of additional secure beds; and, 3) meet youth population growth.
- b) The Juvenile Court, the Division of Youth Corrections ("DYC") and the Division of Family Services ("DFS") should encourage the development of detention alternatives to meet the standards of: 1) public safety; 2) protection of the youth; 3) assurance of court appearance; and, 4) recovery and competency development of youth.

2. Constructions of Additional Secure Beds

Recommendation: Fund the construction of additional secure detention beds in order to: 1) reduce overcrowding

³ In order to fully understand the Committee's recommendations, PLEASE review Part VI of the report, "Committee Recommendations" on pages 26-34. Part VI examines the issues pertaining to detention, provides recommendations, and indicates which agencies will be responsible for implementing and developing the prescribed recommendations.

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in detention facilities across the state; 2) avoid further litigation; and, 3) meet the secure detention need for youth population growth.

3. Development of Juvenile Receiving Centers

Recommendations:

- a) Appropriate funds to develop juvenile receiving centers or expand current Youth Services Centers for those youth who do not meet detention admission guidelines or do not fall under the statutorily permitted categories of youth that can be fully served by Youth Services.
- b) Appropriate funding so that the following categories of troubled youth may be served by existing Youth Services Centers (including the shelter side of existing rural multi-use facilities):
 - 1) Youth who do not meet detention admission guidelines.
 - 2) Youth experiencing a mental/emotional crisis.
 - 3) Youth intoxicated with alcohol or other drugs who do not constitute an immediate threat of harm to self or others.

4. Statutory Provisions

Recommendations:⁴

- a) Amend U.C.A. § 78-3a-39(6) to restore the Juvenile

⁴ Members of the committee voted to continue the use of all current statutes that authorize detention for pre- and post-adjudicated confinement, with the exception of the statutory provisions outlined under the subheading "Statutory Provisions." In addition, the Committee voted to maintain two administrative uses of detention. Specifically, illegal aliens may be placed in detention while their status is being determined, and juveniles wanted by other jurisdictions such as escapees, fugitives, and absconders may also be placed in detention

Court's authority to commit youth to detention or an alternative sanction for up to 30 days.⁵

- b) Amend U.C.A. § 78-3a-52 to restore the Juvenile Court's authority to commit juveniles to detention or an alternative sanction for contempt.⁶
- c) Amend U.C.A. §§ 78-3a-30(5) and 78-3a-39(3) to eliminate the use of detention for holding youth--up to 72 hours, excluding weekends and holidays--who are awaiting non-secure placement. The legislature should be encouraged to fund alternative placements for youth awaiting non-secure placement.

5. *Ethnic Minority Youth, Detention Staff, Probation Officers and Juvenile Court Judges*

Recommendations:

- a) Appropriate funds for community-based programs targeting high risk youth with an emphasis on ethnic minority youth who are at-risk for secure detention.
- b) Increase the number of ethnic minority staff working in detention centers.
- c) Provide detention staff extensive and routine training in multi-cultural sensitivity.
- d) Appropriate funds to study the reasons for over-representation of minorities in the juvenile justice system.

⁵ After the passage of H.B. 3 on October 12, 1993.

⁶ After the passage of H.B. 3 on October 12, 1993.

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- e) Increase the number of minority intake officers, probation officers and judges in the juvenile justice system.

6. *Rural Issues*

Recommendations:

- a) Build a multi-use facility in Carbon or Emery county.
- b) Reimburse sheriff departments' costs associated with transportation of youth to other detention facilities.
- c) Designate authorized officers of the court in rural areas to conduct initial detention and shelter hearings.
- d) Expand state detention programming and services in rural areas to a level comparable with services offered in urban areas.
- e) The DYC should continue to cooperate with law enforcement agencies through the Options for Youthful Offenders Committee ("OYO") and the Annual Law Enforcement/Division Training Institute. This cooperative effort was created to discuss, enhance and improve upon current detention needs and issues, particularly for rural areas.

7. *Statewide Detention Admission Guidelines and the Third District Juvenile Court Consent Decree*

Recommendations:

- a) Modify the Third District Juvenile Court Consent Decree Admission Guidelines so they conform with the Statewide Detention Admission Guidelines. The Statewide Detention Admission Guidelines should be

reviewed to determine whether they need to be more restrictive or less restrictive.

- b) Modify the Third District Juvenile Court Consent Decree so that the judge conducting the probable cause hearing will not have to base his/her decision to continue detention on the Holdable List of Offenses. Instead, a judge should continue to hold juveniles suspected of serious crimes on the following bases: 1) public safety; and, 2) a finding of probable cause of behavior serious enough to warrant continued detention.

8. *Documenting and Tracking of Major Types of Warrants of Arrest/Pick-up Orders*

Recommendation: The NYC and Juvenile Court together should develop a process for documenting and tracking the major types of warrants of arrest/pick-up orders in order to identify: 1) reasons why warrants of arrest/pick-up orders are issued; 2) how detention resources are being used; and, 3) categories for potential detention alternatives.

9. *The Lone Peak Facility and Its Impact on Detention*

Recommendation: The Legislature should request a detailed analysis of the Lone Peak facility operation to include its impact on juvenile detention for the first year.

10. *Youth Corrections Mission Statement, Policies and Procedures*

Recommendation: The Board of Youth Corrections ("Board") should review its mission, vision and values as they relate to the current needs of the juvenile justice system. Specifically, the Board should direct the NYC to review its detention centers' policies and procedures in order to deter offenders' future delinquent behavior. In

addition, programming resources should be equal to the levels of expected service.

11. *UCCJJ "Juvenile Justice Subcommittee"*⁷

Recommendation: The UCCJJ Juvenile Justice Subcommittee ("Subcommittee"), which is reviewing the "best organizational structure" for the juvenile justice system, needs to examine options as to who should be responsible for administering detention facilities. For example, the Subcommittee needs to study options such as: 1) returning the responsibility of detention facilities to counties; and/or, 2) aligning the use of detention facilities with the jurisdiction of the Juvenile Court.

12. *Community/Neighborhood Based Prevention Programs*

Recommendation: Create funding incentives for the development of community/neighborhood based delinquency prevention programs, thereby encouraging coalitions between public and private groups and organizations.

13. *Use of Detention for Post-Adjudicatory Placement*

Recommendation: The use of post-adjudicatory dispositional detention as a deterrent should be studied, beginning with a review of current literature.

14. *Classification System in Detention Centers*

Recommendation: The DYC should thoroughly review the use of a classification system in detention centers. The system will allow placing youth in detention centers

⁷ The Juvenile Justice Subcommittee is sponsored by UCCJJ. The purpose of the Subcommittee is to determine the best organizational structure for Utah's juvenile justice system.

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according to: 1) age; 2) seriousness of the offense; 3) type of offender (e.g., serious offenders vs. first time offenders); and, 4) pre- and post-adjudication.⁸

⁸ This list is not exhaustive.

I. INTRODUCTION

During the 1993 Legislative Session, the Legislature directed the UCCJJ to study the juvenile detention system because of increased concern about overcrowding and related issues.

In order to accomplish this task, the UCCJJ formed the Detention Study Committee, ("Committee") which was comprised of nineteen members. The Committee members represented a broad range of professionals and citizens who demonstrated an interest and knowledge in the area of juvenile detention practices.¹

The Committee members concentrated their efforts on what they considered to be the most critical issues regarding detention.² These included the following:

- Admission practices and the use of detention.³
- Alternatives to detention.
- Ethnic minority over-representation in detention.
- Purpose of detention.⁴

The Committee hopes that the recommendations will assist the Legislature, and state and local officials in solving detention problems and issues.

¹ Although members of the Committee represented specific agencies and programs, it should not be interpreted that the individual agencies and programs endorse all of the recommendations and findings of the Committee.

² The Committee met from June through November of 1993; meetings were held on the average of twice a month. However, due to the complexity of the issues and the lack of time, not of all the areas that were initially identified were studied as originally envisioned.

³ Prior to the passage of H.B. 3, "Youth Corrections and Juvenile Court Amendments," on October 12, 1993.

⁴ The subcommittee that reviewed the purpose of detention did not arrive at a consensus as to the purpose of detention. However, the subcommittee did agree on some specific uses of detention.

II. BRIEF HISTORICAL EVENTS

This section will outline the most important events dealing with detention issues in Utah from 1984 to 1993.

1984- A lawsuit was filed with the United States District Court against the Third District Juvenile Court Judges.⁵ The complaint alleged that the Judges of the Third District Juvenile Court were violating juveniles' due process and equal protection rights. The parties entered into a federal consent decree in order to resolve this dispute. As one of the conditions, the parties to the suit agreed to establish detention admission guidelines at the *Salt Lake Detention Center*.⁶ The consent decree is still enforced.

1987- The Legislature granted the Division of Youth Corrections ("DYC") statutory responsibility for the statewide operation of detention facilities.⁷

1988- The Office of the Legislative Auditor General conducted a Sunset Audit on the DYC. The Audit results identified concerns about detention practices in the state. The Auditor General stated: "if the state had a clearly defined policy describing whether detention is to be used for pre- or post-adjudicated youth or both, Youth Corrections could more easily predict the demand for detention facilities and plan programs for detention populations." In addition, the Auditor General noted that ". . . detention guidelines can help keep the detention population at a manageable level."

1989- The Legislature passed Senate Bill 180. The Bill authorized the post-adjudicatory use of detention for up to 10 days for youth who were in contempt of court orders. Also, it allowed a youth to be confined at a detention facility for up to 30 days as a sanction for a delinquent offense.⁸

- Utah's detention centers began to experience overcrowding.

⁵ Formerly the Second District Juvenile Court.

⁶ Often referred to as "Holdable List of Offenses."

⁷ Prior to the statutory change, counties were responsible for operating detention facilities. The state certified the detention programs and paid one-half of construction and operation costs.

⁸ H.B. 3 passed on October 12, 1993, amending the statutory provisions that authorized the Juvenile Court to commit youth directly to detention. Presently, the Juvenile Court commits youth to the DYC, which is then responsible for making appropriate placement.

1990- During the 1990 Legislative Session, the Legislature directed the Juvenile Court and the DYC to develop detention admission guidelines.

- The DYC obtained the services of Joseph Rowan⁹ after several juveniles attempted suicide while in detention. Mr. Rowan recommended that Utah develop statewide detention admission guidelines ("detention admission guidelines").

1991- The Legislature mandated that the Board of Juvenile Court Judges and the DYC report their progress on the development of the detention admission guidelines to the Judiciary Interim Committee by July 1, 1991.

1992- S.B. 84 assigned the responsibility to promulgate and implement statewide detention admission guidelines to the DYC. By July 16, 1992, the detention admission guidelines were established.

1993- Concerns over detention practices in Utah resulted in the Legislature directing UCCJJ to study detention overcrowding and other related issues. House Bill 336, item 18, declared that: "it is the intent of the Legislature that the Commission on Criminal and Juvenile Justice conduct a study of the State juvenile detention system."

- The American Civil Liberties Union ("ACLU") filed a complaint in the United States District Court ("Federal Court") against the Governor, the Department of Human Services and the Division of Youth Corrections in behalf of juveniles in detention. The ACLU indicated that the lawsuit was filed to prevent further overcrowding at the *Salt Lake Detention Center* and the *Moweda Youth Home (Roy)*. Currently, the parties involved in the lawsuit are continuing negotiations and hope to settle the case without further court proceedings.

- On October 1, 1993, the Administrative Office of the Courts filed a Motion to Modify the Third District Juvenile Court consent decree in Federal Court. The case is still pending.

- During the Special Legislative Session held on October 11-12, 1993, H.B. 3 passed and amended U.C.A. §§ 78-3a-39 and 78-3a-52 as follows:

⁹ Mr. Rowan is a nationally recognized expert on juvenile detention.

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H.B. 3 authorizes the Juvenile Court to commit juvenile offenders to the DYC for a period not to exceed 30 days, instead of placing youth directly in detention; and

H.B. 3 authorizes the Juvenile Court to commit juvenile offenders found in contempt of court to the DYC for not more than 10 days rather than to a detention facility.

III. DETENTION STATUTES¹⁰

The following section will outline Utah's law authorizing placement of youth in detention.¹¹

Definition:¹² Detention is a place of temporary short term *secure confinement* and safe custody for those youth *under the age of 18* who fall into one or more of the following categories:

Disposition up to 30 Days (post-adjudicated):¹³ A youth may be committed to detention for up to 30 days if he/she is adjudicated on offenses which are criminal if committed by an adult.

Contempt up to 10 days (post-adjudicated):¹⁴ A youth, if found in contempt of court, may be held in detention for not more than 10 days.

Youth Awaiting Placement for Secure Confinement:¹⁵ A youth *awaiting placement or transport to secure confinement* who has been found guilty of offenses which are criminal if committed by an adult and of such a serious nature that he/she has been committed to the custody of the DYC.

¹⁰ Please take notice that the text of all the statutory provisions summarized in this section are provided in the Appendix.

¹¹ Please take notice that the following statutory discussion examined the law before the passage of H.B. 3 in the Special Legislative Session of October 11-12, 1993.

¹² References: U.C.A. §§ 62A-7-101(6) and (17); 62A-7-201(6).

¹³ Reference: U.C.A. § 78-3a-39 (6)(a).

¹⁴ Reference: U.C.A. § 78-3a-52(3)(a)(b).

¹⁵ References: U.C.A. §§ 78-3a-39(3)(4)(5) and 78-3a-30(5)(a)(b).

Youth Awaiting Placement for Non-Secure Confinement:¹⁶ A youth may be held in detention *for not longer than 72 hours*, excluding weekends and holidays, following a dispositional order of the court for *non-secure substitute care or for community-based placement*.

Youth Pending Hearing (pre-adjudicated):¹⁷ A youth may be held in detention pending hearing if he/she has been charged with offenses which would be criminal when committed by an adult. The Juvenile Court has also found it unsafe to release the youth while pending the hearing.

Warrants of Arrest/Pick-Up Orders:¹⁸ A youth may be held in detention *pursuant to a warrant of arrest/pick-up order* issued by the Juvenile Court for failure to appear, probation violation or other behavior constituting non-compliance with court order, including youth who have detention time imposed but stayed subject to further review and order, and are awaiting a hearing.

Youth Arrested Without a Warrant of Arrest/Pick-Up Order Who Meet Detention Admission Guidelines:¹⁹ A youth who has been arrested and booked *without a warrant* or order of the court may be held in detention pending a detention hearing or further order for offenses which, if committed by an adult, would be criminal behavior. The youth also meets detention admission guidelines.

IV. ADMISSION PRACTICES AND USE OF SECURE DETENTION FINDINGS²⁰

This section identifies, describes, and explores a number of issues facing detention in Utah. The findings of this section will be discussed as follows:

• Detention Overcrowding

• Reasons Youth are Detained in Utah

¹⁶ References: U.C.A. §§ 78-3a-30(5) and 78-3a-39(3).

¹⁷ References: U.C.A. §§ 78-3a-30(1)(a) and 78-3a-30(4)(d).

¹⁸ References: U.C.A. §§ 78-3a-29(5)(c), 78-3a-28 and 78-3a-39(6).

¹⁹ Reference: U.C.A. § 78-3a-29(1).

²⁰ The findings presented in this section are prior to the passage of H.B. 3 on October 12, 1993.

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- Over-representation of Ethnic Minority Youth in Secure Detention
- Summary of Findings

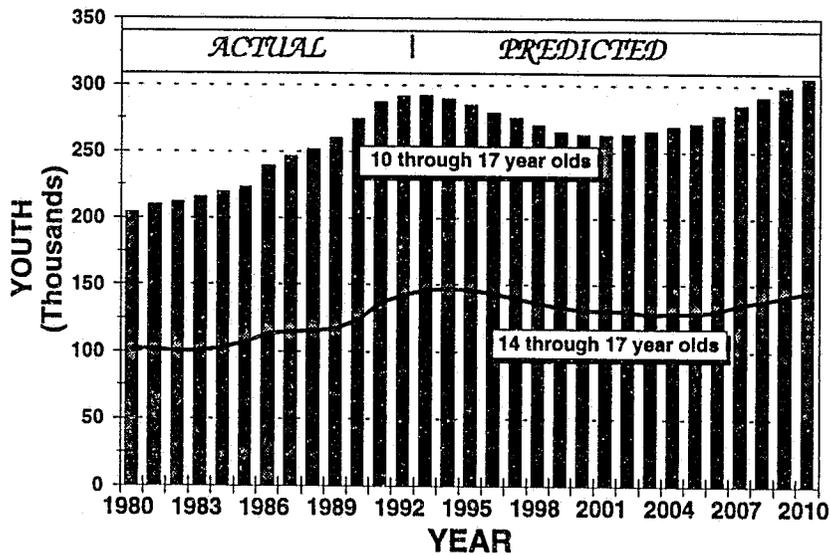
A. Detention Overcrowding

1. Youth at Risk in Utah

The juvenile justice system primarily serves youth from the ages of 10 through 17. This group comprises the population who is at greater risk of being placed in detention across the state. The number of youth in this category has substantially increased, thereby impacting detention's ability to provide services. Thus, it is critical that projections in the number of youth who fall within this age range be considered in planning for current and future needs.

As shown in Figure 1, in the past five years there has been a significant increase in the number of youth from the ages of 10 through 17

Figure 1. Actual and Predicted Numbers of Youth in Utah



SOURCE: State of Utah Economic & Demographic Projections 1990 and 1992

years old. There were approximately 290,000 youth in this age range enrolled in Utah's public and private schools in 1992. Of this total, approximately 52% (n=150,000) were between 14 and 17 years of age. These youth represent the group at greatest risk for involvement in the juvenile justice system. The number of juveniles from the ages 10 through 17 is projected to remain fairly constant before dropping in 1996.

2. Average Daily Population of Utah's Juvenile Detention Centers

Overcrowding is a problem in several of Utah's detention centers. Figure 2 shows the average nightly bed count of youth in detention in FY 1992 and FY 1993. The state's largest facilities, located in Salt Lake City and Roy, are experiencing severe overcrowding. *Salt Lake Detention Center* has a licensed bed capacity of 56; as shown in Figure 2, the average nightly count in FY 1993 was 79.4 youths. *Salt Lake Detention Center* exceeded its capacity 98% of the time. The *Moweda Youth Home in Roy*, with a licensed capacity of 34, exceeded its capacity 51% of the time in FY 1993.

However, overcrowding is not limited to Utah's urban areas. For example, in FY 1993 the *Central Utah Youth Home* (Richfield) exceeded its

Figure 2. Average "Nightly BED COUNT" (3:00 am) in Utah's 10 Secure Detention Centers

DETENTION CENTER	Licensed Bed Capacity	FY 1993		FY 1992	
		Average Nightly Count	% of Nights Over Licensed Capacity	Average Nightly Count	% of Nights Over Licensed Capacity
Cache Attention/Detention	8	6.3	10%	4.7	3%
MOWEDA Youth Home	34	33.5	51%	32.2	35%
Salt Lake Detention	56	79.4	98%	66.4	76%
Canyonlands Youth Center	4	3.5	29%	2.5	6%
Southwest Utah Youth Center	10	9.6	39%	9.2	35%
St. George Youth Center	4	0.1	0%	0.2	0%
Castle Country Youth Center	6	1.3	0%	1.7	5%
Central Utah Youth Home	4	5	57%	3.2	24%
Uintah Basin Youth Center	4	4.2	47%	4.3	44%
Provo Youth Detention Center	21	20	36%	22.3	53%
Total Nightly Bed Count	151	162.8		146.92	

NOTE: the St. George facility is used only for short-term holds, up to 6-hour

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capacity 57% of the time. Similarly, in FY 1993 the *Uintah Basin Youth Center* (Vernal) experienced overcrowding 47% of the time. However, as noted in Figure 2, relatively few youth were detained in these facilities.

Salt Lake, Utah, Davis, and Weber counties account for nearly 74% of all detention admissions in Utah. Figure 4 shows rates of secure and home detention admissions by county in FY 1992. For example, Iron and Washington counties have the highest rates of secure and home detention in the state. In 1992, these counties detained at a rate of 7 per 100 youth. By comparison, Salt Lake County detained at a rate close to 4 per 100 youth. Detention admission rates among all Utah counties are shown in Figures 3 and 4.

Figure 3. Statewide Distribution of Detention Admissions.

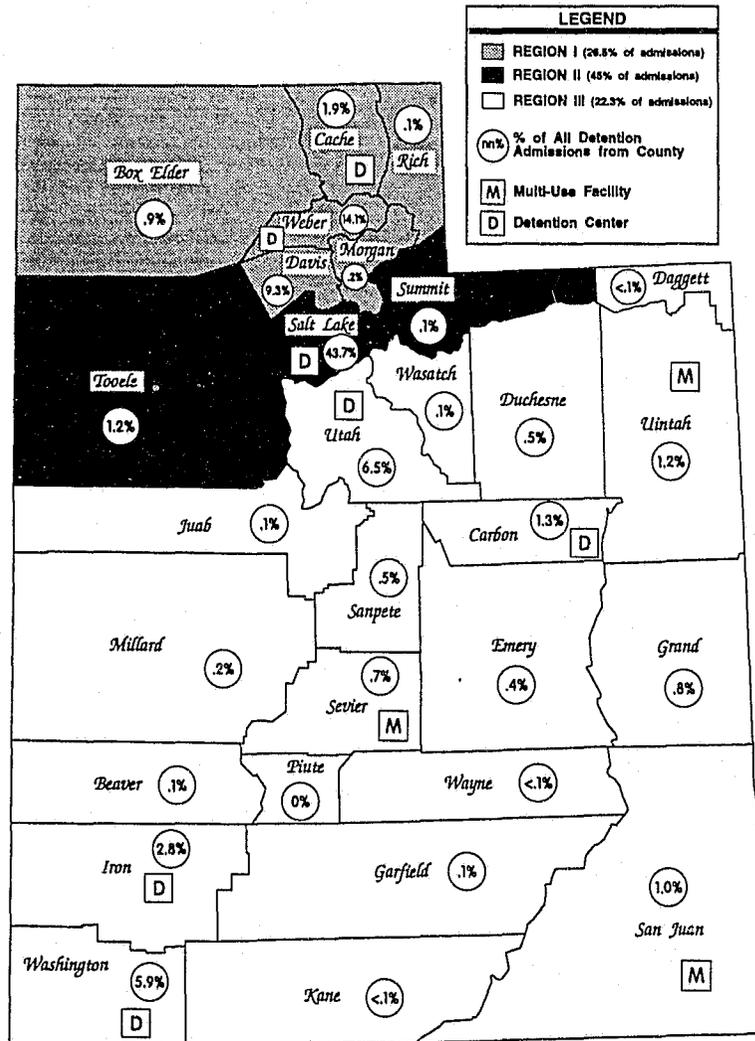
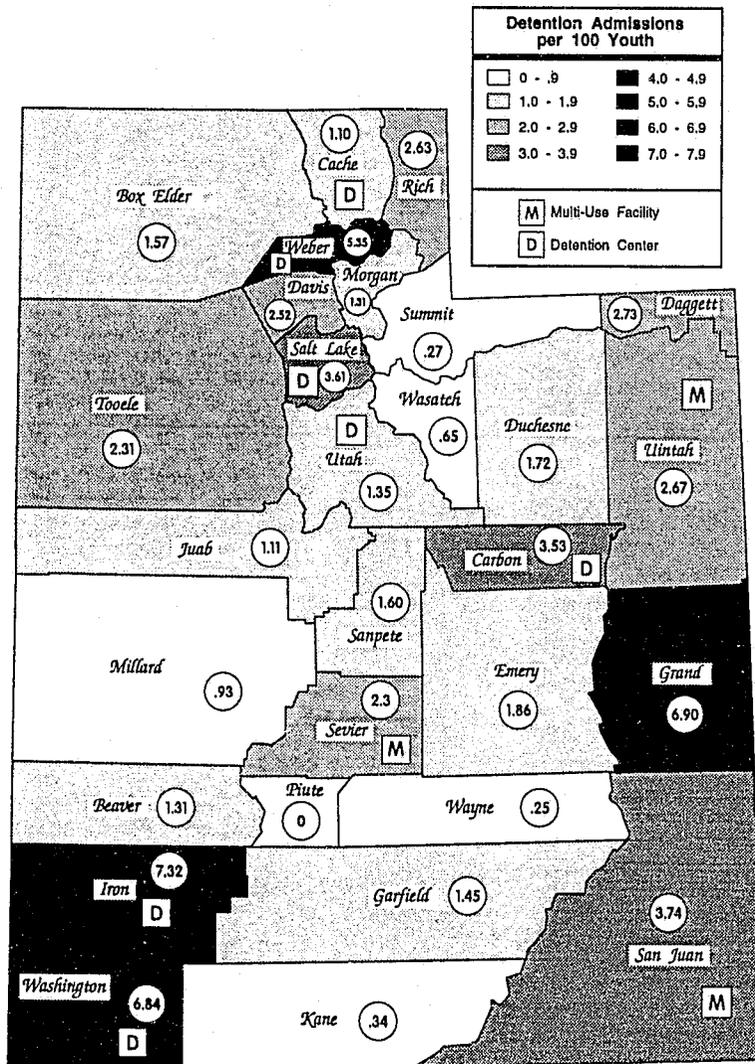


Figure 4. Rates of Detention Admissions.



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B. Reasons Youth are Detained in Utah

1. *Detention Admission Guidelines*

The 1992 statewide admission guidelines govern detention admissions in Utah with the exception of the Third District Juvenile Court,²¹ which is controlled by a federal consent decree. Due to the federal consent decree, the *Salt Lake Detention Center* operates under an imposed set of guidelines that differ from the 1992 statewide detention admission guidelines.

Detention admission guidelines prescribe the conditions that must exist or the type of offenses that a youth must commit in order to be placed in secure detention.²² The detention staff is required to screen youth in order to determine whether the youth meets detention admission guidelines. The detention staff must release young offenders who are alleged to have committed offenses that are less serious than those prescribed in the detention admission guidelines.

2. *Detention Admission in Utah*

In Utah, admissions to detention include pre- and post-adjudicated youth. Pre-adjudicatory admissions include youth charged with felonies and misdemeanors. A pre-adjudicated youth may be held in detention while awaiting a hearing before the Juvenile Court.

In 1989, the Legislature authorized the Juvenile Court to use detention for post-adjudicated youth.²³ Prior to the Special Legislative Session held October 11-12, 1993, the Juvenile Court had the authority to commit a youth to detention up to 30 days for short term disposition and up to 10 days for contempt of court. These sanctions are often issued because a youth fails to comply with a court order. Finally, post-adjudicatory admissions include youth held in detention while awaiting placement for another program or facility. The youth must continue to be held in detention because there is not a bed immediately available at the designated program or facility.

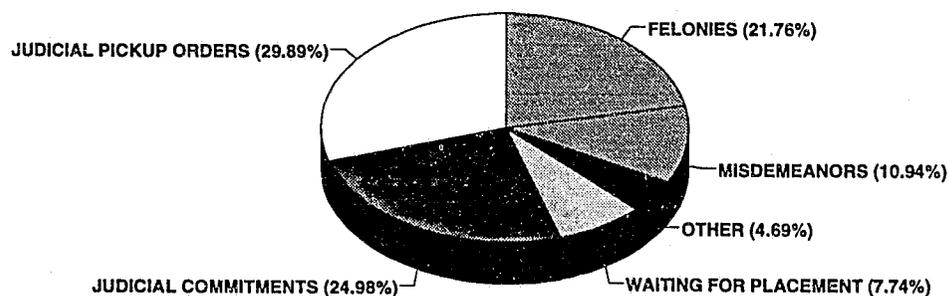
²¹ The jurisdiction of the Third District Juvenile Court comprises Salt Lake, Tooele and Summit Counties.

²² Other factors also taken into consideration include the juvenile's past offense record.

²³ Legislation granting the DYJ the authority to determine the placement of youth charged with contempt and short term commitments was approved by the Legislature on October 12, 1993.

Figures 5, 6, and 7 show the reasons and the corresponding days of care for secure detention in Utah. As shown in Figure 5, felony charges accounted for 21.8 % and misdemeanor charges accounted for 10.9% of all admissions in FY 1993. These two pre-adjudicatory admissions accounted for 32.7% of all admissions in FY 1993.

Figure 5. Reasons for Admission to Secure Detention During FY 1993



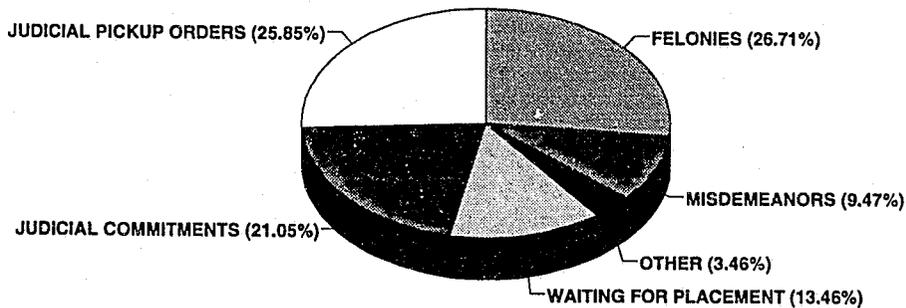
NOTE1: "WAITING FOR PLACEMENT" includes youth waiting for [1] secure care, [2] observation & assessment, and [3] community based programming

NOTE2: Post adjudicatory placements include [1] "WAITING FOR PLACEMENT", [2] "JUDICIAL COMMITMENTS", and [3] most "JUDICIAL PICKUP ORDERS"

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Warrants of arrest/pick-up orders accounted for nearly 30% of all admissions in FY 1993. Commitments to detention accounted for 25% of all admissions and youth awaiting placement in another program accounted for 7.7% of admissions. **Warrants of arrest/pick-up orders, commitments and awaiting placement accounted for 62.6% of all admissions in FY 1993.** Days of care by reason of admission are shown in Figure 6.

Figure 6. Days of Care by Reason of Admission to Secure Detention During FY 1993



NOTE1: "WAITING FOR PLACEMENT" includes youth waiting for [1] secure care, [2] observation & assessment, and [3] community based programming

NOTE2: Post adjudicatory placements include [1] "WAITING FOR PLACEMENT", [2] "JUDICIAL COMMITMENTS", and [3] most "JUDICIAL PICKUP ORDERS"

Specific admitting offenses to secure detention are shown in Figure 7.

Figure 7. Reasons for Secure Detention Admission in FY 1993

Violation Description	# of Admits	Avg Days of Care	Total Days of Care	% of Admits	% Days of Care
Pickup order	2,228	6.3	13,947	30.8%	26.0%
Committed to detention, short-term	1,205	6.8	8,140	16.7%	15.2%
Ordered to detention for contempt	587	5.1	2,996	8.1%	5.6%
Burglary, dwelling, 2nd degree felony	315	7.7	2,434	4.4%	4.5%
Aggravated assault	257	8.6	2,210	3.6%	4.1%
Car theft, 2nd degree felony	228	8.7	1,987	3.2%	3.7%
Home detention violation	189	6.4	1,207	2.6%	2.3%
In detention waiting for O&A placement	168	5.9	989	2.3%	1.8%
Runaway, out-of-state youth	155	4	613	2.1%	1.1%
In detention waiting for DFS placement	153	5.2	792	2.1%	1.5%
In detention waiting secure facility placement	151	32.2	4,869	2.1%	9.1%
Possession of solen vehicle	132	3.1	414	1.8%	0.8%
Ordered to detention for contempt, habitual truancy	114	4.2	480	1.6%	0.9%
In detention waiting for community placement	94	4.9	457	1.3%	0.9%
Burglary, non-dwelling, 3rd degree	86	6.1	527	1.2%	1.0%
Contempt, non-pecuniary court order	61	6.1	375	0.8%	0.7%
Sexual abuse, victim < 14 years	56	11	617	0.8%	1.2%
Aggravated robbery, 1st degree felony	46	18.7	859	0.6%	1.6%
Burglary of vehicle	40	6.8	274	0.6%	0.5%
Youth Corrections warrant	40	4.1	164	0.6%	0.3%
TOP 20 totals:	6,305	7	44,351	87.0%	83.0%
OVERALL:	7,231	7.4	53,567	100.0%	100.0%

NOTE:

[1] analysis only includes violations from the first violation field (VIOL-1)

[2] analysis only includes regular, completed, SECURE DETENTION admissions (type "D") &

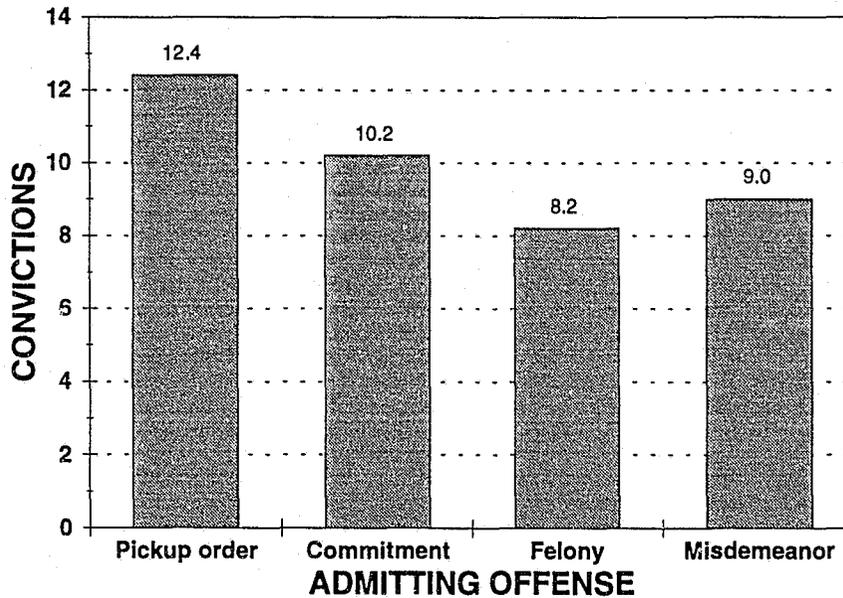
[3] 'DOC' represents days of care for completed stays during the period

3. Offense Histories of Youth Admitted to Detention

Pre-adjudicatory admission. Youth placed in detention for felony offenses had an average of 8.2 convictions. As shown in Figure 8, youth admitted for misdemeanor charges had an average of 9 convictions.

Post-adjudicatory admission. Youth placed in detention for warrants of arrest/pick-up orders or contempt of court orders in FY 1993 had an average of 12.4 convictions. Youth committed to detention in FY 1993 had an average of 10.2 convictions.

Figure 8. Average Convictions of Youth Admitted to Secure Detention in FY 1993

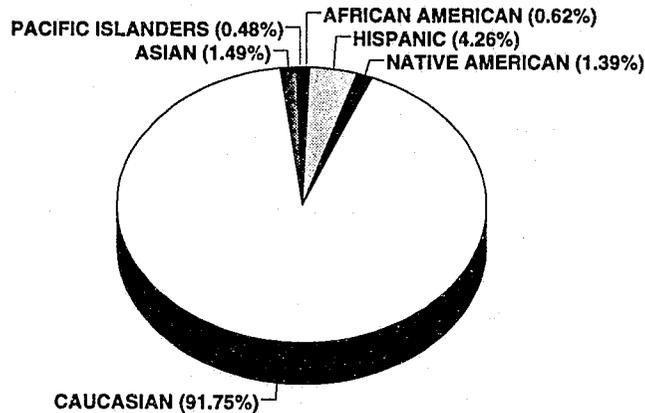


C. Over-representation of Minority Youth in Secure Detention

1. *Ethnic Composition of Youth in Utah*

As shown in Figure 9, Caucasians comprise nearly 92% of all youth enrolled in public and private schools in Utah. Hispanics account for 4.3% of school-enrolled youth, Asians for 1.5%, and Native Americans for 1.4%. African Americans account for less than 1% of school-enrolled youth in the state.

Figure 9. Ethnicity of Youth Enrolled in Utah's Schools



Source: Utah State Office of Education, Fall Enrollment Report of Utah Public and Private Schools, 1992.

2. Admission to Secure Detention by Ethnicity

Youth of color are over-represented in statewide detention admissions. Figure 10 shows that while Hispanics represent 4.3% of the total school-enrolled population in Utah, they account for 16.3% of all detention admissions in the state. Likewise, African Americans account for less than 1% of school-enrolled youth, but 4.4% of all detention admissions. A similar pattern of over-representation is found among Native American youth.

Over-representation of minority youth in detention has been increasing since 1990. In 1993, youth of color accounted for 8.2% of all school-enrolled youth in Utah and 27.5% of all detention admissions.

Youth of color stay in detention longer than their Caucasian counterparts. As shown in Figure 12, Caucasians stayed an average of 7.8 days in detention in FY 1993 compared to 8.0 days for Native Americans, 8.9 for Hispanics, and 9.3 for African Americans.

Figure 10. Ethnicity of Youth Admitted to Secure Detention in FY 1993

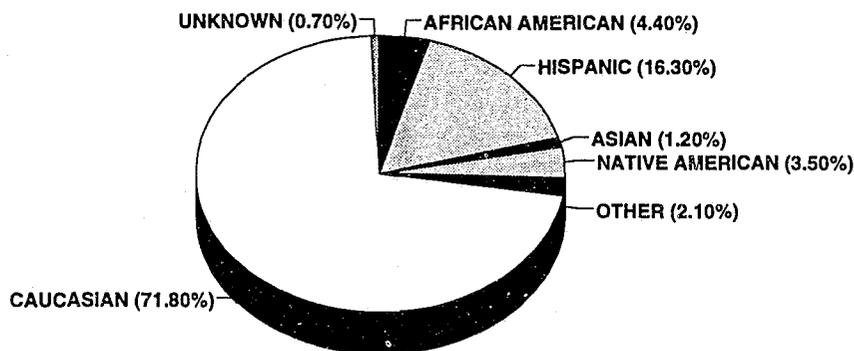
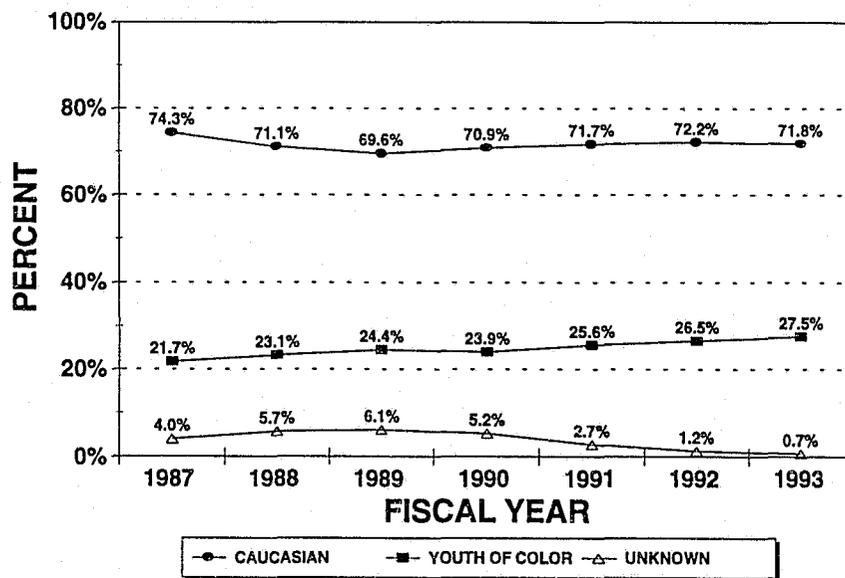


Figure 11. Ethnicity of Youth Admitted to Detention FY 1987 to 1993



With the exception of Native Americans, the number of convictions prior to detention does not differ by ethnicity. On average, Native Americans placed in detention have fewer prior offenses than other ethnic groups.

Figure 12. Average Stay of Youth Admitted to Secure Detention in FY 1993

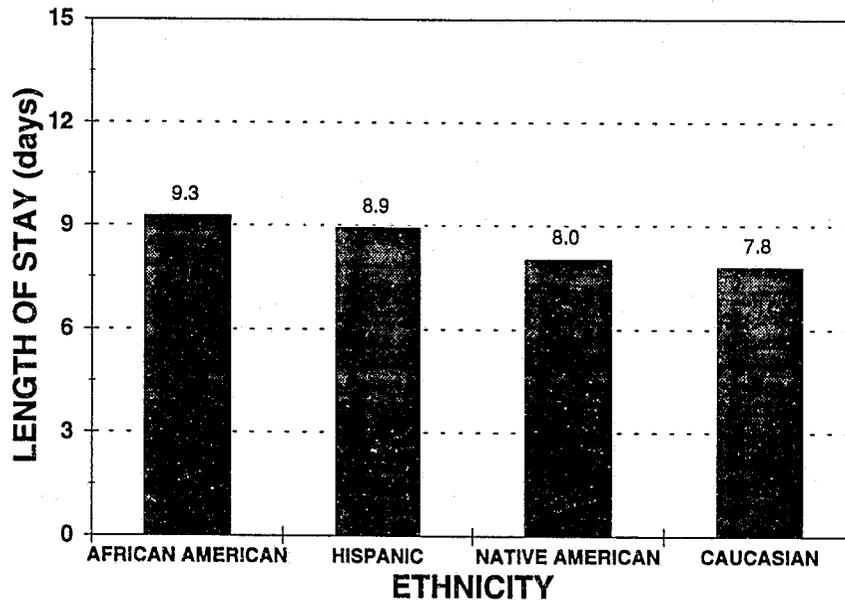
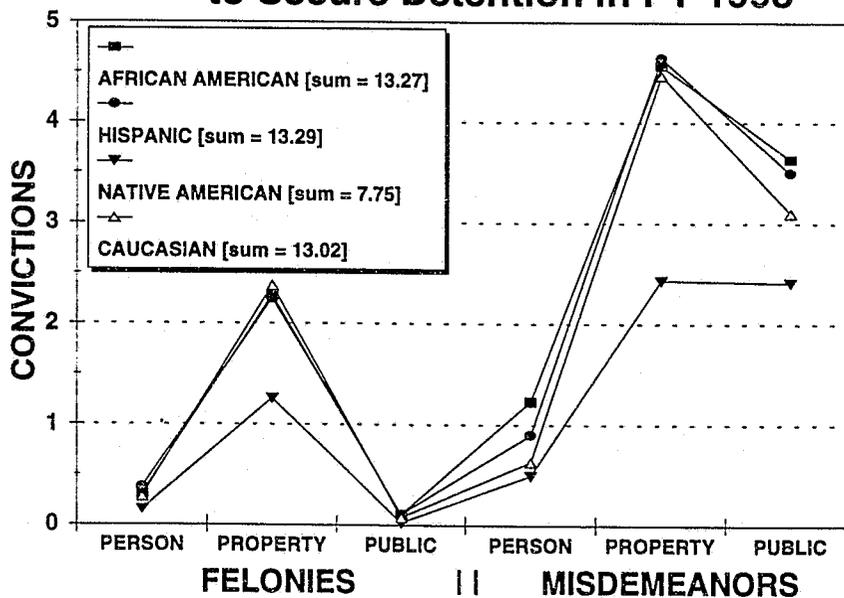


Figure 13. Prior Convictions of Youth Admitted to Secure Detention in FY 1993

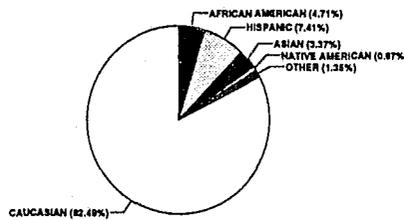


3. Ethnic Minority Staff in Secure Detention

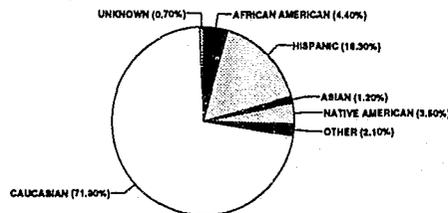
Figure 14 shows the composition of minority staff employed in Utah's detention centers. Minority staff do not reflect the characteristics of the population they serve. For example, Hispanic youth account for 16.3% of detention admissions, but only 7.4% of detention staff are Hispanic.

Figure 14. Secure Detention Ethnicity:

[a] Detention Staff **



[b] Youth Admitted to Secure Detention in 1993



** NOTE: 297 full- & part-time staff were detention employees on September 1, 1993

D. Summary of Findings

- The number of youth at risk for delinquency in Utah is at an all time high. Currently, there are approximately 290,000 youth in Utah from the ages of 10 through 17.
- Overcrowding is a problem in a number of Utah's detention centers. The *Salt Lake Detention Center* and *Moweda Youth Home* account for 58% of all detention admissions statewide. Overcrowding occurred in the *Salt Lake Detention Center* 98% of all nights and the *Moweda Youth Home* 51% of all nights during FY 1993.

- Youth placed in detention for warrants of arrest/pick-up orders in FY 1993 had an average of 12.4 convictions.
- Youth committed to detention during FY 1993 had an average of 10.3 convictions.
- Youth placed in detention for felony charges had an average of 8.2 convictions in 1993. Youth charged with misdemeanors had an average of 9.0 convictions.
- An analysis of the reasons for the number of admissions to detention and corresponding days of care reflect the following percentages:²⁴

	Number of Admissions(%)	Days of Care(%)
Warrants of arrest/pick-up orders	30%	26%
Judicial commitments	25%	21%
Felony charges	22%	27%
Misdemeanor charges	11%	10%
Awaiting placements ²⁵	8%	14%
Other	5%	4%

- Ethnic minorities are over-represented in juvenile detention admissions. Hispanics account for 4.3% of Utah's school age population and 16.3% of all admissions to detention in FY 1993. Youth of color account for 8.2% of all youth in Utah and 27.5% of statewide detention admissions.
- Youth of color stay in detention longer than Caucasians. African American youth stay one and a half days longer and Hispanics one day longer than Caucasians.
- With the exception of Native Americans, the number of convictions prior to detention does not differ by ethnicity. On average, Native Americans placed in detention have fewer prior offenses than other ethnic groups.

²⁴ Percentages are relative to the reasons for admissions. Days of care reflect actual data collection and reporting practices conducted by the Juvenile Court and DYC during FY 1993.

²⁵ The percentage of youth that fall under this category may be underestimated because disposition may have been postponed.

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Ethnic minority staff are under-represented in juvenile detention centers and do not reflect the ethnic characteristics of the population they serve. For example, Hispanic youth account for 16.3% of detention admissions but only 7.4% of detention staff are Hispanic.

V. ALTERNATIVES TO SECURE DETENTION

The following section describes current alternative detention programs and recommends desired alternative programs. This information was gathered from a survey that was administered to the Committee members and their respective agencies.

A. Alternatives for Pre-Adjudicated Youth

1. *Current Programs and Services*

Home Detention:²⁶ This is a program for youth awaiting adjudication or placement that provides an alternative to secure detention. Youth are permitted to continue living in the community under the supervision of counselors who monitor the youth daily.

Youth Services Centers:²⁷ The Salt Lake County Youth Services Center is a 24-hour, 7 days a week, crisis intervention and counseling agency for runaway/ ungovernable status offenders and their families. Law enforcement may bring juveniles to Youth Services Centers for temporary shelter, pending parental involvement.

Beginning January 1994, the Salt Lake County Youth Services Center will expand their program to include serving minor delinquent offenders. The Youth Services Center will target youth 14 years of age and younger who have committed two or fewer minor delinquent offenses.

Other Youth Services Centers are located in Provo, Clinton and Brigham City. Although, these centers provide crisis intervention services for ungovernable youth, their programs are not as comprehensive as the Salt Lake County Youth Services Center.

²⁶ The DYC operates the home detention program.

²⁷ Salt Lake County operates the Salt Lake Youth Services Center. The other facilities are operated by the Division of Family Services ("DFS").

Rural Multi-Use Facilities:²⁸ These facilities combine short term secure detention with non-secure shelter beds. Youth can be placed on the shelter side as an alternative to detention for short term care until parents are contacted or it is safe for the youth to return home.

Private Provider Services:²⁹ This is a pilot program where the state contracts with private providers to render juveniles non-secure care while other arrangements are made. Presently, the use of private providers in the state is limited.

2. *Desired Alternatives to Detention for Pre-Adjudicated Youth*³⁰

Develop juvenile receiving centers in order to better meet the needs of law enforcement. Juvenile receiving centers would render immediate care and intervention services for juveniles who are not served by detention or Youth Services Centers.

Increase the use of home detention in existing programs. In addition, home detention should be expanded to other counties in need of such services.

Increase the use of private providers to enhance the alternative service base and to render specialized services as needed.

Establish diversion and immediate intervention services for minor delinquent offenders. The purpose of establishing diversion and immediate intervention programs is to render services to a large group of youth who are underserved or not served in a timely fashion.

Expand the use of electronic monitoring to include serving pre-adjudicated youth who are confined to their homes.

²⁸ There are four rural multi-use facilities operated by the DYC: 1) **Uintah Basin Youth Center** in Vernal; 2) **Central Utah Youth Home** in Richfield; 3) **Canyonlands Youth Home** in Blanding; and, 4) **Attention/Detention Center** in Logan. Currently, a fifth multi-use facility is in the process of being built in St. George.

²⁹ Private providers render non-secure care to youth who have been arrested but do not meet detention admission guidelines or there is not another immediate release source.

³⁰ Additional resources will be needed to provide these services.

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- Establish family preservation services that render direct in-home services for at-risk youth and their families. Such services would help stabilize family relationships and interactions.
- Emphasize the use of extended families when parents/guardians are not available or are unable to receive the youth. Many at-risk youth could be placed with extended families who could provide the support and supervision needed.

B. Alternatives for Post-Adjudicated Youth

1. *Current Programs and Services operated by the Juvenile Court*

- **House Arrest:** This is a program that permits confining a youth to his/her home rather than placing the youth in a detention facility. The probation officer is responsible for monitoring the juvenile's compliance with court orders.
- **Traditional Probation:** This is a program that provides supervision to juveniles who have been placed on probation. Supervision is rendered to this group on a weekly, bi-weekly or monthly basis.
- **Intensive Probation:** This is a program that very actively monitors whether the conditions of the probation agreement are being carried out by the youth. The probation officer or tracker makes unannounced visits to the youth's home, school, work and recreational activities to monitor compliance with court orders.
- **Electronic Monitoring:** This is an experimental program used when a youth fails to comply with intensive probation. The youth is released to parents/guardians under the condition that the youth wears an electronic bracelet. In addition, in order to track the juvenile, a monitoring device is installed at the youth's home.³¹
- **Community Service Hours and Restitution Work Programs:** These are programs designed for juveniles on probation who have no financial means to pay victims or Juvenile Court fines. These

³¹ Currently, only 10 to 15 youth are monitored at any one time. Yet, the computer has the capacity to handle over 100 individual cases at a time; thus, a significant amount of unused capacity exists.

juveniles are required to work community service hours and the money they earn is paid to the victims or to the Juvenile Court.³²

2. Current Programs and Services Operated by the DYC

Detention Diversion Program:³³ This is a diversion program where youth may be enrolled in a work/youth and family intervention program as an alternative to detention. The DYC supervises the youth, arranges work sites, and insures that restitution hours are credited to the youth.

Work Release/Work Camp Program: This is a program where youth are assigned to a work and pro-social life skills development program instead of serving time in detention. For example, youth work in projects like the Utah Park and Recreation Services and the DYC's "Antelope Island Work Diversion Project."

3. Desired Alternatives to Detention for Post-Adjudicated Youth³⁴

· Increase use of electronic monitoring in existing programs and expand the use of electronic monitoring to other Juvenile Court districts.

· Increase the use of intensive probation to help ensure youth are held accountable and to discourage them from future delinquent behavior.

· Expand community work programs and restitution work programs. These programs give youth the opportunity to compensate victims and communities for their involvement in delinquent activities.

³² The purpose of the Juvenile Court's Restitution and Community Service Program is as follows:

- 1) Compensate the individual victim for their loss as a result of juvenile crime;
- 2) Compensate the community for it's collective loss through community service;
- 3) Sanction the individual juvenile offender by holding him or her accountable for their illegal acts; and
- 4) Provide an opportunity for a successful work experience for eligible juvenile offenders ordered to pay restitution or complete community service in the program.

³³ Presently, this type of program has been established in Cache and Box Elder counties.

³⁴ Additional resources will be needed to provided these services.

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- Develop an alternative program to eliminate the use of detention for habitual truants.³⁵
- Expand innovative sentencing options by utilizing the concepts of work camps, day treatment, structured supervision, etc.

C. Youth Awaiting Non-secure Placement (Post-Adjudicated)³⁶

1. *Current Programs and Services*

- **Private Provider Services:** The state contracts with private providers to furnish temporary shelter for youth awaiting non-secure placement. Currently, the use of private providers is limited.
- **Multi-Use Facilities (Shelters):** Youth awaiting non-secure placement may be placed in the shelter side of a multi-use facility.
- **Emergency Foster Group Placement:** The DFS contracts and operates shelter group facilities. Currently, these facilities are located in Ogden, Provo and Salt Lake.
- **Shelter Home Placement:** The DFS contracts with private shelter homes throughout the state to provide shelter care for children and generally younger adolescents.

2. *Desired Alternatives to Detention for Youth Awaiting Non-Secure Placement*³⁷

- Expand the DYC community placement continuum (i.e., outward bound wilderness camps/work experience type programs).

³⁵ The agencies that should be involved in developing an alternative program for habitual truants include: 1) Utah's school districts; 2) the Juvenile Court; and, 3) the Department of Human Services.

³⁶ Please review the Committee's recommendation regarding youth awaiting non-secure placement.

³⁷ Additional resources will be needed to provide these services.

- Expand the capacity of the DYC observation and assessment programs to serve current needs. Youth may be observed and assessed prior to a subsequent disposition by the Juvenile Court.
- Expand the use of the shelter side of multi-use facilities for youth awaiting non-secure placement.
- Establish a DFS diagnostic and assessment program. This would provide the Juvenile Court and the DFS with an additional tool to place youth appropriately.
- Increase the number of emergency foster group placements to ensure that youth who do not need secure care have an alternative placement.

D. Alternatives for Youth Who Do Not Meet Detention Admission Guidelines

Desired Alternatives to Detention for Youth Who Do Not Meet Detention Admission Guidelines³⁸

- Establish juvenile receiving centers where juveniles may be taken by law enforcement to be screened for appropriate placement.³⁹
- Expand the receiving and programming capability of current Youth Services Programs to render services to a broader range of youth who are underserved or not served for many weeks or months.⁴⁰
- Duplicate Salt Lake County Youth Services programs and services in additional counties to include services to minor delinquent offenders.
- Increase programming of Youth Services Centers for suicidal and substance abusing youth, including the establishment of formal drug and alcohol detoxification programs.⁴¹

³⁸ Additional resources will be needed to provide these services.

³⁹ Please review the Committee's recommendation regarding juvenile receiving centers.

⁴⁰ Please see footnote 39.

⁴¹ Please see footnote 39.

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Enhance the private providers network to receive youth who are not detainable under current detention admission guidelines.

VI. COMMITTEE RECOMMENDATIONS

This section describes the issues affecting detention in Utah and lists the Committee's recommendations for solving these issues. This section also indicates which agencies will be responsible for implementing and developing the prescribed recommendations.

1. Alternatives to Detention

Issue: In Utah, the number of youth at risk for delinquency is at an all-time high. Presently, there are roughly 290,000 youth in the state from the ages of 10 through 17. Unfortunately, current detention alternatives do not meet the needs of Utah's juvenile population. Likewise, the development of alternatives to detention has been slow; thus, alternatives have not been developed in accordance with juvenile population growth.

Recommendations:

- a) Increase funding to develop and enhance alternatives to detention in order to: 1) reduce overcrowding in detention facilities across the state; 2) decrease the need for the construction of additional secure beds; and, 3) meet youth population growth.
- b) The Juvenile Court, the DYC and the DFS should encourage the development of detention alternatives to meet the standards of: 1) public safety; 2) protection of the youth; 3) assurance of court appearance; and, 4) recovery and competency development of youth.

Responsible Agencies: Juvenile Court, Division of Youth Corrections, Division of Family Services

2. Construction of Additional Secure Beds

Issue: Overcrowding is a problem in several of Utah's detention centers. For example, during FY 1993 the *Salt Lake Detention Center* and the *Moweda Youth Home (Roy)* were overcrowded 98% and 51% of the time respectively. Yet, secure

detention beds have not been built to meet population growth.

Recommendation: Fund the construction of additional secure detention beds in order to: 1) reduce overcrowding in detention facilities across the state; 2) avoid further litigation; and, 3) meet the secure detention need for youth population growth.

Responsible Agencies: *Division of Youth Corrections, Governor, Utah Legislature*

3. Development of Juvenile Receiving Centers

Issue: Many troubled youth cannot be placed in detention facilities because they do not meet detention admission guidelines. Many of these youth cannot be fully served by Youth Services' facilities because they don't fall under the statutorily permitted categories. Hence, these youth constitute a major release problem for law enforcement and do not receive adequate services. Juvenile Receiving Centers are needed to determine what services are required for these youth in order to make appropriate arrangements for further care.⁴²

Recommendations:

- a) Appropriate funds to develop juvenile receiving centers or expand current Youth Services Centers for those youth who do not meet detention admission guidelines or do not fall under the statutorily permitted categories of youth that can be fully served by Youth Services.
- b) Appropriate funding so that the following categories of troubled youth may be served by existing Youth Services Centers (including the shelter side of existing rural multi-use facilities):
 - 1) Youth who do not meet detention admission guidelines.
 - 2) Youth experiencing a mental/emotional crisis.
 - 3) Youth intoxicated with alcohol or other drugs who do not constitute an immediate threat of harm to self or others.

⁴² The development of juvenile receiving centers involves the reviewing of a number of issues; therefore, further study is recommended of all the issues relating to the establishment of these centers.

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Responsible Agencies: Department of Human Services, Salt Lake County Division of Youth Services, Division of Family Services, Division of Substance Abuse, Division of Youth Corrections, Division of Mental Health, Youth At-Risk Committee, Juvenile Court, Law Enforcement, Utah Legislature

4. Statutory Provisions

Issues: The Juvenile Court must have the authority to enforce its orders and impose judicial sanctions.

Youth who have been committed to a non-secure facility or program should not be held in detention while awaiting non-secure placement. An alternative placement should be developed for these youth while awaiting non-secure placement.

Recommendations:⁴³

- a) Amend U.C.A. § 78-3a-39(6) to restore the Juvenile Court's authority to commit youth to detention or an alternative sanction for up to 30 days.⁴⁴
- b) Amend U.C.A. § 78-3a-52 to restore the Juvenile Court's authority to commit juveniles to detention or an alternative sanction for contempt.⁴⁵
- c) Amend U.C.A. §§ 78-3a-30(5) and 78-3a-39(3) to eliminate the use of detention for holding youth--up to 72 hours, excluding weekends and holidays--who are awaiting non-secure placement. The legislature should be encouraged to fund alternative placements for youth awaiting non-secure placement.

Responsible Agencies: Utah Commission on Criminal and Juvenile Justice, Juvenile Court, Utah Legislature

⁴³ Members of the Committee voted to continue the use of all current statutes that authorize detention for pre- and post-adjudicated confinement, with the exception of the statutory provisions outlined under the subheading "Statutory Provisions." In addition, the Committee voted to maintain two administrative uses of detention. Specifically, illegal aliens may be placed in detention while their status is being determined, and juveniles wanted by other jurisdictions such as escapees, fugitives, and absconders may also be placed in detention

⁴⁴ After the passage of H.B. 3 on October 12, 1993.

⁴⁵ After the passage of H.B. on October 12, 1993.

5. Ethnic Minority Youth, Detention Staff, Probation Officers and Juvenile Court Judges

Issue: Ethnic minorities are over-represented in juvenile detention admissions. For example, youth of color account for 8.2% of all youth in Utah and 27.5% of statewide detention admissions. In addition, youth of color stay in detention longer than their Caucasian counterparts. Nevertheless, the percentage of detention staff does not reflect the ethnicity of youth in detention. Neither are ethnic minority staff evenly represented in the juvenile justice system.

Recommendations:

- a) Appropriate funds for community-based programs targeting high risk youth with an emphasis on ethnic minority youth who are at-risk for secure detention.

Responsible Agencies: *Division of Youth Corrections, Division of Family Services, Governor, Utah Legislature*

- b) Increase the number of ethnic minority staff working in detention centers.

Responsible Agency: *Division of Youth Corrections*

- c) Provide detention staff extensive and routine training in multi-cultural sensitivity.

Responsible Agency: *Division of Youth Corrections*

- d) Appropriate funds to study the reasons for over-representation of minorities in the juvenile justice system.

Responsible Agencies: *Utah Commission on Criminal and Juvenile Justice, Utah Legislature*

- e) Increase the number of minority intake officers, probation officers and judges in the juvenile justice system.

Responsible Agencies: *Juvenile Court, Utah Commission on Criminal and Juvenile Justice*

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6. *Rural Issues*

Issue: Several rural areas lack adequate juvenile detention facilities, internal programming and services. For example, the detention facility in Price does not meet community needs nor does it observe juvenile detention facility standards. In addition, Juvenile Court Judges travel long distances in order to conduct court proceedings. Thus, on occasion, juvenile offenders must wait until a Juvenile Court Judge comes to their community in order to appear before the court. Similarly, in order to transport youth to other detention centers, law enforcement officers spend many hours on the road and travel long distances. Although rural Utah issues may differ from urban issues, attention must be paid to them.

Recommendations:

- a) Build a multi-use facility in Carbon or Emery county.

Responsible Agencies: *Division of Youth Corrections, Governor, Utah Legislature, Division of Facilities Construction and Management*

- b) Reimburse sheriff departments' costs associated with transportation of youth to other detention facilities.

Responsible Agencies *Sheriffs Association, Division of Youth Corrections*

- c) Designate authorized officers of the court in rural areas to conduct initial detention and shelter hearings.

Responsible Agency: *Juvenile Court*

- d) Expand state detention programming and services in rural areas to a level comparable with services offered in urban areas.

Responsible Agencies: *Division of Youth Corrections, Juvenile Court, Division of Family Services*

- e) The DYC should continue to cooperate with law enforcement agencies through the Options for Youthful Offenders Committee ("OYO") and the Annual Law Enforcement/Division Training Institute. This cooperative effort was created to discuss, enhance and improve upon current detention needs and issues, particularly for rural areas.

Responsible Agencies *Law Enforcement Agencies, Division of Youth Corrections*

7. Statewide Detention Admission Guidelines and the Third District Juvenile Court Consent Decree

Issue: There is a lack of uniformity between the Third District Juvenile Court Admission Guidelines ("Holdable List of Offenses") and the Statewide Detention Admission Guidelines. In addition, law enforcement agencies and other state agencies perceive detention admissions guidelines as too restrictive.

Recommendations:

- a) Modify the Third District Juvenile Court Consent Decree Admission Guidelines so they conform with the Statewide Detention Admission Guidelines. The Statewide Detention Admission Guidelines should be reviewed to determine whether they need to be more restrictive or less restrictive.

Responsible Agencies: *Division of Youth Corrections, Juvenile Court, Attorney General*

- b) Modify the Third District Juvenile Court Consent Decree so that the judge conducting the probable cause hearing will not have to base his/her decision to continue detention on the Holdable List of Offenses. Instead, a judge should continue to hold juveniles suspected of serious crimes on the following bases: 1) public safety; and, 2) a finding of probable cause of behavior serious enough to warrant continued detention.

Responsible Agencies: *Juvenile Court, Attorney General*

8. Documenting and Tracking of Major Types of Warrants of Arrest/Pick-up Orders

Issue: This is a broad category under which youth are admitted to detention. Therefore, it is important to understand the reasons why warrants of arrest/pick-up orders are being issued and how detention resources are being utilized.

Recommendation: The DYC and Juvenile Court together should develop a process for documenting and tracking the major types of warrants of arrest/pick-up orders in order to identify: 1) reasons why warrants of arrest/pick-up orders are issued; 2) how detention resources are being used; and, 3) categories for potential detention alternatives.

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Responsible Agencies: *Juvenile Court, Division of Youth Corrections*

9. *The Lone Peak Facility and Its Impact on Detention*

Issue: Presently the type of youth offender that will be housed at the Lone Peak facility has not been specifically determined. Therefore, it is important to examine this operation as to how, if at all, it will affect juvenile detention in Utah.

Recommendation: The Legislature should request a detailed analysis of the Lone Peak facility operation to include its impact on juvenile detention for the first year.

Responsible Agencies: *Utah Legislature, Division of Youth Corrections*

10. *Youth Corrections Mission Statement, Policies and Procedures*

Issue: Due to an increase in youth population growth and juvenile crime, demands on the juvenile justice system are overwhelming. In order to better serve juvenile offenders, the DYC needs to review its mission statement, and detention centers' policies and procedures manuals.

Recommendation: The Board of Youth Corrections ("Board") should review its mission, vision and values as they relate to the current needs of the juvenile justice system. Specifically, the Board should direct the DYC to review its detention centers' policies and procedures in order to deter offenders' future delinquent behavior. In addition, programming resources should be equal to the levels of expected service.

Responsible Agencies: *Board of Youth Corrections, Division of Youth Corrections*

11. *UCCJJ "Juvenile Justice Subcommittee"*⁴⁶

Issue: The structure of the current juvenile justice system needs to be examined with regards to: 1) the administration of detention facilities; and, 2) other issues relating to detention.

⁴⁶ The Juvenile Justice Subcommittee is sponsored by UCCJJ. The purpose of the Subcommittee is to determine the best organizational structure for Utah's juvenile justice system.

Recommendation: The UCCJJ Juvenile Justice Subcommittee ("Subcommittee"), which is reviewing the "best organizational structure" for the juvenile justice system, needs to examine options as to who should be responsible for administering detention facilities. For example, the Subcommittee needs to study options such as: 1) returning the responsibility of detention facilities to counties; and/or, 2) aligning the use of detention facilities with the jurisdiction of the Juvenile Court.

Responsible Agency: *Utah Commission on Criminal and Juvenile Justice*

12. *Community/Neighborhood Based Prevention Programs*

Issue: While the involvement of governmental agencies is a significant component of decreasing juvenile crime, these agencies alone cannot solve the problem. Community involvement will serve not only to provide assistance to governmental agencies, but will enable all Utahns to become part of the solution to juvenile delinquency.

Recommendation: Create funding incentives for the development of community/neighborhood based delinquency prevention programs, thereby encouraging coalitions between public and private groups and organizations.

Responsible Agencies: *Youth at Risk Task Force, Juvenile Court, Division of Youth Corrections, Division of Family Services, Utah Commission on Criminal and Juvenile Justice*

13. *Use of Detention for Post-Adjudicatory Placement*

Issue: In 1989, the Legislature authorized the Juvenile Court to use detention for post-adjudicatory placements. The use of detention for post-adjudicated youth needs to be studied further.

Recommendation: The use of post-adjudicatory dispositional detention as a deterrent should be studied, beginning with a review of current literature.

Responsible Agencies: *Utah Commission on Criminal and Juvenile Justice, Utah Board on Juvenile Justice and Delinquency Prevention*

Detention Study Report

14. **Classification System in Detention Centers**

Issue: Presently, there is not a formal classification system that is used in detention facilities. Unfortunately, the lack of a classification system may result in the comingling of offenders.

Recommendation: The DYC should thoroughly review the use of a classification system in detention centers. The system will allow placing youth in detention centers according to: 1) age; 2) seriousness of the offense; 3) type of offender (e.g., serious offenders vs. first time offenders); and, 4) pre- and post-adjudication.⁴⁷

Responsible Agency: *Division of Youth Corrections.*

⁴⁷ This list is not exhaustive.

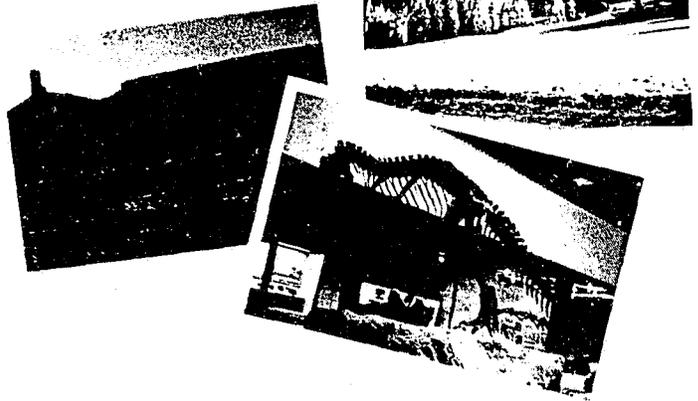
ADDENDA:

- 1. Sheriff James Robertson's letter and recommendations.**
- 2. Judge Scott Johansen's letter and perspective regarding the administration of detention.**
- 3. Purpose, Future and Administration of Detention Subcommittee Report and Vote.**
- 4. Russell Van Vleet's letter regarding detention issues.**

Carbon County Sheriff

Carbon County Courthouse
Price, Utah 84501
(801) 637-4700
(801) 637-1622

James H. (Jim) Robertson



6 August 1993

Dr. Jim Walker, Ph.D.
Salt Lake County Human Services Department
2001 South State Street, Room N-4300
Salt Lake City, Utah 84190-2000

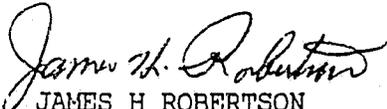
Dear Jim,

After a number of meetings with the Detention Study Committee as well as the Committee addressing options for youthful offenders, I have brought myself to the realization that many of our co-members on these committees seem as frustrated as I am. I thought I would write down some of my own views to vent my own frustrations for what ever consideration they may merit.

We have to change our system of juvenile justice and I sympathize with the judge who asks himself: "What can I do now"? I believe that work camps would be effective if administered properly and would certainly eliminate the worry of bed space in the idle atmosphere of a detention center.

The views in this paper are my own and are not solicited from others. They are submitted to you as Chairman of the Detention Study Committee which is grappling for workable solutions to be considered at the legislative level.

Sincerely,


JAMES H ROBERTSON
Sheriff

Incl: a/s

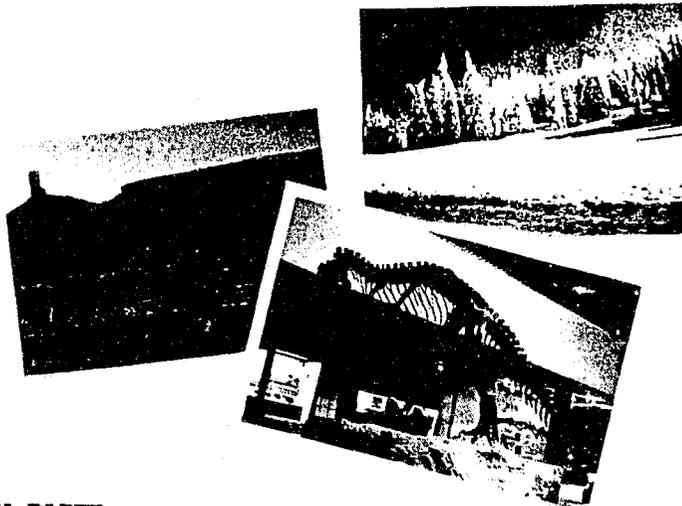
cc: Judge Scott Johansen
7th District Juvenile Court

Ms Lorena Riffo
UCCJJ, SLC, UT

Carbon County Sheriff

Carbon County Courthouse
Price, Utah 84501
(801) 637-4700
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James H. (Jim) Robertson



POSITION PAPER JUVENILE OFFENDERS AND RECOMMENDATIONS FOR CHANGE

It is long since past the time to quit coddling the incorrigible youth. For the most part juveniles are the cream of this country's future and one does not have to worry all that much about how we will fare with them in charge of our future. They are raised by responsible parents, educated and proceed thru their lives with little diversity or experimentation with unlawful acts. These are the ones I love to observe and know that they are going to do what is best as they mature. My remarks are addressed regarding the incorrigible youth and how he may have got to the point where he cannot be treated effectively under our present system.

My concerns are that there are far too many "kids" ages 14 thru 17 who are just plain mean. They receive little or no guidance from their parents, (if any) and they are a waste of a teacher's time in school. Whenever they are awake, there is disruption. It is time we forget, at least for awhile, why little Johnny turned into a mean kid. These types of "Little Johnnys" belong almost immediately in some kind of camp far from the bright lights of the cities and their temptations. They need a strict disciplinary environment - barracks type living conditions and a lot of work. At the same time, good food and educational opportunities should be provided. These camps should be staffed by people who are physically fit as well as appropriately educated, and take no nonsense. Some of these so called "tough guys" must learn early on that that which they thought was cool on the outside is not going to be tolerated on the inside.

I don't mean to sound brutal about what should be done, but it is obvious that many of the "school solutions" and recommendations provided after countless studies are of little use. There are enough historical documents which will support any theory by an "expert".

As one who has watched the changes in attitudes since about 1953, I am convinced that we have retreated in our dealings with this kind of person rather than progress.

Many homes have failed and the educational system has not kept up or progressed. We have failed to teach the value of honest work, good sportsmanship, citizenship and love of family, community and country. It is my view that these "kids" love these things only if there is a monetary value in return. It is a priority in high school to get a drivers license and after that a car. When do we start teaching these youngsters that they have to earn the

right to become an adult. That there is no free lunch. Which includes an education. There are far too many "freebies" offered to young teenagers who get pregnant in high school and then want the world to provide a free living. This is wrong. There are too many rehabilitation centers where they sit around tables "discussing" problems. When the discussions are over, what else are we doing? I suggest very little constructive. As some of these youngsters may proceed to college, many are granted a free education with little or no effort on their part. I have observed students make purchases at college book stores that are in no way connected to their educational goals. Yet paid for by taxpayers. And I have observed teachers let the assistants, teacher aides etc., do the teaching. This should stop.

I have interviewed students in high school who know very little how government works. They don't have a basic knowledge of the political system and they can't recite the Pledge of Allegiance. They have very little knowledge how the world has changed since 1941. And they don't even know when to take their hat off. I wonder when the last time a teacher read a newspaper and discussed some of the current events in his/her class? The only time some of these mean kids know anything about rights is their own. And they have to be read to them in order that they are understood at the time of an arrest. The rights of the law abiding mean nothing to these near-do-wells who are bent on destruction of property and ripping off the working taxpayer.

One of the studies that I have read claims that we have the highest number of adults in jails and prisons than any other democracy in the world. Why not reverse this trend over a period of time and "put out to camp" these people when they are young - ages 14 thru 17 and younger if necessary, who are incorrigible? We are not correcting the problem at an early age therefore, the jails and prisons will continue to be overcrowded. I personally do not feel that the reason this trend will not reverse is because we are still going to pamper our young people early on thru many ineffective programs we have now. In my view we should start very soon changing things around and perhaps, maybe not in my life time, the police will not have to worry about enough bed space in an idle detention center. Why? Because the work camps exist. The bad are turning to good way out yonder working their asses off on environmental projects such as cleaning camp grounds, building and repairing hiking trails, fighting forest fires etc. And at the end of the day they are in school. Hands on learning to read, write, spell, mathematics, classes on history, civics, science and correct use of the English language. For recreation, listen to the radio or show a movie once in a while. No TV!! One cannot be strict enough. There is no alternative. By the time the youth is 18, 19, 20 or even 21, then he should have a top notch education at the high school level and the value of hard work has been learned. He may even have a trade skill by the time of his release.

We live in a free society. That is true. But there are those who define "free" as that which gives everything free. Free college educations for some. Others can get free food when they are too lazy to work. Free subsidized housing, or at best low income. And we can trash the place, kick out screens and windows and doors and not have to worry about who pays the repair bills. This is wrong and this is what the very young see. By the time they reach the level to be a "tough guy" they know how to have sex with another person and they

will not go hungry, because they can get food stamps and they can be accepted by their peers simply by turning their hat around, wear an earring and become a gang member by beating up somebody. The teacher can't do anything out of fear of a law suit. And their parents don't worry because Dad is drunk and Mom is chasing other men. Ad infinitum. Finally, when the "youth" can no longer do what he learned early on, everything is still free. Some kind of social security insurance is enough to sustain what is left of his life. All free.

Probably I sound like a cynic. But I hope my message is clear. I haven't witnessed any program that has been effective as it should be. Not for the incorrigible. Alternative high schools are not the answer. I saw that. What a zoo! And a huge waste of money. Juvenile Court Judges are left with little to deal with this "mean kid". I heard one judge state that she wished there were a facility such as a work camp. But we continue with so many other social programs that are ineffective and expensive and are not really addressing the problem. Once again, I think it is time for big time changes.

James H. Robertson

JAMES H ROBERTSON

Sheriff

6 August 1933

Seventh District Juvenile Court

Judge Scott N. Johansen

September 20, 1993

Purposes of Detention Subcommittee
c/o Lorena Riffo
Commission on Criminal and Juvenile Justice
101 State Capitol
Salt Lake City, Ut 84114

re: Administration of
Detention

Detention Committee Members:

I have been asked to explain my desire to look into the current administrative practices of detention centers. As you know I feel such an inquiry would be more beneficial than what we have accomplished so far this summer. On September 7th I received a copy the Policies and Procedures for Detention Facilities which I began requesting in March of 1993. Based on the limited time I have had to review it, I have made several very cursory observations (attached) which to me reveal part of the reason that the Juvenile Justice System is failing today. Thorough investigation would probably explain away some of the problems identified. However, three things seem to me to stand out as apparent:

- 1) Youth Correction's attitude and philosophy, at least at the mid and lower management level, do not include notions of use of detention for behavior modification, accountability for undesirable conduct, imposition of consequences for delinquent behavior, or promotion of public faith in the Juvenile Justice System. While those outside the system clamour to have it fixed, I suggest that perhaps it isn't broken. But the administration of it needs to change to reflect the will of the public, the legislature, and the Courts. Detention is a corrections facility and should be run like one. This is an administrative course correction which need not carry a huge price tag, and which I believe is demanded if we really have the best interest of our children at heart.

2) Detention presently suffers a lack of resources of crisis proportions. While I blame errant Youth Corrections philosophy for our lack of preparation, and Juvenile Judges for not insisting on a change in that philosophy long ago, we should focus on what is needed rather than who is to blame. More bed space, more facilities and programing within detention, and more alternatives to detention are absolute musts which cannot be ignored any longer, despite the enormous cost of catching up a decade late.

3) Even taking into account the lack of resources and the difficulties caused thereby, it is apparent that some detention centers are operating in direct violation of the policies and procedures manual, and far below their potential effectiveness. In fairness to detention directors, the great gulf between what is being done and what could be done with current resources if the manual were followed indicates to me that their superiors at least acquiesced, if not encouraged, the lack of performance. If mid-level administration were checking at all, the deficiencies would have been glaring. My suspicion that DT directors are not completely at fault stems in part from the consistency of prior performance with the do-as-little-as-possible philosophy discussed in #1 above.

These opinions will no doubt seem acrid by some. My pointedness is my inarticulate response to frustration with the lack of accomplishments of this subcommittee and my perception of an entrenched and unresponsive bureaucracy which does not have as its focus the best interest of Utah's children, and which with a little different philosophy could have over the last decade avoided much of the serious difficulties in which we find ourselves today.

I propose this subcommittee report to the full committee that it should recommend to CCJJ that the overall philosophy and mission statement of Youth Corrections, particularly as it relates to detention, should be reviewed and modified by the highest administrative levels, to include accountability, behavior modification, and public confidence in the system.

I believe it mocks our charge for a detention study committee to ignore examination of Youth Correction's philosophy and mission statement for detention. I therefore further propose that this subcommittee request the full committee to recommend further in-depth study of the administration of detention, since it is now too late for this committee to do so.

Thirdly, we should recommend immediate legislative attention to the serious lack of facilities by increasing the number of beds and programming available.

Sincerely,


Scott N. Johansen, Judge
7th District Juvenile Court

cc: Gary Dalton, Director
Youth Corrections

I have reviewed the Policies and Procedures Manual for detention facilities and have found several matters which deserve discussion.

I. Problems with the Manual

Chapter I. Administration, Organization, and Management:

Section 1.2 I. A. provides that detention may be used as a dispositional placement, but "only for temporary detainment and not for the purpose of punishment."

Section 1.2 I. C. provides that for the Court, detention provides security pending disposition, availability for Court appearances; opportunity to report to the probation officer, and short-term observation and assessment.

Sub Section 1.2 D. provides that to the community detention provides protection.

Section 1.2 II. provides a mission statement: "Only youth who pose a threat to themselves or the community should be held in detention."

All of the above reflect a philosophy of Youth Corrections that detention should not be a dispositional placement, and should not be used for accountability or consequences for delinquent acts. This is not only contrary to common sense, but is contrary to the will of the legislature (UCA 78-3a-39(6)) and also contrary to the will of the public (see attached news articles).

Section 7.1 provides that admissability to detention will only be pursuant to the guidelines promulgated by the Juvenile Court, and detention will not be done where a youth is eligible for "another appropriate placement." The Section further provides that detention will not be used when it is not unsafe to leave a youth with his or her parents.

This section completely ignores the accountability component of detention and further ignores detention pursuant to a Court order.

Section 7.2 II. C. provides that admission staff shall not notify the Juvenile Court of an escape from secure care.

The Juvenile Court should be notified and a referral submitted anytime a delinquent act occurs. See UCA 76-8-309.

Section 7.3 provides that the Juvenile Court assumes full responsibility for admissions and releases from detention, and further provides that admission decisions will be made by Court intake staff.

This section has been superceded by the Youth Corrections admission guidelines. And further, it does not address the issue of detention pursuant to Court orders.

Section 7.10 provides that detainees shall not be routinely isolated upon admission.

From a policy stand point the advisability of this section should be considered. To achieve accountability and to induce youths to want to avoid repeated detention, perhaps routine isolation upon admission is a viable technique which should be available to DT staff.

Section 9.2 provides no mention of denial of visitation by others (not attorneys, clergy, professionals, or parents) as consequences for bad conduct.

As a method of accountability/consequences for criminal conduct, this section should be modified to allow denial of visitation by others as a consequence for misbehavior in DT.

Section 9.3 provides that mail shall not be censored without clear and convincing evidence to justify the same. It further provides that if mail is read that the detainee shall be informed in advance and the mail shall be opened in his presence.

Detainees should be advised from the beginning that all mail is subject to screening by detention staff, and should be routinely screened for security purposes, and to create a corrections atmosphere.

Section 9.4 requires detention/probable cause hearings for all youth, and also requires detention review hearings every seven days, as well as petitions on all delinquencies within five working days after admission.

Probable cause hearings are not required outside the Third

District and even there, the Consent Decree is outdated. And, detention hearings are not required for post-adjudication detention. Further, once a detention hearing has been held, there is no further need for guidelines in a detention policy manual because the youth is being held pursuant to Court order. Detention guidelines would not apply in any event. Further, even in pre-arraignment cases, there are rural areas of the state where Court dates are two weeks or more apart.

Section 9.4 III - VII explains Court procedures which would not be affected by detention policies and procedures in any event and therefore should be deleted.

Section 9.5 provides that all youth have an opportunity to participate in programs, including recreation, arts and crafts. There is no mention of the loss of this privilege as a consequence for bad conduct during detention.

Section 9.7 provides that fingerprinting and photographing of youths should be done only pursuant to UCA 78-3a-55. While this section comports to state statute, the statute should be amended to require fingerprinting and photographing of youths admitted to detention for 1) the affect on youth, and 2) to aid in the prevention of prosecution of delinquent crime. Approximately 37% of all crime in Utah is committed by juveniles, and approximately 474 youths are responsible for approximately 57% of all felonies committed by juveniles. It would therefore seem wise to photograph and fingerprint detainees.

Section 9.8 provides that there will be no restrictions on length or style of hair, and that hair care services shall be provided. Consideration should be given of giving military hair cuts for all detainees or allowing the use of hair cuts as a consequence.

Section 10.1 III. provides that sanctions shall not interfere with daily functions, such as sleeping.

This Section flies in the face of discipline within detention in those cases where a youth chooses to sleep rather than study.

Section 10.2 I. E. provides that neither the quality nor quantity of diet is to be affected by discipline.

Suppose that a youth were denied dessert as a consequence? Staff should have that discretion within certain nutritional guidelines.

10.2 III. provides that "the purpose of disciplinary action/confinement is not to be punishment." This philosophy is simply error. Further, it is contrary to the will of the legislature and contrary to the will of the public and is not in the child's best interest.

10.2 VI. provides an "A" list, punishment for the violation of which is a maximum of 24 hours confinement. The list includes immediate threat of physical harm, immediate threat of escape, repetitious acts of misconduct and destruction of detention property. A "B" list, comprising violation of all other facility rules carries a maximum of three hours confinement.

More discretion should be given to staff to make youths accountable for such actions.

10.2 VII. provides that multiple misconduct should result in discipline for the single most serious violation. This is counterproductive to those youths who, once they have committed an act allowing the maximum penalty, have no incentive not to commit further violations.

Section 10.3 provides that there will be a disciplinary "structured program" comprising of a five-day program of gradually increasing freedoms only as a last resort. Such a program should be routine for all detainees. Particularly post-adjudication detainees. I am told that the highest level of Provo DT's point system can easily be achieved within three days. This sends the wrong message to our youth.

Section 10.6 provides that a minor may receive credit for good time. UCA Section 78-3a-52.5 provides that youths shall receive credit for good time. V. provides that the youths shall not receive good time if confined. VI. provides for forfeiture of good time if referred on charges stemming from an action in detention.

The statute should be amended to make good time discretionary. Otherwise Section 10.6 is in violation of state code.

An example of this philosophy going awry is a recent case where a juvenile escaped from Youth Correction's custody while being transported from Price to Provo, was apprehended and then escaped from Castle Country by assaulting a detention worker, and attempted to flee from the law enforcement officer when apprehended. Provo DT insisted on releasing him three days before his next Court appearance because good time had to be applied, due to the fact that none of the bad conduct had occurred in Provo DT. Only a Court order faxed to Provo DT persuaded Youth Corrections to hold the juvenile the three additional days for Court.

Section 12.7 provides that mechanical restraints should never be applied as punishment, and further provides that no one shall be shackled to an object or to another. Detention staff should have wider discretion regarding the use of mechanical restraints particularly during transportation and during other times when security dictates.

Section 18.2 IV. provides that all detention shall have single-occupancy rooms. This is not necessary and is very expensive.

II. Detention Practice

Section 1.2 provides that detention should assure "constructive individual and group activities." Section 1.7 provides that detention should allow the placement of college students in internships or practicum programs and that the director shall initiate contact with local colleges to encourage placement.

Neither of the above is being done in the Castle Country or Canyonlands detention centers. The possibility of lower division internships should be pursued.

Section 1.9 provides that the detention advisory board shall include at least one commissioner and three or more citizens with broad child welfare interests and that they will meet at least every six months. With respect to Castle Country, the detention advisory board didn't exist at all until April 1993 and was created only after much complaining by the Court. So far nothing of substance has been accomplished by this potentially very powerful public relations tool.

Section 1.11 provides that the detention administrator will meet regularly with the Juvenile court, law enforcement, and other agencies regarding policy development. I know of no meetings in the recent past regarding detention policy development with respect to Castle Country or Canyonlands. While Canyonlands only recently was taken over by Youth Corrections, Youth Corrections has licensed it for years.

Section 7.4 provides that law enforcement shall bring "a Juvenile Court referral form when detaining an individual." Youth Corrections has mandated its own form and has notified law enforcement that the Juvenile Court referral form is inadequate.

Section 7.8 provides that if it is not possible to give evidence to the law enforcement officer such evidence shall be secured until it is. This has not been done in Castle Country, on occasion.

Section 8.5 provides that transfers between detention centers shall be done only with judicial approval and upon notification of the parents. This is not being done with respect to Castle Country.

Section 11.1 I. J. provides that there shall be no viewing devices within detention of which youth are not aware. I believe detainees should be subject to surveillance at all times and should be so informed upon admission. II. provides that any youth confined shall be monitored by audio and/or visual means. Castle Country and Canyonlands have audio in all cells and visual in only one cell.

Section 11.3 provides that staff shall not give legal advice to detainees. Such is routine in Castle Country.

Section 17.2 provides that clinical services, when possible, shall be provided by detention. If such cannot be provided directly, service shall be insured through community resources. III. provides that mental health counseling shall be provided pursuant to the needs of the detainees. IV. provides that psychiatric, psychological, medical, and other diagnostic services shall be available as needed.

Most of these services are not available directly from detention staff in Castle Country or Canyonlands, and no contracts exist to provide them through community resources.

Section 17.3 III. 4 provides that a minimum of five hours per day of schooling shall be provided in detention. Such is not being done in Castle Country or Canyonlands.

Section 17.4 provides that physical exercise a minimum of two hours per school day and three hours per non-school day shall be provided to detainees. Such is not being done in Castle Country or Canyonlands. I. provides that supervised outdoor recreation shall be provided unless restricted for security purposes. Such is not being done in Castle Country or Canyonlands. Section 17.5 provides that the detention shall facilitate arts and crafts when space exists. Such is being done only on a very limited basis in Castle Country and Canyonlands.

Section 17.6 I. provides for the utilization of volunteers to enhance services including identifying needs, recruitment, selection, screening, orientation of volunteers. Such is not being done in Canyonlands or Castle Country. Section 17.7 II. provides for religious services each Sunday. Such is not being done in Canyonlands or Castle Country. Section 17.8 provides that the Youth in Custody School teacher shall be responsible for maintaining a library in detention. Such is not being done in Canyonlands or Castle Country.

Section 17.9 VII. provides that detention staff shall assist probation officers by arranging work assignments to work off Court ordered hours. This is being done in Canyonlands but is not being done in Castle Country.

Section 18.2 provides that adequate space for admission/release, administration, public lobby, visiting rooms, physical exercise, etc., shall be provided, detainees shall be grouped by sex and Juvenile Court history, an indoor-outdoor recreation area shall be provided, and a medical room shall be provided. None of these facilities are available in Castle County and most are not available in Canyonlands.

Lessons of Pop Jordan's Death

JAMES WOOTTON

THE MURDER OF THE MAN MICHAEL JORDAN called "Pops" has put a human face on this nation's agony over violent crime. By all accounts, Mr. James Jordan was a warm, loving family man who gently shared the joy of his famous son's accomplishments. His murder is a visible tear in the fabric of society that has been unraveling for the past three decades.

Since 1960, violent crime has increased 500 percent. A 1987 Justice Department study found that eight out of 10 Americans will be victims of violent crime in their lifetimes. Six million violent crimes were measured by the Justice Department in 1990.

Based on what we know about the criminal histories of the two young men who allegedly killed Mr. Jordan, this crime should never have happened. We have a right to be outraged that they were not in jail or prison, instead of staking out a roadside spot in Robeson County, N.C., like modern-day highwaymen. According to county Sheriff Hubert Stone, "Mr. Jordan would be alive now if the [legal] system worked the way it should."

Both of these 18-year-olds already had extensive criminal histories at the time of the Jordan killing. Daniel Green was on parole after serving just two years of a six-year sentence for attempting to kill Robert Ellison by smashing him in the head with an ax and putting him in a coma for three months. Larry Demery was awaiting trial for bashing Mrs. Wilma Dial, a 61-year-old convenience-store clerk, in the head with a cinder block during a robbery, fracturing her skull and causing a brain hemorrhage.

There are lots of theories about which mix of family background and environmental conditions might influence a person to become a criminal. However, these theories always run headlong into the stubborn fact that most of the kids with similar backgrounds and similar environments do not become criminals themselves. What we do know is that year in and year out our society, for whatever reasons, does produce a new crop of hard-core criminals. The government's paramount obligation is to protect law-abiding citizens like Mr. Jordan from becoming their victims.

Criminologist Marvin Wolfgang compiled arrest records for every male born—and raised in Philadelphia—in 1945 and in 1958. Just 7 percent of each age group committed two thirds of all violent crime, including three fourths of the rapes and robberies, and virtually all of the murders. This 7 percent not only had five or more arrests by the age of 18, but, for every arrest made, got away with about a dozen crimes. In an article based on Wolfgang's studies, it has



A study showed that 7 percent of those surveyed committed two thirds of all violent crime

been suggested that about 75,000 new, young, persistent criminal predators are added to our population every year.

When I was at the Justice Department in the early '80s, we funded projects in 20 cities where police, prosecutors, schools, and welfare and probation workers pooled information to focus on these "serious habitual offenders." As part of this program, Oxnard, Calif., worked to get the city's 30 active, serious habitual offenders behind bars. As a direct result, in 1987 violent crimes dropped 38 percent, more than double the drop in any other California city. By 1989, when all 30 active, serious habitual offenders were behind bars, murders declined by 60 percent, robberies by 41 percent and burglaries by 29 percent.

From a distance, the two young men accused of killing Mr. Jordan look an awful lot like part of Professor Wolfgang's 7 percent. So why were they on the streets of Robeson County and not in jail or prison?

The case of Daniel Green is particularly troubling. When questioned about Green's early release from prison, Robeson County Prosecutor Richard Townsend replied that most state prisoners serve an average of 20 percent of their sentences before parole, and that Green had served more than most.

That claim is consistent with recent findings that although violent offenders received an average sentence of seven years and 11 months, they actually served an average of only two years and 11 months—37 percent of their imposed sentences. Overall, 51 percent of the violent offenders were, like Mr. Green, discharged from prison in two years or less.

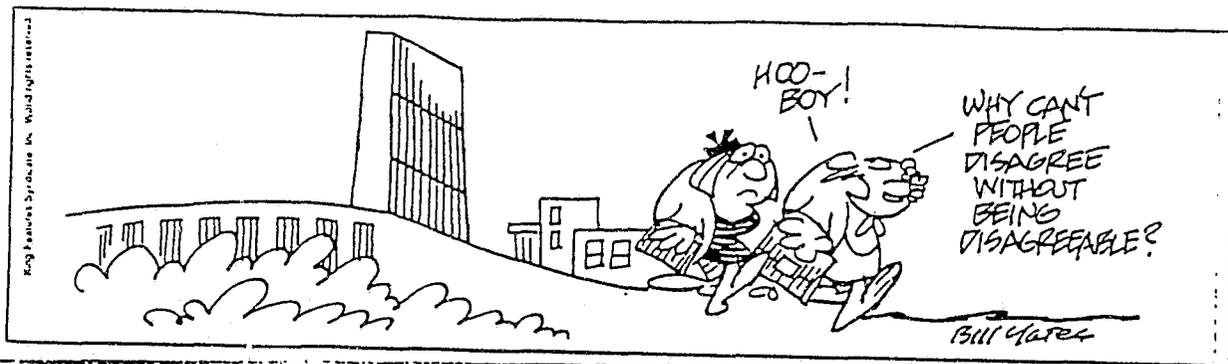
Audiences are shocked when they are told that violent criminals serve only 5.5 years for murder, 3.0 years for rape, 2.25 years for robbery and 1.23 years for assault. We have to ask the question, is 5.5 years long enough to serve in prison for intentionally taking another human being's life?

Greatest impact: The debate about whether we are imprisoning the right people is currently heating up, but of inmates incarcerated in state prisons in 1986, almost 55 percent were serving time for a violent offense. Twenty-nine percent were nonviolent recidivists. In sum, 95 percent of all state inmates were either violent or repeat offenders.

The wanton murder of Mr. Jordan by two proven criminals who belonged in jail or prison should convince us that it is time to make some changes. The one change that would have the greatest impact is the passage by states of truth-in-sentencing laws, which require convicted violent criminals like Mr. Green to serve at least 85 percent of their sentences. The U.S. Congress enacted this kind of requirement for federal crimes in the mid-1980s, and Arizona passed similar legislation this year.

Ironically, the beneficiaries of this change will never be known. They are the young black men who live to adulthood, the women who are not raped, the store clerks who are not robbed, the children who are not molested. They are the nonvictims of crimes that did not happen because the violent criminal who might have attacked them was behind bars. We only wish Mr. James Jordan could have been among them.

WOOTTON is founder and president of the Safe Streets Alliance in Washington, D.C.



CORRECTIONS

Justice system is letting kids down



LOIS M. COLLINS
DESERET NEWS
HUMAN SERVICES WRITER

Something is terribly wrong. It seems like such a normal scene: A boy, 11 or 12, stands on my front porch with a box of items he hopes to sell for a group called "Youth in Action."

I'd been there myself a few hundred times: a child making extra money by selling Christmas cards or cookies or whatever.

I don't remember ever feeling the fear I saw in his young blue eyes.

"Am I safe on this street?" he asks, scanning the inner-city neighborhood that I call home. "Are there any gang members or mean teenagers?"

My instinct is to reassure him that my neighbors are nice; that he is a child and children are safe.

But the words cannot be uttered. They're not completely true.

It's a crazy world, and I am beginning to realize, to my regret, that no one can guarantee safety. My own sheltered world is becoming dangerous.

A teenager goes to a concert and is beaten, then shot to death.

A youth at the State Fair is wounded in the chest.

A cab driver answers a call and dies on a street corner just blocks from where I live.

A youth is shot outside of a fast-food restaurant a block from where I work.

A close friend is raped in her home in the early-morning hours.

The alleged perpetrators in each of these "incidents" are teenagers. A new breed that a legislative analyst refers to as "younger, tougher and meaner."

Young people who should be thinking about school proms and college scholarships and what to wear on a date. Instead, an increasing number of them are trafficking in drugs, violence and terrorism. They're the new urban guerrillas, and they don't just frighten other children. They terrorize senior citizens and "average joes" like me.

I find myself assessing the crowd before I get out of my car at convenience stores. When the teenage girls across the street play their stereo loud enough to be heard in Kearns, I shut my window. I'm not sure how they will react if I complain.

I must be getting old; I don't get it. Drugs and violence were around when I was a kid. But only the "wild ones" got involved. Most of us stayed clear.

It never occurred to me that the kid with the locker

next to mine might be packing a gun. Now weapons have arrived at grade schools. In my neighborhood a 9-year-old was suspended for bringing a pistol to school, according to the very nice little boy who mows my lawn. (His voice was filled with awe. He wishes he had a gun.)

No wonder so many good kids are not doing well at reading, writing and arithmetic. They're too busy trying to stay away from the gang members and wannabes. They're worrying about things a child shouldn't have to think about, like death and bloodshed and just getting by.

I spend a day in juvenile court and watch a steady parade of children who have committed all sorts of crimes. A preteen girl has stolen a car. A 16-year-old boy beat up his parents. Another, same age, burned down a home that was under construction "because I thought it would be interesting."

I tell the frightened young stranger that I don't think he'll have a problem. I get along just great in this neighborhood. If he has trouble, I tell him, come on back to my house and we'll deal with it together.

What, I ask him, makes him think there might be problems?

"There were a bunch of kids outside there with baseball bats," he says, pointing to the next block. "They chased me away."

"I was real scared," he admits, scuffing his tennis shoes on my porch.

I believe in rehabilitation, particularly of young people. I don't believe any kid's a "throwaway." I also believe we've ignored our system of juvenile justice until it has become a joke to youth offenders.

It's overburdened, underfinanced and in too many ways ineffective. The people who know that best are the youths who go back and back and back, with few consequences.

A Youth Corrections official tells me that a young offender may commit seven felonies and 10 or more misdemeanors before he finds real punishment and, if he's lucky, some counseling to deal with the problems that lead to his crimes.

Surely that's just slapping on a bandage. Perhaps if we provided appropriate treatment, punishment and services sooner, we wouldn't be hearing about overcrowding at detention centers. We wouldn't be burying our young after a concert.

And I wouldn't be looking into the eyes of a frightened boy, trying to find words to reassure him, while wondering if I'm telling the truth.

IN OUR OPINION

THE MOUNTAIN WEST'S FIRST NEWSPAPER • FOUNDED JUNE 15, 1850 • SALT LAKE CITY, UTAH

Utah must move quickly to squelch gang violence

Two gang-related shootings in recent days have galvanized Salt Lake officials into making a major crackdown on gangs, including tighter curfews for young people, waiting laws on gun purchases and a tough "zero tolerance" for gang members at the ongoing Utah State Fair.

Those steps are welcome, but they represent only a beginning in tackling the growing problem of gang violence in Salt Lake Valley. Officials must act quickly to seize back the streets from gangs before violence threatens the very fabric of society.

Salt Lake Police Chief Ruben Ortega is correct in urging tough action against gangs before they become so entrenched that they are almost impossible to root out. Some major cities already find themselves in that situation, with streets resembling war zones.

The two shootings, one that killed a young man after a concert and a second that wounded a youth at the fairgrounds, are among 62 shootings in Salt Lake County this year, most of them the drive-by variety. In many cases, the only cause was someone wearing the wrong color of clothing.

The first concern after the fairground shooting was the threat to the economic viability of the fair. If families don't feel safe, they will stay away and the loss to fair coffers could be significant.

As a result, security at the fair has been bolstered, signs warn that no gang colors or clothing are allowed, weapons are forbidden and suspect fairgoers may be searched.

Those are drastic steps but they are justified under the circumstances, despite complaints from civil rights activists who say police cannot target some fair patrons without subjecting everyone to the same searches. That stance is ridiculous. Many gang members are known to police and others are easy to spot because of their attire.

Picking on clothing colors carries the risks of embarrassing some innocent people, but those incidents are comparatively rare. In any case, the police have no obligation to put the entire fair and its patrons at risk merely to avoid bruising the sensitivities of a few people. Most fairgoers have reason to be grateful for the "zero tolerance" approach.

The steps proposed this week by Salt Lake Mayor Deedee Corradini in-

clude bolstering police gang units; strictly enforcing existing curfew laws that say under-18-year-olds must be home by 1 a.m. and under-14-year-olds by 11 p.m.; a mandatory state-wide waiting period for gun purchases; making parents liable for some of their children's actions; more jail space for juvenile offenders.

A major problem is the overloaded, underfunded juvenile justice system that fails to take serious action against young offenders until they have committed a lengthy list of crimes. Troubled youths are perfectly aware of this and as a result have no fear or respect for the law or the system.

William F. Woo, editor of the St. Louis Post-Dispatch, wrote this week: "The failures of parents to be effective with teenagers who run with gangs or pack firearms or fool around with drugs or hang out at wholly unreasonable hours are compounded . . . by society's failure to provide for a juvenile justice system that inflicts serious consequences upon young people who break the law. This is our collective failure."

"I do not mean to impugn police officers, juvenile authorities, case workers and judges, many of whom are doing far more than we have a right to ask of them. But the system in which they labor is a joke, if its intent is to reform or punish kids who rob or kill or injure or otherwise get into bad trouble. If society will not insist upon tough consequences for juvenile crime, we can scarcely hold parents responsible for all that has gone wrong."

Clearly, detention facilities need to be expanded and the juvenile justice system provided with the necessary staff, social workers, family counselors, probation officers and judges.

But gangs and associated juvenile crime are not merely police problems. As Ortega points out, many gang members come from dysfunctional families, are often school dropouts and have problems with alcohol and drugs. Those are difficulties beyond the ability of police to solve.

Such challenges can only be met with a many-sided community approach and it can be expensive. But failure to act can allow the insidious spread of the gang disease until it virtually ruins a community. That must not be allowed to happen.

DETENTION STUDY COMMITTEE

Purpose, Future, and Administration Subcommittee

Report

Members

Anne M. Nelsen, Chair
Glen Ames
Arthur Christean
Scott N. Johansen
Jose Martinez
Michael Strebel
Russ Van Vleet

Staff

Lorena P. Riffo

INTRODUCTION

The subcommittee was assigned to study the *purpose, future and administration* of detention. In order to accomplish this task the subcommittee members met on numerous occasions. Attendance at those meetings was impeded, to an extent, by schedule conflicts and distances required for travel to the meetings.

Unfortunately, time limitations precluded the subcommittee from addressing the *future and administration* of detention as was initially envisioned by subcommittee members.¹ Thus, the subcommittee recognized the need to recommend further study of the *administration/programming* of detention.

STATUTORY PROVISIONS AND PHILOSOPHICAL PURPOSES

The subcommittee members identified and examined nine statutory provisions for which secure detention may be used in Utah. Individual members recommended whether the statutory provisions should be modified, repealed, or remain the same. Recommendations were accompanied by explanatory notes as to the reasons behind the subcommittee members suggestions. In addition, philosophical purposes were provided for the nine statutory provisions.

¹ Although the subcommittee was unable to address the administration/programming of detention, Judge Scott Johansen has drafted a letter that makes some recommendations about the administration/programming of detention (a copy of this letter will be enclosed as an appendix in the final report to the legislature).

However, the subcommittee was unable to unanimously agree as to the statutory purposes of detention.² This is a result of the differing views represented by subcommittee members from the Division of Youth Corrections (DYC) and the Juvenile Court. The Juvenile Court has stated the need to use detention for accountability and enforcement of orders as well as to ensure child and community safety. The DYC administers detention and is concerned about limited resources for space and programming, child and community safety, and equity of admissions.

RELATED ISSUES REGARDING DETENTION

Discussion regarding the *purpose and administration* of detention further revealed diverse views among the members. However, motions were made regarding some of these issues and the attached "Motion Table" will reflect the subcommittee vote. Some of the areas of discussion included the following:³

- Whether detention should be used as a deterrent?
- Whether accountability or punishment needs to be part of the model of the administration/programming of detention?
- Whether the DYC's philosophical mission purpose needs to be revised towards a more consequence-based one?
- Whether the DYC's policies and procedures should be amended to delete those things which limited resources prevent DYC from accomplishing?

On the other hand, the subcommittee agreed on the following issues:

- There is a lack of adequate resources for detention and for alternatives to detention.
- There is a need for additional secure beds, both short and long term.
- There is a significant lack of adequate resources to accomplish the requirements in the DYC's detention policies and procedures.
- Detention is used for each of the identified permitted reasons (see the provided nine statutory provisions), at least some of the time, because

² Please refer to the attached "Motion Table" in order to view the motions regarding the nine statutory provisions.

³ Please see the "Motion Table" to review other motions that were made regarding detention issues.

of a lack of sufficient, less secure, less costly alternatives.

- Administration/programming of detention must be further studied.

CONCLUSION

There are a number of recommendations on which the subcommittee concurs. However, there was a clear divergence of opinion within the subcommittee regarding what the purpose of detention should be, thus resulting in a lack of agreement on future philosophy and use of detention.

PURPOSE OF DETENTION SUBCOMMITTEE: MOTIONS VOTED ON

SEPTEMBER 22, 1993

Present

Anne M. Nelsen, Chair
Michael Strebel
Arthur Christean
Scott Johansen
Glen Ames

Excused

Jose Martinez
Russ Van Vleet

Staff

Willard Malmstrom
Lorena P. Riffo

MOTIONS FOR STATUTORY PROVISIONS	YEAS	NAYS
<p>I. The motion stated:¹ Is this an appropriate use of detention?</p> <p>U.C.A. § 78-3a-39(6)-those who have been found guilty of offenses which would be criminal behavior if committed by an adult and are serving a short term commitment for them (disposition-up to 30 days).</p>	4	1
<p>II. The motion stated: Is this an appropriate use of detention?</p> <p>U.C.A. § 78-3a-39(3)(4)(5); § 78-3a-30(5)-those who have been found guilty of offenses which would be criminal behavior if committed by an adult and of such a serious or chronic nature that they have been committed to the custody of the DYC and are awaiting placement or transport to secure confinement (awaiting placement/secure confinement).</p>	5	
<p>III. The motion stated: Is this an appropriate use of detention?</p> <p>U.C.A. § 78-3a-30(1)(a), (4)(d)-those who have been charged with offenses which would be criminal behavior if committed by an adult and are awaiting hearing on such charges and the court has found it unsafe to release them pending the hearing (pre-adjudicated youth).</p>	5	
<p>IV. The motion stated: Is this an appropriate use of detention</p> <p>U.C.A. § 78-3a-52(3)-those who are serving commitments for contempt by reason of non-compliance with orders of the court (contempt-up to 10 days).</p>	4	1

MOTIONS FOR STATUTORY PROVISIONS	YEAS	NAYS
<p>V. The motion stated: Is this an appropriate use of detention?</p> <p>U.C.A. § 78-3a-29(5)(c); § 78-3a-28; § 78-3a-39(6)-those who have been booked into detention pursuant to a <i>warrant of arrest</i> (often mislabeled "pick-up order") issued by the court for failure to appear, probation violation, or other behavior constituting non-compliance with court order, including those who have detention time imposed but stayed subject to further review and order, and are awaiting a hearing (pick-up Z/including: 1) those under continuous court jurisdictions, 2)those in the custody of DYC, and 3) those in the custody of DFS).</p>	5	
<p>VI. The motion stated: Is this an appropriate use of detention?</p> <p>U.C.A. § 78-3a-30(5); § 78-3a-39(3)-those who have been placed in state custody and are being held for placement or further placement as authorized by statute for a limited number of days (awaiting placement/non-secure confinement/DYC or DFS).</p>	2	3
<p>VII. The motion stated: Is this an appropriate use of detention?</p> <p>U.C.A. § 78-3a-29(5)-those being held pursuant to the order or request of another district or jurisdiction as escapees, absconders, or fugitives (reciprocity).</p>	5	
<p>VIII. The motion stated: Is this an appropriate use of detention?</p> <p>R542-13-8. Immigration Cases-those being held as suspected illegal aliens pending determination of status and further order.</p>	4	1
<p>IX. The motion stated: Is this an appropriate use of detention?</p> <p>U.C.A. § 78-3a-29(1)-those not yet charged who have been arrested and booked <i>without warrant</i> or order of the court and are being held as suspects pending hearing or further order for offenses which would be criminal behavior if committed by an adult and which meet detention admission guidelines (detention admission guidelines/pre-adjudicated youth).</p>	5	

OTHER MOTIONS RELATING TO DETENTION	YEAS	NAYS
<p>X. The motion stated:</p> <p>Additional detention beds are needed.</p>	5	
<p>XI. The motion stated:</p> <p>It is recommended that the Division of Youth Corrections review its "Administrative Procedures Manual" to include: 1) accountability, 2) discipline, and 3) public confidence.</p>	3	2
<p>XII. The motion stated:</p> <p>It is recommended that a study be conducted regarding the administration (programming) of detention.</p>	5	
<p>XIII. The motion stated:</p> <p>It is recommended that the juvenile court encourage the development of alternatives that meet the standards of: 1) public safety, 2) protection of the youth, and 3) assurance of court appearance. The usage of alternatives will be left to the discretion of the court.</p>	5	

Philosophical Purpose List

September 22, 1993

Accountability

Allow arrangement of appropriate placement

Assure court appearance

Deterrence

Enforcement of court orders

Meet agencies needs

Protection of the juvenile

Public Safety

Punishment

Reciprocity

Rehabilitation

Retribution

THE UNIVERSITY OF MICHIGAN
SCHOOL OF SOCIAL WORK

CENTER FOR THE STUDY OF *Youth Policy*

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September 15, 1993

Anne M. Nelsen, M.S.W.
Regional Director
Region III Youth Corrections
205 West 900 North
Springville, Utah 84663

Dear Anne:

I want to apologize to you and the other members of our subcommittee for my non-attendance at the last several meetings. My travel schedule makes it difficult for me to attend the meeting and for that reason I have been reluctant, in the past, to commit to a process like this since my daily work is mostly out-of-state.

I cannot be to the 22nd or 24th meetings and wanted to just respond to some of the concerns expressed by Judge Scott Johansen in his letter to you of August 30th.

I do agree that the administration should be reviewed and good administration practices reinforced. I would assume, at this time, that there is substantial "dead time" within our detention center in SLC due to overcrowding and the subsequent safety issues this overcrowding presents to the staff and youth at that facility. Such overcrowding usually results in greater use of "locked time" since reducing the group size is the only way to insure everyone's safety.

I don't know if the youths Judge Johansen referenced were in detention recently but if so we should certainly take into account the conditions that might lead to less programming.

My general response, however, is to mostly discount the notion that detention is dead time. In its traditional use, that of pre-adjudicatory holding, it could be viewed as appropriate that youth spend time and that little, if any, programming be provided.

I recall in my early days in detention when I expressed concern that youth were doing little but sitting in their rooms, eating, spending a few hours in school and watching TV I was reminded that treatment was reserved for post adjudication resources and not at all appropriate for detention.

I have visited the Salt Lake County Detention Center, Moweda, Utah County, Southwest Utah and Richfield facilities all within the last year, some numerous times, and my impression has been the opposite of that expressed by the youths. During my visits there were very few youths doing what might be considered "dead time" in that they were confined to their rooms. In all instances the youth were involved in activities and staff were always engaged with the youth.

I would suggest that time be taken at a larger meeting to hear from the administrators of each facility and to review the programmatic challenges facing each one of them. I would expect they would differ significantly and to the extent our Task Force can assist in the improvement of programming within those facilities we should certainly do so.

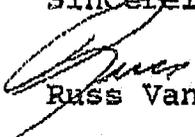
Let me also suggest to my fellow subcommittee members that I also realize how difficult determining what the purpose of detention is in our state. We are perhaps caught between the legal definition and the philosophical orientations of the committee. I suspect that we may need to prioritize the purposes and then cooperate as a system to either expand beds or increase alternatives. The least we have to do is reduce the population immediately since our debate over the purpose of detention would probably be comical to the line staff at Salt Lake DT right now who are trying to keep everyone from being injured given the overcrowded conditions.

I continue to be struck by our reliance on detention, 13th nationally, and my own experience that says that only very short-term detention is useful as a deterrence. I hope we can look at some alternatives that can be put in place quickly so that current conditions can be ameliorated while we struggle with the long-term role of detention.

I hope this letter is not presumptuous but since I cannot make the meeting I wanted to share some of my thoughts with the committee.

I appreciate being on the task Force and look forward to our future meetings.

Sincerely,


Russ Van Vleet

DETENTION STUDY COMMITTEE

MINORITY REPORT

MINORITY REPORT

DETENTION STUDY COMMITTEE RECOMMENDATIONS

November 19, 1993

**Judge Arthur G. Christean
Third District Juvenile Court**

1. ALTERNATIVES TO DETENTION SHOULD NOT BE CONSIDERED AS SUBSTITUTES FOR BADLY NEEDED INCREASES IN DETENTION CAPACITY.

The vast majority if not all the juveniles that are in detention centers or secure facilities are there because they have violated the law or lawful orders of the court and their confinement has been found necessary by the court. The search for alternatives is appropriate and few would disagree with such efforts. However, no matter what is done in this regard, the underlying facts which create the pressure for detention use will remain unchanged. Indeed, unless there is a dramatic shift in present trends with respect to youth crime, such pressure for more secure space will only grow more intense, not less. Secure detention space presently available, especially along the Wasatch Front, is well below projected needs made over 10 years ago. Further, repeated efforts to find alternatives may run counter to the interests of justice and public safety for serious and chronic juvenile offenders who require incarceration. Thus, while the search for alternatives is appropriate, it should not be presented or held out as a substitute for badly needed increases in detention facilities. The emphasis throughout the recommendations on "alternatives" may well create this impression.

2. RECOMMENDATIONS REGARDING H.B. 3 TO RESTORE THE COURTS SENTENCING AUTHORITY WITH RESPECT TO DETENTION SHOULD BE STATED WITHOUT THE AMBIGUOUS LANGUAGE "OR OTHER ALTERNATIVE SANCTION".

The inclusion of these words in the recommendation again emphasizes "alternatives" to the use of detention and creates ambiguity as to whether it is the intent of the recommendation to require the use of alternatives in those cases where such is available or to provide the court with additional options to employ as the circumstances of individual cases may warrant. Providing the court with a wider range of non secure alternatives to detention than those which presently exist is certainly desirable as long as it is understood that it must remain within the discretion of the sentencing court whether to use them or not. The court's authority in this regard must not be curtailed and the use or non-use of detention must not be predetermined or circumscribed.

3. THE STATUTORY PURPOSES OF DETENTION ARE ESSENTIAL TO THE ADMINSTRATON OF JUVENILE JUSTICE AND NOT MERELY OPTIONAL SERVICES.

By including the established statutory purposes of detention under recommendation number 8 and by requiring committee members to choose and prioritize them from among the total array of recommendations, a misleading impression may be created that such purposes need not be accorded any greater weight or preference than the other recommendations, many of which deal with new or augmented services. However, a careful examination of these statutory purposes will disclose that with perhaps one or possibly two exceptions, these are not optional items at all but are essential features of ANY justice

system, adult or juvenile. Issues surrounding funding, location and size of facilities, administration of correctional programs, or the delivery of social services, should not be confused with maintenance of judicial authority to use detention for purposes essential to the administration of justice.

4. RECOMMENDATIONS EMPHASIZING ETHNIC DISTINCTIONS THAT MAY TOUCH OR AFFECT THE ADMINISTRATION OF JUSTICE SHOULD BE TREATED WITH CAUTION.

The recommendations that deal with this matter need to be carefully examined to determine whether they are germane to the administration of justice or are aimed at other social needs outside the legal responsibility of the juvenile justice system. Post adjudication rehabilitation efforts, as a part of the overall order of the court, can and should be sensitive to the background of the individual youth and be culturally appropriate. But the administration of justice has to be impartial, even handed and governed by the principle that decisions at each step in the process be based on an individual's behavior and record. While not explicitly stated, these recommendations seem to imply or take for granted the notion that the **WORKFORCE** of the juvenile justice system should mirror the ethnic makeup of the **WORKLOAD** of the system. This creates a host of legal and policy problems including the inevitable issue of quota hiring and the apparent requirement that the juvenile justice system be governed by a different employment standard than that required of any other court or agency of state government. Such an approach may also have the unintended consequence of lending official support to the idea that the administration of juvenile justice should be partitioned along ethnic lines. Further, these recommendations, insofar as they pertain to the governance of the juvenile justice system, appear premature until recommendation 5)d) is accomplished.

APPENDIX

DETENTION STATUTES¹

1. References (Definition):

U.C.A. § 62A-7-101. Definitions.

(6) "Detention" means secure detention or home detention.

(17) "Secure detention" means a predisposition placement in a facility operated by or under contract with the division, for conduct by a child who is alleged to have committed a delinquent act.

U.C.A. § 62A-7-201. Confinement- Facilities- Restrictions.

(6) The division is responsible for the custody and detention of children under the age of 18 who require detention care prior to trial or examination, or while awaiting assignment to a home or facility, as a dispositional placement under Subsection 78-3a-39(6)(a) or 78-3a-52(3)(a), and of youth offenders under Subsection 62A-7-112(8). The division shall provide standards for custody or detention under Subsection 62A-7-201(2)(b), (3), and (4), and shall determine and set standards for conditions of care and confinement of children in detention facilities. All other custody or detention shall be provided by the division, or by contract with a public or private agency willing to undertake temporary custody or detention upon agreed terms, or in suitable premises distinct and separate from the general jails, lockups, or cells used in law enforcement and corrections systems.

2. Reference (Disposition up to 30 days/Post-Adjudicated):

U.C.A. § 78-3a-39.

Adjudication of jurisdiction of juvenile court-
Disposition of cases-Enumeration of possible
court orders-Consideration of court.

(6)(a) The court may commit the child to a designated place of detention for a period not to exceed 30 days, subject to the court retaining continuing jurisdiction over him.

(b) This subsection applies only to those children adjudicated for an act which if committed by an adult would be a criminal offense. This commitment may be stayed or suspended upon condition ordered by the court. (emphasis added).

¹ Prior to the passage of H.B. 3 in the Special Legislative Session of October 12, 1993.

3. References (Contempt up to 10 days/Post-Adjudicated):

U.C.A. § 78-3a-52.

Violation of order of court- Contempt- Penalty.

(3)(a) Any person younger than 18 years of age found in contempt of court may be punished by a fine not to exceed \$200, by being held in detention for not more than ten days, or both the fine and detention.

(b) The court may stay or suspend all or part of the fine or detention imposed upon compliance with conditions imposed by the court.

4. References (Youth Awaiting Placement for Secure Confinement):

U.C.A. § 78-3a-39.

**Adjudication of jurisdiction of juvenile court-
Disposition of cases- Enumeration of possible
court orders- Considerations of court.**

(3) The court may vest legal custody of the child in the Division of Family Services, Division of Youth Corrections, or other public agency, department, or institution, or in a child placement agency for placement in a foster family home or other facility or any similar institution.

(4) The court may commit the child to the Division of Youth Corrections for secure confinement. A child under the jurisdiction of the court may solely on the ground of neglect or dependency under Subsection 78-3a-16(1)(c)(i) may not be committed to a secure youth corrections facility or any similar institution within or without this state nor to the Division of Youth Corrections.

(5) The court may commit the child, subject to the court retaining continuing jurisdiction over him, to the temporary custody of the Division of Youth Corrections and evaluation for a period not to exceed 90 days.

U.C.A. § 78-3a-30.

**Placement of child in detention or shelter
facility- Grounds- Detention hearings- Period of
detention- Notice- Confinement of children
held for criminal proceedings- Bail laws
inapplicable, exception.**

(5) No child may be held in detention, following a dispositional order of the court for nonsecure substitute care under Subsection 62A-4-101(17) or for community-based placement under Section 62A-7-101 for longer than 72 hours, excluding weekends and holidays. The period of detention may be extended by the court for one period of seven calendar days if:

(a) The Division of Youth Corrections or the Division of Family Services or another agency responsible for placement files a written petition with the court requesting the extension and

setting forth good cause; and

(b) the court enters a written finding that it is in the best interest of both the child and the community to extend the period of detention.

5. References (Youth Awaiting for Non-Secure Confinement):

U.C.A. § 78-3a-30(5). See Reference number 4.

U.C.A. § 78-3a-39(3). See Reference number 4.

6. References (Youth Pending Hearing/Pre-Adjudicated):

U.C.A. § 78-3a-30. Placement of child in detention or shelter facility- Grounds- Detention hearings- Period of detention- Notice- Confinement of children held for criminal proceedings- Bail laws inapplicable, exception.

(1)(a) A child may not be placed or kept in a secure detention facility pending court proceedings unless it is unsafe for the public to leave the child with his parents, guardian, or custodian and the child is detainable based on guidelines promulgated by the division.

(4)(d) At the detention hearing, if the court finds that it is not safe to release the child, the judge or commissioner may order the child to be held in the facility or be placed in another appropriate facility, subject to further order of the court

7. References (Warrants of Arrest/Pick-Up Orders):

U.C.A. § 78-3a-29. A child taken into custody by peace officer, private citizen, or probation officer- Grounds- Notice requirements- Release or detention- Grounds for peace officer to take adult into custody.

(5)(c) A child may not be admitted to detention unless the child is detainable based on the guidelines or the child has been brought to detention pursuant to a judicial order or division warrant pursuant to Subsection 62A-7-112(8).

U.C.A. § 78-3a-28. Failure to obey summons- Contempt- Warrant of arrest, when authorized- Appointment of guardian ad litem.

Any person summoned as herein provided who without reasonable cause fails to appear, may be proceeded against for contempt of court, and the court may cause a bench warrant to issue to produce such person in court. . . .

U.C.A. § 78-3a-39. Adjudication of jurisdiction of juvenile court- Disposition of cases- Enumeration of possible court orders- Considerations of court.

(6) See Reference number 2

8. Reference (Youth Arrested Without a Warrant of Arrest/Pick-Up Order Who Meet Detention Admission Guidelines) :

U.C.A. § 78-3a-29. A child taken into custody by peace officer, private citizen, or probation officer- Grounds- Notice requirements- Release or detention- Grounds for peace officer to take adult into custody.

(1) A child may be taken into custody by a peace officer without order of the court if:

- (a) in the presence of the officer the child has violated a state law, federal law, local law, or municipal ordinance;
- (b) there are reasonable grounds to believe the child has committed an act which if committed by an adult would be a felony;
- (c) the child is seriously endangered in his surroundings or if the child seriously endangers other, and immediate removal appears to be necessary for his protection or the protection of other;
- (d) there are reasonable grounds to believe the child has run away or escaped from his parents, guardian, or custodian; or
- (e) there is reason to believe the child is subject to the state's compulsory education law and that the child is absent from school without legitimate or valid excuse, subject to Section 53A-11-105.