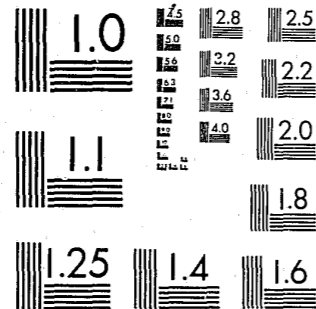


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~~X~~ STUDY OF JUVENILES  
TRANSFERRED FOR PROSECUTION  
TO THE ADULT SYSTEM

OFFICE OF THE DADE-MIAMI CRIMINAL JUSTICE COUNCIL

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ACQUISITIONS

### MAJOR FINDINGS

This study utilizes data collected on 230 juveniles who were transferred for prosecution into the adult system or indicted in the year 1979. The data includes a survey of court records and a follow-up analysis of those juveniles who were placed on probation in the adult system. This follow-up was conducted in October of 1980. The major findings of this study are summarized below.

1. The majority of charges against the juveniles in this study were for crimes against property (57.4%) with 46.5% specifically for Breaking and Entering.
2. The average length of time between arrest and disposition was 87.55 days.
3. Forty percent or 93 of the juveniles were sentenced to the State Correctional System.
4. Of the 93 juveniles sentenced, 45 were placed in the Youthful Offender Program.
5. Juveniles receiving a split sentence of probation and under one year in a county facility or straight probation accounted for 34.7% of the total.

6. Of those placed on probation, or sentenced to terms of less than 6 months followed by probation, 49% were rearrested within 8 months.
7. Seven youths were sentenced to terms in the Youthful Offender Program for over 4 years which exceeds the maximum allowable under the Florida Statutes.
8. Juveniles placed on probation in the adult system had an average of 9 felony charges while in the juvenile justice system prior to transfer.

## INTRODUCTION

There has been much community concern expressed regarding the serious juvenile offender. There is a growing perception among the general citizenry that either little happens to this population or that what we are doing is ineffective. Various suggestions have been made regarding the problem including lowering the age of jurisdiction for the juvenile court, determinate sentencing for juveniles in certain situations, abolishing the juvenile court altogether and many more.

Presently, the Florida Statutes allow for transfer or indictment of juveniles meeting certain criteria for trial as adults. Hopefully, the study will clarify how effectively various provisions of the Statutes are being implemented and make recommendations for needed changes.

A short history and rationale is given of the juvenile justice system, background of the Statutes that govern the transfer of jurisdiction, as well as the Youthful Offender Act. The data presented describes characteristics and handling of those juveniles who were transferred for prosecution to the adult system in 1979. A follow-up was conducted on those juveniles who were placed on probation once they were tried as adults. Finally, there is a section drawing conclusions and making recommendations.

HISTORY AND PURPOSE OF  
THE JUVENILE COURT

As recently as the latter part of the Nineteenth Century, children were tried for their crimes exclusively in criminal courts in both England and the United States. The age of the child was considered a factor in determining whether or not he/she should be held responsible for his/her acts, but in most other respects his/her treatment resembled that accorded an adult charged with the same crime.<sup>1</sup> The child was kept in the same jail as an adult, tried by the same court, and kept in the same correctional facilities.

The English Common Law, with regard to the child, maintained two concepts. The first concept dealt with the State taking responsibility for the child who was in need of shelter and attention. The second concept was based on the criminal responsibility of the child. If he was below the age of seven, he could not be found guilty of a criminal act because it was presumed that he/she was incapable of formulating an intent to commit a crime. A child between the ages of 8 and 14 could not be held responsible unless the State could prove that he could clearly distinguish between right and wrong. English Common Law required parents to provide the necessary support and care for their children. The Chancery Courts were created for the purpose of overseeing this.

<sup>1</sup> Law and Tactics in Juvenile Cases. U.S. Executive Office of the President, Office of Economic Opportunity, Washington, D. C. 1974, pages 3-28

By the end of the Nineteenth Century, social reformers created special courts whose objectives were significantly diverse from those in the criminal courts. They sought a court that would understand the child, diagnose his/her problems, and provide treatment that would restore him/her to a constructive role in the community. The welfare of the child was considered more important than the question of guilt or innocence of the offender.<sup>2</sup> The first juvenile court in the United States was established in 1899. It was hoped that the establishment of this court would drastically reduce juvenile crime.

However, the juvenile court of the present time is inundated with cases. These courts are called upon to deal with difficult and complex behavioral and social problems but are not always given the resources to deal with these problems. Most states have now legislated provisions for removing the most serious offenders from the juvenile justice system and dealing with these offenders in the adult system.

In Florida, we have a system for removing serious juvenile offenders from the juvenile court's jurisdiction. This is dealt with in the Florida Statutes, Chapter 39. According to Florida Statutes, there are four means by which a child may be tried in the adult system.

<sup>2</sup> ibid.

1. Waiver Hearing

The State Attorney may determine that a child 14 years or older should be tried in criminal court and request a waiver hearing. He/she must request such a hearing if the child is being held for a second crime of a violent nature against a person.

In the waiver hearing the judge determines whether the juvenile meets the eight criteria defined in the statutes. These criteria relate to the seriousness of the crime, prior record, maturity of the child, the protection of the public, etc.

2. Direct File

The State Attorney also has the option of filing a Direct Information against a 16 or 17 year old child. The child must have previously been found to have committed two delinquent acts, one of which was a felony. This action automatically brings about a transfer of the child to the criminal court, but he/she may be jailed only if the current charge is a felony.

3. Grand Jury

In addition to the above options, the State Attorney may also refer any case to the Grand Jury. If the charge is

a capital or life offense a hearing by such means is mandatory. If the jury returns an indictment, transfer to the adult criminal court for prosecution is immediate.

4. At Own Request

Lastly, a juvenile, under the auspices of a parent or legal guardian, may request to be tried in adult criminal court.

### YOUTHFUL OFFENDER ACT

The purpose of the Youthful Offender Act is to improve the chances of correction and successful return to the community by separating youthful offenders from older and more sophisticated criminals. In addition, there is an intent to provide a sentencing alternative for offenders who can no longer be handled effectively as juveniles and pose a threat to the safety of the community. This latter intent is directly related to the population under study in this paper.

According to Chapter 958 of the Florida Statutes, the court may classify as a youthful offender any person who is at least (a) eighteen (18) years old or who has been transferred to the Criminal Division (cf. Chapter 39); (b) has been found guilty or pled nolo contendere or guilty to a felony of the first, second, or third degree which was committed before the defendant's 21st birthday; and (c) who has not been previously classified as a youthful offender. In addition, the statute specifies that no person found guilty of a capital or life felony may be classified a youthful offender. The classification also requires that the person cannot have been previously found guilty of a felony and not have been adjudicated delinquent for an act which would be considered a capital, life, or first degree felony if committed by an adult.

If, however, an individual is excluded from being termed a youthful offender because of the aforementioned criteria he/she may still be

classified as such after consideration of the following: seriousness of the offense to the community; if the offense was aggressive; whether it was against person or property; the sophistication of the offender and previous history/contacts with law enforcement agencies and courts; the likelihood of rehabilitation and whether the classification is appropriate, i.e. reflects the seriousness of the offense, provides just punishment, and provides the needed training or care in the most effective manner.

If the court does classify a person as a youthful offender, he/she may be placed on probation in a community control program not to exceed two years nor reach beyond his/her 23rd birthday. The court may commit the offender to the custody of the Department of Corrections for a period not to exceed 6 years. The sentence must specify that not more than the first 4 years are to be spent imprisoned and not more than 2 years in a community control program. If "aggravating factors such as: infliction of serious bodily injury to another during the commission of the crime, if he/she is considered a continuing physical risk to the public or if the felony committed was heinous or involved physical violence, the court may impose a minimum term of imprisonment of one year before eligibility for parole, and sentence the defendant according to the terms above".

#### DATA COLLECTION

A list of names was obtained from the State Attorney's Office and the Clerk's Office of juveniles who had been transferred into the Adult Court System by direct file, waiver, or Grand Jury indictment. These names were checked against the master file list in the Clerk's Office, case numbers were obtained, and files pulled. Approximately 15% of the names could not be located in the master file list and, therefore, were not included in the study.

The following data was collected:

Name  
Case Number  
Date of Birth  
Date Case Filed  
Charge  
Date of Trial  
Finding  
Sentence

Data was collected from a total of 230 cases. Charges were classified into four major categories. These categories include: (1) personal crimes; (2) property crimes; (3) personal and property crimes combined; and (4) other. Personal and property crimes combined designates the juvenile had more than one charge and these charges included both personal and property crimes. This was usually a situation where a juvenile was charged with a personal crime (such as assault) while in the commission of burglary.

Dispositions were grouped into four categories. These include: (1) sentenced (to the State Prison System); (2) probation or a split sentence of one year or less in a county facility followed by a term of probation; (3) acquitted, nol-prossed, etc.; and (4) other.

In addition, files were checked for re-arrest on youths who were placed on probation in the Adult System. This information was collected during the month of October, 1980, and will also be discussed.



#### ARREST PATTERNS

The majority of crimes that the juveniles in this study were arrested for were crimes against property (57.4% of the total). Burglary accounted for 81.1% of the crimes against property and 46.5% of all arrests. Robbery and burglary combined (where a juvenile was charged with both crimes) accounted for an additional 11.3% of all crimes. The high percentage of crimes against property, and burglary in particular, is consistent with earlier studies\* (see below, for example) and the Uniform Crime Reports of the State of Florida. Burglary, therefore, continues to be a significant problem in this community both in terms of dollar loss and fear of crime.

\* See "Juvenile Delinquency and Dependency in Dade County," Office of the Dade-Miami Criminal Justice Council, December, 1979.

BREAKDOWN OF POPULATION BY MAJOR  
CRIME CATEGORIES

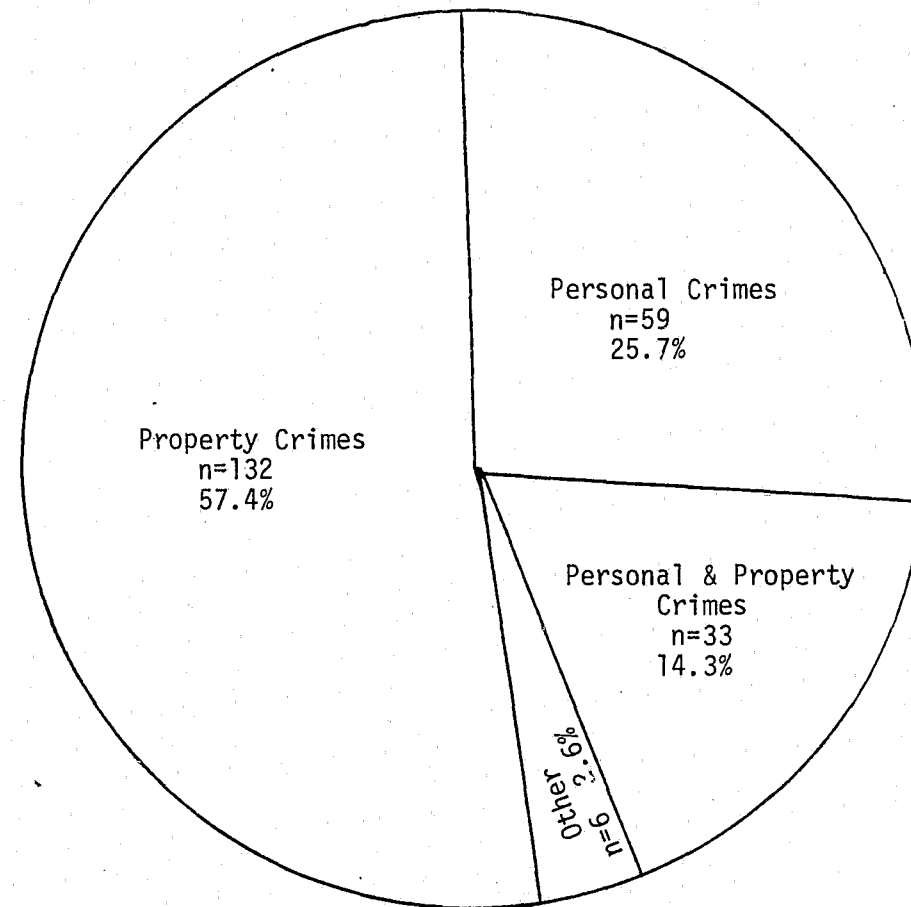


Table #1

<u>CHARGES</u>		
<u>PERSONAL</u>	n=	Percent of Personal Crimes
Murder	2	3.4%
Attempted Murder	6	10.2%
Sexual Battery	6	10.2%
Aggravated Battery	5	8.5%
Battery	1	1.7%
Aggravated Assault	2	3.4%
Assault	1	1.7%
Robbery	36	61.0%
Total n=59		100.1%
<u>PROPERTY</u>	n=	Percent of Property Crimes
Burglary	107	81.1%
Grand Theft	8	6.1%
Attempting to Solicit CAPIT (Attempting to commit a misdemeanor)	8	6.1%
Attempting to Solicit FAST (Attempting to commit a felony)	8	6.1%
Grand Theft, burglary, and barbituates)	1	.7%
Total n=132		100.1%
<u>COMBINED</u>	n=	Percent of Combined Crimes
Robbery and burglary	26	78.8%
Aggravated battery and arson	1	3.0%
Robbery, forced entry and aggravated assault	1	3.0%
Aggravated battery and burglary	1	3.0%
Burglary, Robbery, and Assault	1	3.0%
Grand theft, burglary, and robbery	3	9.1%
Total n=33		99.9%

DISPOSITIONS

The dispositional categories under which data was collected includes the following: (1) Sentenced (over one year in the State Prison System); (2) Probation (this includes juveniles who received only probation as well as those who received a split sentence that included under one year jail time in a county facility and probation. In some cases, jail time may have been previously satisfied by credit given for time served in a pre-trial status or may have involved additional county jail time; (3) Acquitted, No! Pros., etc. and (4) Other (this included, for example, transferred back to juvenile court.

Table #2  
TYPE OF DISPOSITION

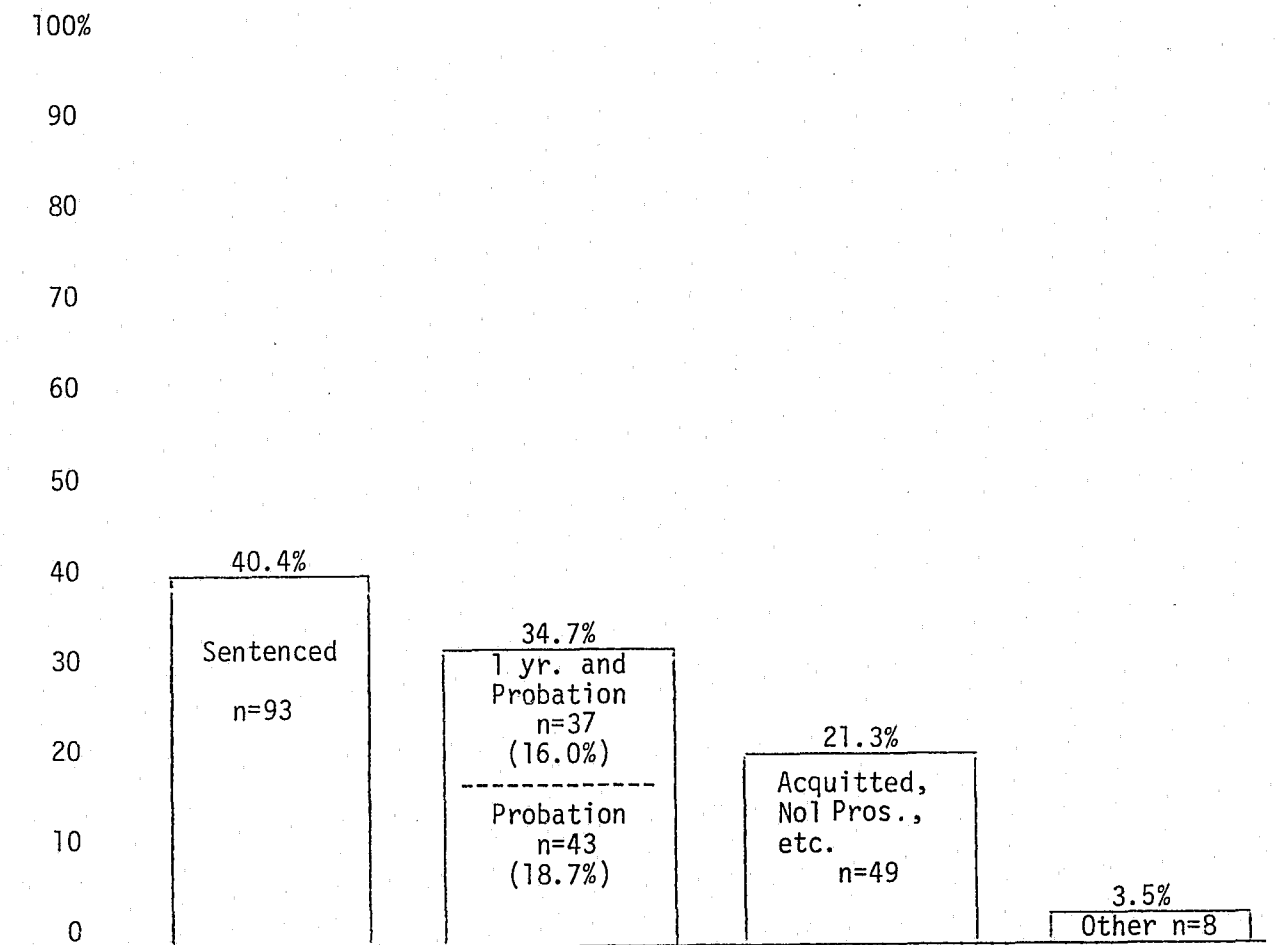
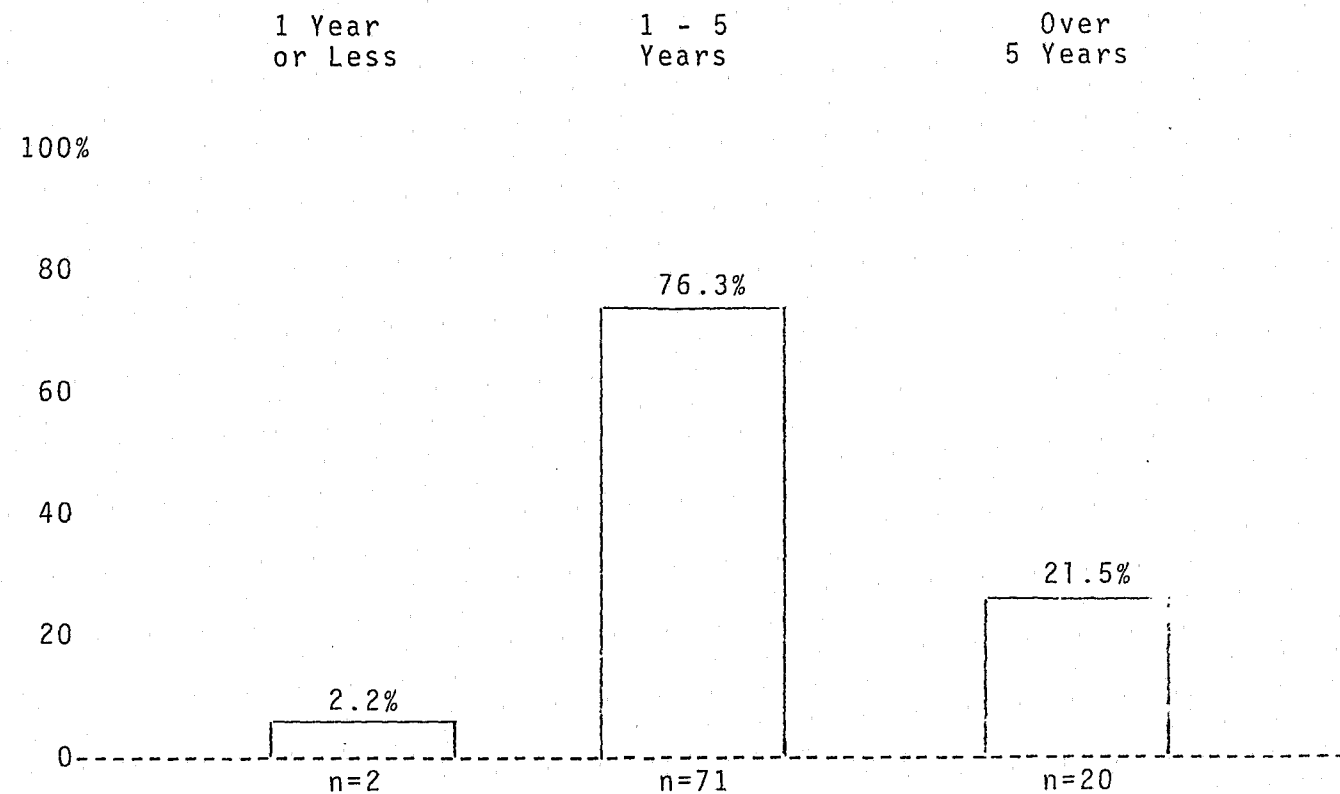


TABLE #3

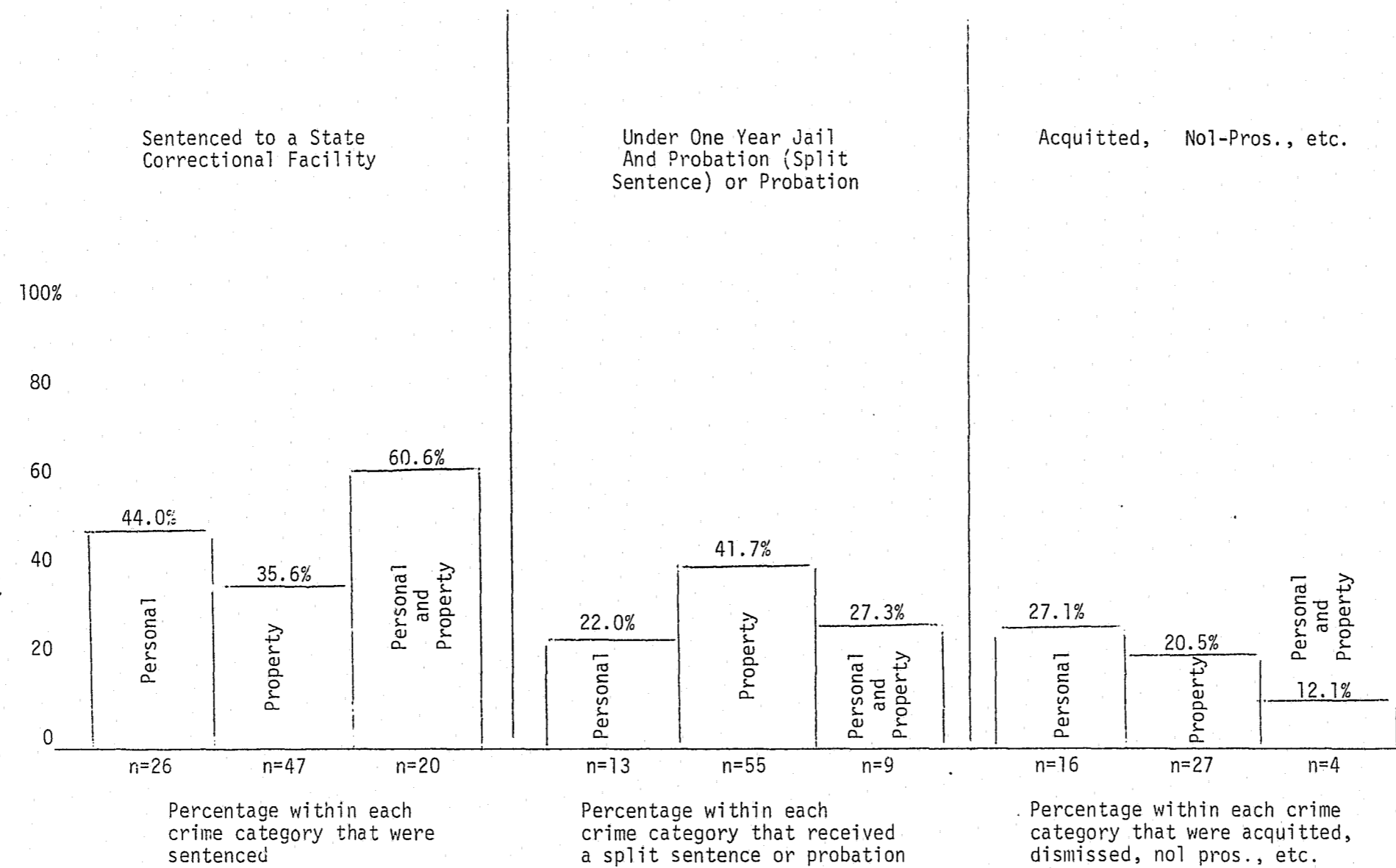
LENGTH OF SENTENCE IN THE STATE CORRECTIONAL SYSTEM



As can be seen from Table #2, 40.4% of juveniles were sentenced to the State Prison System. For those sentenced, the majority received 1-5 years (see Table #3). Slightly over 18% were placed on probation. An additional 16% received a split sentence of under one year in the County jail and probation.

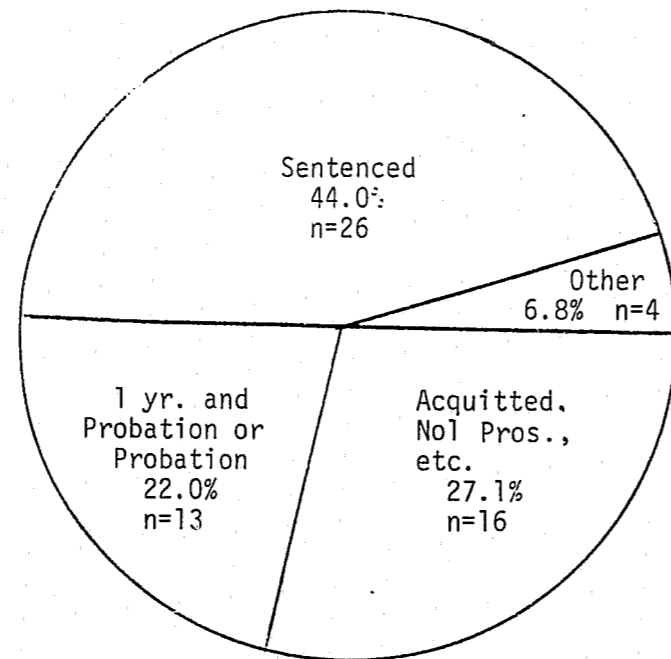
Almost half of those sentenced were classified as Youthful Offenders. Of those sentenced as Youthful Offenders, seven received sentences of over 4 years which is contrary to what the Florida Statutes allow (see previous section on the Youthful Offender Act).

The following charts display dispositions by type of crime. A juvenile was more likely to be sentenced to a State Correctional Facility if he/she was charged with both personal and property crime combined. The chart entitled, "Charges for Those Sentenced as Youthful Offenders", displays the percentage of charges in each crime category for those sentenced as Youthful Offenders. A majority of charges were for property crimes which is consistent with crimes for which the general population were charged.

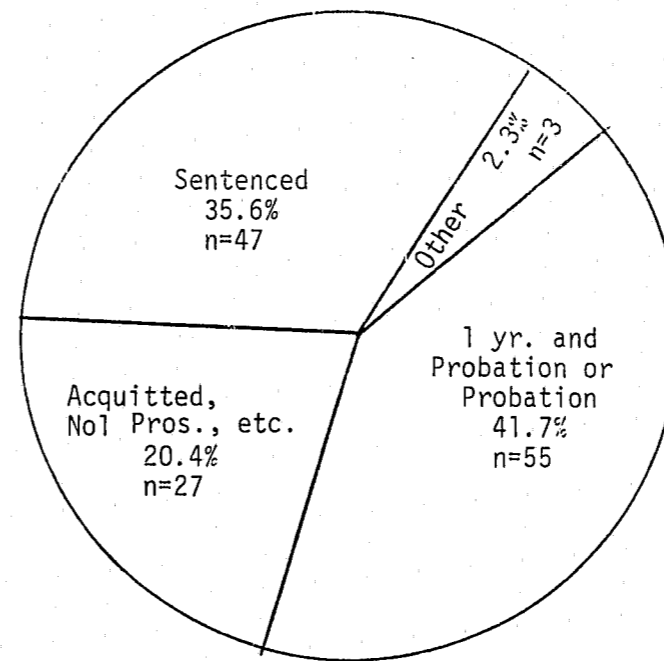


The dispositional category and the crime category of "other" were not included because the percentages were so small.

Dispositions For Personal Crimes

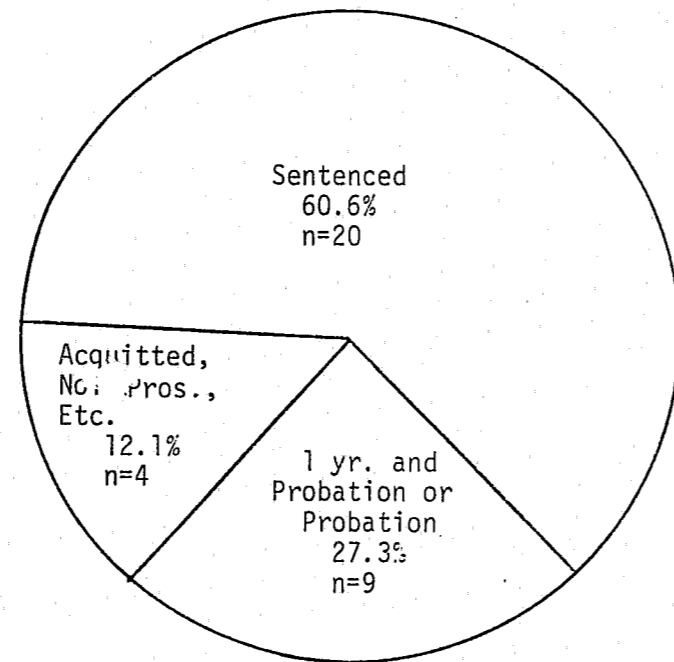


Dispositions For Property Crimes

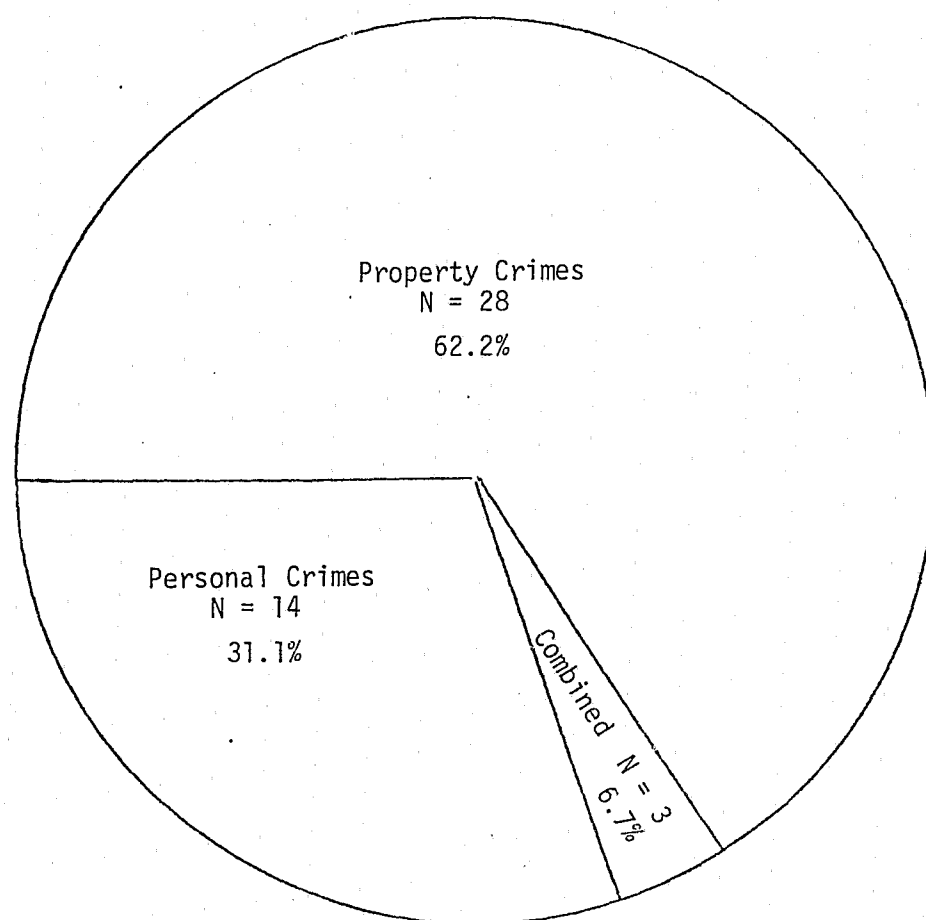


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Dispositions for Combined Crimes  
(Personal and Property)



Charges for Those Sentenced  
as Youthful Offenders



FOLLOW-UP ON  
JUVENILES PLACED ON PROBATION OR RECEIVING SPLIT SENTENCES

A follow-up was conducted for those juveniles placed on probation or receiving split sentences after being tried as adults. This effort was initiated because of concern that a significant percentage of juveniles in this study were either placed on probation or received under one year in a county facility and probation (34.7%). The follow-up was conducted on 51 individuals in October of 1980. Forty-nine percent (49.0%) of those receiving probation or 6 months or less in the Dade County Jail and probation\* had already been re-arrested at the time of the follow-up. Table #3 displays the types of crime for which these juveniles were re-arrested at the time of the follow-up.

TABLE #3

<u>TYPE OF CRIME</u>	<u>n=</u>	<u>PERCENT</u>
Personal Crimes	5	20.0%
Property Crimes	10	40.0%
Combined	6	24.0%
Other	4	16.0%
	25	100.0%

In addition, histories were analyzed of those transferred juveniles who received probation or a split sentence in the adult system. These juveniles had an average number of 9 felony charges while in the juvenile justice system prior to transfer and an average of 3.2 adjudicatory hearings before a juvenile court judge.

\*Follow-up was not conducted on juveniles receiving between 6 months and 1 year in the Dade County Jail and probation because they would have still been in jail at the time of the follow-up.

## CONCLUSIONS AND RECOMMENDATIONS

### Conclusion #1:

We have a system for transferring serious juvenile offenders for prosecution into the adult system that, if used effectively, can work. However, many transferred juveniles are placed in the Youthful Offender Program or on probation. The Youthful Offender Program was not set up to handle the sophisticated offender. Many of the transferred youths have extensive delinquent histories and are difficult to treat in the Youthful Offender Program.

### Recommendation #1:

All judges should receive information regarding the intent of the Youthful Offender Program. This should include sentencing parameters, as well as an understanding that the Youthful Offender Program has difficulty handling the felony recidivist or serious criminal, regardless of age.

### Conclusion #2:

Questions arise regarding the effectiveness of probation as a dispositional alternative for juveniles who have been transferred for adult prosecution because of the seriousness of their offense or extensive prior delinquent history. This can be further emphasized by the fact that over 49% of those placed on probation or receiving a split sentence were rearrested within 8 months of their sentencing.

### Recommendation #2:

Juveniles who have been transferred for adult prosecution should receive probation only under exceptional circumstances, and only when it can be shown that the juvenile does not have an extensive prior history. If judges decide to utilize probation, then intensive supervision should be a condition of the probation.

### Conclusion #3:

The age of jurisdiction for juvenile prosecution is entirely arbitrary and one that cannot be rationally established by a set of objective criteria. Part of the rationale for a juvenile justice system involves looking at the maturity of a child. Obviously, no child reaches adult maturity at exactly the same time.

### Recommendation #3:

The system that exists in the State of Florida for removing the sophisticated, serious juvenile offender from the juvenile justice system should continue. However, there are a number of dispositional alternatives that should either be created or tightened up. These include the following:

1. Special programming should be established either within the Department of Corrections or the Department of Health and Rehabilitative Services that would allow for segregation of certain serious juvenile offenders who are presently



being treated within the adult system. This programming would not be in one of the presently existing Youthful Offender facilities, the rationale being that the Youthful Offender Program is geared to handle mainly the less serious offender under the age of 25, and most of the transferred juveniles from Dade County are more sophisticated than the typical inmate in a Youthful Offender Program.

Facilities should allow for segregation of these offenders from other populations, maximum supervision, and provision of intensive vocational training at a level that is meaningful for the inmates.

2. If under unusual circumstances, a judge decides to place a transferred juvenile on probation, then intensive supervision should be provided. The offender should be required to participate in vocational or educational programming, as well as receive frequent counseling with a specially trained probation officer.

#### BIBLIOGRAPHY

- Alpers, Miriam Schwartz, Transfer of Jurisdiction from Juvenile to Criminal Court, Crime and Delinquency, October, 1973. 519-527
- Garner, M.C. Due Process and Waiver of Juvenile Court Jurisdiction, Washington and Lee Law Review, Vol. 30, No. 3, pgs. 591-613
- Keiter, Robert, Criminal or Delinquent? A Study of Juvenile cases Transferred to the Criminal Court, Crime and Delinquency, October, 1973, pgs. 528-537
- Jurisdiction -- Delinquency, National Institute of Juvenile Justice and Delinquency Prevention, Office of Juvenile Justice and Delinquency Prevention, Law Enforcement Assistance Administration, U.S. Department of Justice, 1975
- Juvenile Courts, MMKC Law Review, Volume 40, pgs. 168-169
- Law and Tactics in Juvenile Cases, U.S. Executive Office of the President, Office of Economic Opportunity, Washington, D.S. 1974.

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