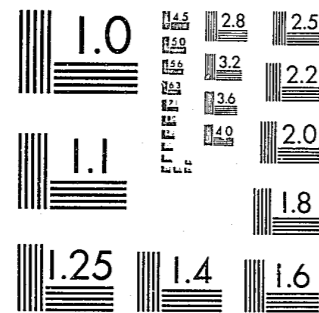


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Diagnostic Study of the Massachusetts Children in Need of Services Program

Executive Summary

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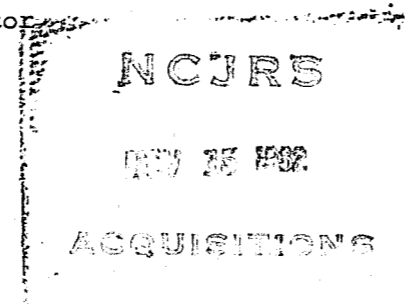
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The following summary highlights portions of the final report, Diagnostic Study of the Massachusetts Children in Need of Services Program, submitted to the Committee on Criminal Justice in June 1978. Copies of the full report may be obtained from the Committee.

Characteristics

In Fiscal Year 1977-78 it is estimated that there will be over 6,450 children identified as Children in Need of Services by the juvenile and district courts of the Commonwealth. About 50 percent of these children will be runaways, 30-35 percent are estimated to be stubborn children, and approximately 15-20 percent will be brought to the court's attention as truants. The Department of Public Welfare is expected to deliver services to nearly 45 percent of these children, or 2,780 children statewide. The research summarized in this brief report also determined that:

- There are slightly more girls than boys in the CHINS population;
- CHINS children are predominantly between the ages of 13 and 16, almost one-third are 15 years old;
- The majority of CHINS children are at least one grade behind their age range in school;
- Approximately 35 percent of all CHINS children are non-minority;
- A majority of children come from two-parent homes;
- No more than one-third of the children come from families on AFDC;
- One-half of all CHINS children brought to court are alleged runaways;
- One out of every three children brought to court has had at least one prior delinquency contact;
- One out of every four children brought to court has previously been identified as a child with educational needs through the Chapter 766 process.

A high percentage of runaways brought to court are girls. Boys are slightly more likely to be charged as stubborn children because, as court and welfare personnel explain, girls are more apt to flee a difficult situation and boys are more likely to remain in the home but "act out" their problems. Truancy charges are initiated against boys twice as often as against girls.

A majority of children come from homes with two parents, either married or remarried. Runaways and truants tend to come from such married or reconstituted families, whereas stubborn children are more likely to live in a home with a divorced or separated parent.

Younger children are rarely involved in the CHINS process. There appears to be a relatively dominant perception among probation officers and judges that "Care and Protection children are younger, under 13 years old." Few applicants initially brought as CHINS will subsequently become involved in a Care and Protection proceeding. Very few minority children are brought to court under the CHINS statute.

The majority of CHINS are at least one grade behind their age range in school and alleged truants are generally two grades behind. One out of every four CHINS youth has been involved in the Chapter 766 process in some way; receiving evaluations and/or special education services.

Many of the children who are brought into court under the CHINS law are already known to the court either through their own prior involvement or because other members of their family have been before the court on earlier occasions. One out of every three CHINS has had at least one prior delinquency charge. In many cases considerable effort has often already been extended by the probation department to provide the child and family with social services before the CHINS application is brought. Various types of public and private social services have been made available to more than half of the CHINS children before they are brought to court on the CHINS charge.

Background and Methods

Early in 1977, the Massachusetts Committee on Criminal Justice (MCCJ) surveyed principal agencies and criminal justice personnel throughout the Commonwealth concerning appropriate evaluation priorities over the coming months. The CHINS program was identified as a major problem area and MCCJ commissioned Abt Associates Inc., Cambridge, to conduct a research study beginning in late November 1977.

The CHINS study has a number of related objectives, all of which result in both recommendations to MCCJ on how to deal with the serious

problems inherent in the CHINS program and suggestions on how the legislation might be amended to correct some of the ambiguities and conflicts associated with the implementation and operation of the CHINS program.

As a diagnostic study, the research on the CHINS program was concerned with basic components: children, process, services, and costs. In addition, the study examined the legal aspects of the CHINS program to determine how the legislation specifically guides the process of delivering services to this special population.

The following methodology was used to implement this research project:

- Selection of 30 sample courts in the Commonwealth in such a way as to maximize differences in the dimensions of size, location, urban or non-urban workload. The four designated juvenile courts, Boston, Springfield, Worcester, and Bristol County, were included. In these sample courts, the clerk, probation staff, and the judges most knowledgeable about the CHINS process in each court were interviewed. Data on 750 individual CHINS cases were collected from the clerk's and probation's records for sample periods July through November, 1976 and 1977. Data on over 1350 cases referred to the Department of Public Welfare in the same period were also analyzed;
- Interviewing all DPW CHINS supervisors and all CHINS workers assigned to district and juvenile courts throughout the state;
- Surveying the clerks, probation staff and judges in all the non-sample courts in the state so that every juvenile and district court had an opportunity to participate in the study;
- Surveying over 370 providers of social services to youth, including "potential" CHINS providers and contracted CHINS programs;
- Researching legislative history of Massachusetts Chapter 1073 as well as other state statutes dealing with the treatment of status offenders;
- Researching budgetary history of the CHINS program in the Department of Public Welfare, including both the administrative costs, costs of contracts, and cost incurred to the agency through the Group Care Unit that may be attributable to CHINS.

Court Process

The relative autonomy of the district and juvenile courts and the variations in range of services available in each of the six DPW regions (and geographic areas served by the courts) statewide have tremendous impact

on how children are tracked to services. Moreover, variations in interpretations of Chapter 1073 and the availability of services have also affected the criteria used to screen CHINS and the options exercised for placement.

There are several significant steps in the CHINS process which can be determinative of the final outcome in any individual case. Because each court makes its own interpretation of the statute and determines what its policy will be in regard to each of these steps in the process, the client population, the court procedure and the service delivery mechanism can differ substantially from court to court.

One of the areas of widespread variation in procedure is at the pre-application stage. Although some courts feel that an application must be accepted, the majority of courts screen cases for the appropriateness of their entry into the formal judicial system and divert those that can be handled informally. In a few courts, the clerk performs the screening function, but generally the responsibility lies with the probation department. Considerable use of community resources and direct service by the probation officer are the typical approaches in pre-application cases. Referrals to DPW CHINS workers at this level of proceedings depend partly on the policy of the CHINS unit in that region on acceptance of informal cases and partly on the availability of other resources. The most common pattern is for the probation officer to attempt diversion through use of services available in the community and if that intervention is not successful, then to schedule the case for a court hearing and tap DPW resources once the formal court process has started.

Chapter 1073 established procedural safeguards to guarantee that the requirements of due process are met. However, many times these requirements translate poorly in actual practice by the courts. For example, the requirement that a different judge preside at the Hearing on the Merits than presided over the issuance of the petition is sometimes waived on the behalf of the client by attorneys. Sometimes the petition will issue and the Hearing on the Merits will be held simultaneously before the same judge. The timing of the appointment of an attorney for the child is another area of considerable variation by the courts, and in a few cases the courts seem not to have followed the protections set forth in the statute.

The CHINS statute describes specific instances in which a court may hold bail hearings. Despite this, some courts have come to believe that a child must be placed on bail in order to receive placement in an emergency shelter facility funded by DPW. The only purpose for imposing bail in these situations is the belief that it facilitates service delivery not to hold a child for an appearance before the court. In some cases CHINS children are kept on bail for longer than the forty-five days specified in the statute.

To a large extent, how far a case penetrates into the formal system depends on two prime factors: the cooperativeness of the child and his family towards services on an informal level, and the availability and ease of access of certain services.

Services

There is little doubt that the availability of certain types of services plays a significant role in the tracking of children, both delinquents and CHINS. Where DYS is perceived to have better services, the filing of delinquency charges would be the preferred option. Where DPW is perceived to have better services, the filing of a CHINS would be the preferred option. Moreover, since the CHINS statute lacks sanctions, courts often articulate a preference for filing delinquency charges because they believe this will better help them serve the uncooperative child.

The two most widely recognized service gaps in the Commonwealth for CHINS are the lack of diagnostic and mental health treatment services for adolescents and the lack of sufficient closely supervised emergency placements that can be used on a short-term basis, especially for the chronic runaway. The lack of mental health facilities which could offer a wide range of both residential and out-patient treatment for CHINS creates a serious problem in trying to help ameliorate the child and family conflicts. The CHINS workers throughout the state find the Department of Mental Health to be unresponsive in accepting a shared responsibility for the CHINS child with emotional and mental problems. In the area of emergency placements, the state lacks adequate facilities for the placement of children who need close supervision. The chronic runaway who makes diagnostic and treatment services difficult to deliver was frequently cited as a particular service problem.

In Fiscal Year 1978, \$1.3 million of the \$3.6 million in the Children in Crisis Account was appropriated for DPW's new responsibility for services to preadjudicated CHINS youth who were, prior to July 1, 1977, the responsibility of DYS. With these funds, the Department signed 38 contracts with private agencies to provide emergency placement services to preadjudicated CHINS youth. Four types of services are provided by these contracts: family and individual life counselling; emergency shelter through placement in short-term foster care programs; placement in a self-contained emergency shelter where the youths are housed in a group home; and individualized monitoring which allows a youth to live with one person on a 24-hour basis. Contracts were negotiated in July and November, 1977, totalling \$1,437,242 statewide. Almost two-thirds of the total appropriation went to programs providing emergency shelter foster care and counselling services.

A CHINS unit was created with three professional staff (a State CHINS Coordinator, an Assistant Coordinator and a part-time Contract Negotiator) in the DPW central office. There is a CHINS supervisor for each of the six regions, and forty-one workers assigned to the courts on a regional basis. Some regions supplement their staff with CETA workers.

Findings

- Probation officers and judges described CHINS as more difficult and more time-consuming cases because they tend to have multi-faceted problems, unlike delinquents where there seem to be more highly focused issues. Probation officers frequently indicated that the CHINS cases required more time and effort than other cases because of the complex nature of the personal and family problems.
- The CHINS process is much like a divorce action between the parent and the child. At the initial stages, the parent or the child seeks a temporary separation. Once irreconcilable differences are determined, the relationship between the parent and the child is terminated by court action and the welfare of the child becomes the responsibility of the state.
- The CHINS program is a program involving substantially more children than was ever anticipated or imagined. This is particularly true in light of the fact that more than one-third of all CHINS are diverted from the court process informally by probation departments who do not report these to DPW or, in many instances, keep any probation files. The "informal" cases offer an opportunity to ameliorate the potential CHINS problem without involving a child in the court process, but may run the risk of imposing a placement or conditions on a child and/or parents through the coercive use of "voluntariness."

- In practice, depending on the court's policy with regard to adolescents, the CHINS proceedings can be as formal as the delinquency proceedings or extremely informal. By and large, the children are not aware that they are of special "status." Although most courts have juvenile sessions, few have separate sessions entirely for CHINS matters. Most often the CHINS, C&P, and juvenile matters are scheduled for the same day, same courtroom. The goal to reduce "stigmatization" certainly cannot be realized as long as the CHINS process is primarily a court process.
- There are two variables which appear to be responsible for decisions regarding the signing of an application or whether a case should proceed to the next step in the process: voluntariness and service availability. If the child is cooperative and the appropriate services available, the case is likely to be treated informally. If either condition is not present, the case goes forward to seek greater sanction (hypothetically) or more time or force to deal with the social service network difficulties.
- Although judges uniformly recognize that they have no legal authority to enforce their orders, they frequently threaten children, feign authority to impose sanctions, and attempt to "finesse" the issue of lack of power in CHINS cases. There is no advantage to proceed to the issuance of a petition other than to pose the illusion of greater authority, and there is no advantage to adjudicating a child a CHINS unless the child is to be placed in the permanent custody of DPW when the decision is not voluntary.
- The adjudication standard "beyond a reasonable doubt" is vacuous since there is usually no formal adversary process and almost all trials result in an adjudication that the child is a CHINS. The purpose of the adjudication is to either commit the child to DPW or to perpetuate the illusion of power as the attempts to deliver services to the child are frustrated.
- Every effort on the part of DPW and the courts is made to keep the child at home. The removal of the child from home is not taken casually or without much consideration, despite how readily this can be done if either the parent or child cooperate. Almost uniformly, the probation officers who work with CHINS throughout the Commonwealth have placed an emphasis on early intervention, placement back in the home, and the delivery of services to youth within the community in which he/she lives.
- A majority of probation officers and judges would agree that the court should be used as a last resort in dealing with status offender problems. They believe that the court should be given sanctions to deal with CHINS matters when social service agencies are unable to deliver services or the child and family are not willing to accept needed services. Most court personnel agree that if the CHINS process is to remain in the court, the court needs authority to enforce its orders when all else fails.

- In general, the referrals from probation departments to the CHINS workers are appropriate for DPW. However, the CHINS workers often feel that referrals come very late, after the probation department has exhausted treatment alternatives. Many CHINS workers perceive themselves as placement workers for the courts and are frustrated by their inability to do a greater degree of early intervention and family casework. The workers' frustrations are further exacerbated by the caseload size in a few courts which also leaves little time for extensive casework.
- The placement of children into long-term DPW foster or group care may be excessively simple in cases where the parent and child are amenable. In no other proceeding in the Commonwealth that deals with the separation of a child from his or her family is there less process, fewer requirements, or less adequate safeguards of the rights of the child or the parent. In fact, as long as the parent and child agree, the court need not even adjudicate the child in need of services and neither the parent nor the child is advised by an attorney.
- Frequently identified service gaps statewide include:
 - secure facilities (restrained and given services on short-term basis)
 - residential schools
 - residential mental health facilities for dangerous/acting out children
 - foster homes for adolescent girls
 - better foster homes (trained, better monitoring, better quality, more backup support, better matching)
 - foster homes closer to the normal home of the child
 - psychiatric diagnostic services and long-term psychiatric counselling.
- Statewide there is a noted absence of the monitoring of service providers, other than checking on availability of slots. The lack of monitoring and evaluation leaves an enormous gap in the availability of information about which programs are effective for different types of children. The placement process is rarely based on suitable criteria--e.g., needs of the child, effectiveness of proposed treatment, etc.--but is frequently driven by time available for placement and services available. Placement decisions are too often made on the basis of expedience rather than good information about needs and appropriate service strategies.
- The organization of the CHINS unit inhibits the management of supervisors and workers by the CHINS coordinator and, in some regions, the supervisors do not have direct authority over the workers. Management and organization of the CHINS unit needs to be clarified in terms of communication with regional offices, relationships with local CSA's, lines of authority within the agency, and responsibility for monitoring the quality of CHINS unit staff. In some regions it is possible for CHINS workers to go largely unsupervised. Moreover, the complicated DPW organization of the program makes it virtually impossible for the CHINS coordinator to make important management decisions without first sifting through formalities of a cumbersome and bureaucratic system of supervisors and managers.

- CHINS workers experience considerable difficulty in transferring cases within 45 days to CSA generalists in their areas, as the DPW regulations prescribe. The link between the CSA generalists and the CHINS worker tends to be extremely poor statewide. Generally, CHINS workers perceive the CSA's as being too busy to accept cases or not equipped to deal with the complexity of the cases, CHINS workers also hold onto cases because of case commitment, inability to complete paperwork, or because the case is essentially "closed." There are no clear criteria or standards for when and under what circumstances cases should be transferred to local CSA workers.
- Although the Department of Mental Health has a legitimate obligation to the CHINS program, DMH suffers from an almost uniform perception statewide that services for emotionally or mentally troubled adolescents are not available anywhere in the Commonwealth. Overwhelmingly, CHINS workers, probation staff, judges and others noted the lack of quality diagnostic and treatment services (both inpatient and outpatient) for adolescents as the single most critical service gap for CHINS. The absence of children's specialists in the court clinics or the presence of a DMH representative on Assessment Boards was viewed as both a serious service gap and an organizational weakness of the program.

Recommendations

- The Department of Mental Health should be statutorily mandated to provide, on a regional basis throughout the state, adequate diagnostic, short-term and longer-term treatment services to adolescent children. These services should also include adequate provisions for both residential care and outpatient treatment.
- The State Department of Education, Division of Special Education, and related offices and personnel within the Department of Education should be compelled to notify all school districts in the Commonwealth that no child shall be brought to a juvenile or district court on a request for a truancy application until a core evaluation has been completed on that child and there has been additional evidence that attempts have been made at home visits and parent conferences designed to ameliorate the school problem.
- The Department of Public Welfare, under no set of circumstances, should be involved in the detention or confinement of children. It should provide, however, on a regional basis, 24-hour intake emergency shelters for runaways. These shelters should insure concentrated adult supervision at all times in order to deal with the child who has the impulse to run.
- In addition to the major gaps in mental health services for adolescents, there are several other gaps that need to be addressed from region to region.

- That the individualized monitoring program be expanded to include adequate slots for both boys and girls on a regional basis.
 - That the short-term foster care program be expanded in regions such as Region VI, where we discovered a lack of sufficient slots within a close geographical proximity to the child's home.
 - Other adjustments on a region by region basis that will provide an adequate mix of emergency services designed to encourage appropriate DPW referrals by the courts.
- In addition to addressing these service gaps, however, we feel strongly that consideration be given to mechanisms for developing better coordination among agencies and across regions in the state. The social service delivery network is in critical need of monitoring and evaluation to determine which services are effective and efficient.
 - The Department of Public Welfare should balance a central management need to monitor service delivery statewide with the need to be sensitive to differences in regional needs and capabilities. The characteristics of the children and the availability of services across regions may vary considerably, and the Department of Public Welfare should consider maximizing the ability of each region to manage its own resources and respond to its own needs.
 - The purchase-of-service basis on which the service delivery system in the Commonwealth operates needs to be adjusted to prevent service providers from refusing to serve the difficult child. Contracts or agreements with providers need to include provisions for insuring the placement of a small number of children at the option of the contracting agency.
 - Additional attention needs to be given to the training and monitoring of foster parents and foster home environments.
 - There needs to be better regional organization of the CHINS program. The workers should all have a supervisor to whom they report on a regular basis and who reviews their casework. No worker should go unsupervised and unassisted in the task of dealing with CHINS children. No CHINS supervisor should have any other responsibilities within DPW other than to the CHINS program.
 - There are several underlying principles to recommendations regarding the CHINS process which are reflected in our proposed model CHINS statute:
 - That as many CHINS children as possible be diverted from the formal court process;
 - That every effort be made to provide the type and quality of service that will result in as many children as possible remaining within the family unit;

- That the formal court process be used only when all voluntary efforts have failed or when the authority of the court is necessary to secure proper services;
- That it should not be the policy of the Department of Public Welfare to participate in a program which requires their involvement in the bail process or the development of locked, or secure programs;
- And that it be clearly recognized that problems of status offenders are not exclusively the problem of DPW, but the shared responsibility of all state agencies dealing with troubled adolescents including DMH, Office for Children, and the Department of Education.

The full text of our proposed model statute will be available upon release of the final report.

END