

Date of Meeting: October 23-24, 1959

Date of Memo: October 14, 1959

Memorandum No. 6

Subject: Right of Juvenile to Counsel - Study No. 48

Attached to this memorandum as Appendix A are the statutes which have been proposed by our consultant in regard to the use of the term "ward of the juvenile court." Appendix B contains the statutes which have been considered, and in part approved, by the Commission relating to the right to counsel in juvenile court proceedings. A few non-substantive changes have been made in the approved sections and are indicated by strike-out and underlining. These changes are suggested additions and amendments proposed by the staff and are explained in the comments to the particular sections.

Because the adoption or disapproval of the consultant's recommendation in regard to the use of the term "ward of the juvenile court" will drastically affect the form of the statutes already approved by the Commission, it is recommended that the Commission first consider the consultant's recommendation in this regard before proceeding further. The portion of the consultant's study relating to this problem begins at page 35 of the study.

It is the consultant's position that the indiscriminate use of the designation "ward of the juvenile court" to describe all persons subject to the court's jurisdiction, whether for parental neglect or for their own delinquency, tends to foster the misconception that all

wards are juveniles who have been involved in some kind of wrongdoing. The consultant suggests that a clear separation in the terms of the law between the juvenile who is alleged to be delinquent and the juvenile who is innocent of wrongdoing will tend to protect the innocent juvenile from this misconception. The consultant believes that this can be accomplished by retaining the term "ward of the juvenile court" only with respect to proceedings involving delinquency and by separately defining the jurisdiction of the court over the non-delinquent minor.

One objection to the solution proposed by the consultant is that it too clearly brands the delinquent minor. Certain probation officers at the meeting of the Professional Advisory Committee on Juvenile Justice objected to any statutory scheme which would label certain minors delinquent. They argued that it may now be pointed out that a person may be a ward merely because he has no parents, and, therefore, children who commit petty acts of delinquency and are adjudged wards therefor are not stigmatized as delinquents. As a result, they believe that the possibility of rehabilitation is enhanced. They would prefer an approach that stays away from labeling.

This argument seems to solve the problem by denying its existence. The consultant believes that a ward of the juvenile court that has committed delinquent acts is stigmatized. This is borne out in the following except from *In re Contreras*, 109 Cal. App.2d 787, 789 (1952):

While the juvenile court law provides that adjudication of a minor to be a ward of the court shall not be deemed to be a conviction of a crime, nevertheless, for all practical purposes, this is a legal fiction, presenting a challenge to credulity

and doing violence to reason. Courts cannot and will not shut their eyes and ears to everyday contemporary happenings.

It is common knowledge that such an adjudication when based upon a charge of committing an act that amounts to a felony, is a blight upon the character of and is a serious impediment to the future of such minor. Let him attempt to enter the armed services of his country or obtain a position of honor and trust and he is immediately confronted with his juvenile court records.

As the delinquent ward is now and will continue to be stigmatized in the public eye, it is unfortunately true that other wards that have not committed delinquent acts will tend to be regarded as delinquents because they, too, are wards of the juvenile court.

The consultant rejects the solution of abandoning the term "ward of the juvenile court" entirely. This solution would appeal to the persons who object to labeling, and would meet their objection. The consultant's position is that the term "ward of the juvenile court" is well established and generally understood by the public, and it is not necessary to drop it completely in order to achieve the desirable distinction between the delinquent and non-delinquent minor.

If the Commission decides that the consultant's recommendation is sound and that the term "ward of the juvenile court" should be limited to the delinquent minor, it must then decide whether to adopt the consultant's proposed scheme for accomplishing this result.

Our consultant has proposed that the persons subject to the juvenile court's jurisdiction under Welfare and Institutions Code section 700 be broken up into three groups as defined in proposed sections 700.1, 700.2, and 700.3. Under the provisions of proposed section 700.4,

only the group defined by section 700.1 would be adjudged "wards" of the juvenile court.

Proposed section 700.1 defines "delinquent person under the age of 21 years." Generally, this is a person who violates a law defining crime, who is incorrigible, or who is habitually truant. Also included in this category is a person "who habitually so deports himself as to injure or endanger the morals or health of himself or others."

Section 700.2, as proposed, defines a "neglected person" as one whose parents have failed to discharge their duties in a proper manner. Thus, this category includes a person with an unfit home, or whose parents have failed to provide proper subsistence, education or medical care. The minor found in a disreputable place or who associates with immoral persons is also included in this category.

Proposed section 700.3 also defines those persons without proper care, but generally without fault of the parents. Thus, the minor whose parents are incapable of providing care because of mental or physical inability, the minor who is mentally ill or feeble minded, the minor who is diseased, and the minor who is destitute or homeless without neglect by parents are included in this category.

The principal criticism to be made of this scheme is that the categories are created for no apparent purpose. Whether the minor is brought within the court's jurisdiction under section 700.2 or 700.3, the court will still be able to send the minor to the Youth Authority under the authority contained in section 740. A revision of the authority of the juvenile court by this Commission has not been authorized by the

Legislature. So far as our study is concerned, the Commission is to consider but two groups -- those to whom the term "ward" should be applied, and those to whom the term should not be applied. Therefore, it does not seem to be either desirable for this Commission to recommend that "dependent" and "neglected" categories be set up when it is not in a position to recommend the disposition to be made of those who come within these categories.

Attached hereto as Appendix C is a preliminary recommendation of the Governor's Special Study Commission on Juvenile Justice in regard to this same subject. You will note that the Governor's Special Commission also proposes to break section 700 into three categories: The categories are somewhat different: (1) abandoned and neglected minors, (2) minors displaying delinquent tendencies, and (3) minors committing delinquent acts. The Governor's Special Commission proposes to limit the power of the juvenile court in regard to each category. Those in category #1 could not be committed to the Youth Authority or county camps, and could not be "sentenced" to juvenile halls. Those in category #2 could not be committed to the Youth Authority. Those in category #3 could be treated in the same manner that they are treated now.

As the limitations to be made on the powers of the juvenile court is beyond the scope of our study and is a matter which has been committed to the Governor's Special Commission, the staff recommends that the recommendations of this Commission be more limited in scope. It is suggested that the Commission recommend the amendment of Welfare and Institutions Code section 735 to eliminate the requirement that the juvenile

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court adjudge every person found to come within the provisions of section 700 a ward of the juvenile court. The amendment would provide that those found to come within certain subdivisions of section 700 should be adjudged wards, the remainder should merely be adjudged persons within the jurisdiction of the juvenile court. If this proposal is accepted, the entire juvenile court law should be researched so that every reference to "ward of the juvenile" court might be amended so that it would be limited to the chosen categories of minors. References to other persons subject to the jurisdiction of the juvenile court would be inserted in each section where appropriate.

This scheme would permit its accommodation to the proposals which may be recommended by the Governor's Special Commission without a wholesale rewriting of the statutes approved by this Commission.

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For the purposes of this suggestion, it is also suggested that the use of the term "ward" be limited to the following categories of persons within the provisions of section 700:

(f) Who is a vagrant or who frequents the company of criminals, vagrants, or prostitutes, or persons so reputed; or who is in any house of prostitution or assignation.

(h) Who habitually uses intoxicating liquors or habitually uses opium, cocaine, morphine, or other similar drug without the direction of a competent physician.

(i) Who persistently or habitually refuses to obey the reasonable and proper orders or directions of his parents, guardian, or custodian; or who is beyond the control of such person.

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(j) Who is a habitual truant from school within the meaning of any law of this State.

(k) Who is leading, or from any cause is in danger of leading, an idle, dissolute, lewd, or immoral life.

(m) Who violates any law of this State or any ordinance of any town, city, or county, of this State defining crime.

Respectfully submitted,

Joseph B. Harvey
Assistant Executive Secretary

APPENDIX A

580. A judgment or decree of the juvenile court assuming jurisdiction and declaring any person to be a ward of the juvenile court, or a neglected person under the age of twenty-one years, or a dependent person under the age of twenty-one years, or a person free from the custody and control of his parents may be appealed from in the same manner as any final judgment, and any subsequent order may be appealed from as from an order after judgment; but no such order or judgment shall be stayed by such appeal, unless suitable provision is made for the maintenance, care, and custody of such person pending the appeal, and unless such provision is approved by an order of the juvenile court. Such appeal shall have precedence over all other cases in the court to which the appeal is taken.

700. The jurisdiction of the juvenile court extends to any delinquent, neglected or dependent person under the age of twenty-one years.

700.1 The words "delinquent person under the age of twenty-one years" as used in this law include:

- (a) One who violates any law of this State or any ordinance of any city, city and county, or county of this state defining crime.
- (b) One who persistently or habitually refuses to obey the reasonable and proper orders or directions of his parents, guardian, or custodian; or who is beyond the control of

such person.

- (c) One who is an habitual truant from school or home.
- (d) One who habitually so deports himself as to injure or endanger the morals or health of himself or others.

700.2. The words "neglected person under the age of twenty-one years" as used in this law include:

- (a) One who has no parent or guardian; or who has no parent or guardian willing to exercise or capable of exercising proper parental control; or who has no parent or guardian actually exercising such proper parental control and who is in need of such control.
- (b) One whose home is an unfit place for him, by reason of neglect, cruelty, or depravity of either of his parents, or of his guardian or other person in whose custody or care he is.
- (c) One whose parents, guardian or custodian neglects or refuses to provide proper or necessary subsistence, education, medical or surgical care or other care necessary for the health, morals or well-being of such person.
- (d) One who is found in a disreputable place or who associates with vagrant, vicious or immoral persons.
- (e) One who is found wandering and either has no home, no settled place of abode, no visible means of subsistence or no proper guardianship.

700.3. The words "dependent person under the age of twenty-one years: as used in this law include:

- (a) One who is homeless or destitute or without proper support, but who is not a neglected person as defined in Section 700.2.
- (b) One who lacks proper care because of the mental or physical condition of his parent, guardian or custodian.
- (c) One who is mentally ill, feeble-minded, or so far mentally deficient that his parents or guardian are unable to exercise proper parental control over him, or whose mind is so far deranged or impaired as to endanger the health, person or property of himself or others.
- (d) One who is afflicted with any venereal or other communicable disease and is in need of medical or custodial care or both.

700.4. When any person under the age of twenty-one years, alleged to come within the provisions of Section 700.1, is found by the court to come within said provisions, the court shall adjudge the person to be a ward of the juvenile court.

700.5. When any person under the age of twenty-one years, alleged to come within the provisions of Section 700.2 or 700.3, is found by the court to come within said provisions, the court shall adjudge the person to be a neglected or dependent juvenile.

700.6. In any judgment made by the juvenile court pursuant to the provisions of Section 700.4 and Section 700.5, the court shall make a finding of the facts upon which the court exercises its jurisdiction over such person as a ward of the juvenile court or as a neglected or dependent juvenile. The court shall thereupon make such order or orders, in accordance with such findings, as may be necessary for the care of such person. All commitment and recommitment orders shall be in writing and shall be signed by the judge of the juvenile court.

701. The jurisdiction of the juvenile court extends also to any person

(b) adjudged a neglected person under the age of twenty-one years

(c) (Same amendment as in (b))

702. Any person who commits any act or omits the performance of any duty, which act or omission causes or tends to cause or encourage any person under the age of twenty-one years to come within the provisions of Section 700.1 or which act or omission contributes thereto, or any person who, by any act or omission, or by threats, commands, or persuasion, induces or endeavors to induce any person or ward of the juvenile court, or any neglected or dependent person under the age of twenty-one years to fail or refuse to conform to a lawful order of the juvenile court, or to do or to perform any act or to follow any course of conduct or to so live as would cause or manifestly tend to

cause any such person to become or to remain a person within the provisions of Sections 700.1, 700.2 or 700.3 is guilty of a misdemeanor

720. A person subject to its jurisdiction may be brought before the juvenile court by any of the following means:

- (a) A petition praying that such person be declared a ward of the juvenile court or that such person be declared an abandoned or neglected person under the age of twenty-one years, and be dealt with according to the provisions of this chapter.

APPENDIX B

732. When a petition is filed alleging that a person comes within the provisions of Section 700.1, Section 700.2, or Section 700.3 ~~with such person and his parent, guardian or custodian~~ shall have the right to be represented by counsel in all proceedings thereunder. Such counsel shall have all of the ordinary rights and powers of an attorney representing a client, including but not limited to the right to discuss the case privately with his client, to object to the qualifications of witnesses and to questions propounded to them, and to cross examine witnesses.

Comment. This section is as approved at the June meeting, except that the provision relating to the right of a parent, guardian or custodian to counsel is transferred to proposed new Section 732.2 for reasons stated in the comment to that section.

The section, as proposed above, is worded to permit a construction probably not intended by the Commission. The language used in the proposed section is subject to the construction that the juvenile is entitled to counsel only at hearings held to determine whether the juvenile is a person within the jurisdiction of the juvenile court. The section grants the right to counsel in all proceedings held under a petition. As mentioned at the September meeting, it is possible that a minor's detention hearing under Welfare and Institutions Code Section 729.5 may be held before a petition has been filed. If so, the above section would not give such person the right to counsel at that hearing.

It may be argued that even if a petition is filed, the hearing under Section 729.5 is not a hearing under the petition but is a hearing to determine the disposition to be made of the juvenile until the hearing under the petition takes place.

Moreover, after a minor has been adjudged within the jurisdiction of the juvenile court, it may be argued that any further hearings held to determine the custody of the minor are not "under" the initiating petition. Yet, under Welfare and Institutions Code Section 745, the juvenile court may at any time modify and change its initial order. A minor adjudged within the court's jurisdiction for "wandering" (sec. 700(e)) may be sent to the Youth Authority under the authority granted the court in Section 745.

In re McDermott, 77 Cal. App. 109 (1926) points up the problem. There, three juveniles had been made wards of the court, the court ordering at the time "that until the further order of the court they (said wards) be allowed to go home with their parents upon the condition that they be properly cared for." Four years later, one of the juveniles was picked up and placed in detention. The father hired an attorney to represent the juvenile and resist any order changing the custody of the minor. The juvenile court and county probation officer refused to permit the attorney to consult with the minor. In a habeas corpus proceeding, the action of the juvenile court was upheld. The court distinguished In re Rider, 50 Cal. App. 797 (1920) which held that a ward of the juvenile court, detained in juvenile hall, could not be prevented from privately consulting with an attorney retained to represent the minor on a pending criminal charge in superior court. The court said

that in the case before it, the juvenile had been properly made a ward of the court four years previously, and that the guardianship of the child had been transferred, therefore, to the court. The court had the discretionary right to change the physical custody of the juvenile at any time. "So far as this particular order is concerned, it appearing that no legal rights of the ward are involved therein, neither necessity nor occasion exists for the advice of an attorney in relation thereto."

To eliminate the possibility that minors may be deprived of their liberty without benefit of counsel because of some technical rationalization such as that contained in the McDermott case, the staff recommends that the section be reworded to provide that a person is entitled to counsel in any juvenile court proceeding or hearing. At the very least, a person should be entitled to counsel at any hearing or proceeding which could result in a change of his physical custody.

732.1. ~~Subject to the provisions of Section 732.4,~~ When a person named in a petition alleging that he comes within the provisions of Section 700.1 is brought before the court, the court shall inform him and, if present, his parents, guardian or custodian of the substance of the allegations in the petition, of the nature of the proceedings and that he has the right to the aid of counsel. The person named in the petition and, if present, his parent, guardian or custodian shall be asked if it is desired that the person named in the petition have the aid of counsel. If any of them answers in the affirmative the court must allow a reasonable time to obtain counsel.

The rights given to parents, guardians and custodians by this section are subject to the provisions of Section 732.4.

Comment. This section is as approved at the June meeting except for the amendments indicated. The alteration is not substantive.

It is suggested that the second paragraph of this section be reconsidered. The right granted to parents, guardians and custodians by this section is to see that the juvenile is represented by counsel even if the juvenile does not desire it. This right does not necessarily carry with it the right to select the counsel -- the latter is provided in Section 732.3. There is the possibility that even though the parent's interest may technically be adverse to the minor's, the parent may desire to see that the minor's interests are protected by competent counsel. The second paragraph of this section would preclude a parent from doing so.

[New] 732.2. When a petition is filed alleging that a person comes within the provisions of Section 700.1, Section 700.2 or Section 700.3 the parent, guardian or custodian of such person shall have the right to be represented by counsel in all proceedings thereunder. Such counsel shall have all of the ordinary rights and powers of an attorney representing a client, including but not limited to the right to discuss the case privately with his client, to object to the qualifications of witnesses and to questions propounded to them, and to cross examine witnesses.

When the person named in the petition is brought before the court, the court shall inform his parent, guardian or custodian of the substance

of the allegations in the petition, of the nature of the proceeding, and that such parent, guardian or custodian has the right to the aid of counsel. If the parent, guardian or custodian indicates that he desires the aid of counsel, the court must allow a reasonable time to obtain counsel.

Comment. The first paragraph was approved in substance at the June meeting as incorporated in Section 732. Therefore, it is subject to the same comment made under that section.

The second paragraph provides that the parents are also entitled to be advised of their right to counsel. These provisions are combined in one section since it seems desirable to treat the entire subject of the right of a parent, guardian or custodian to counsel in a single section.

732.3. Subject to the provisions of Section 732.4, if the parent, guardian or custodian of a person named in a petition alleging that he comes within the provisions of Section 700.1, Section 700.2 or Section 700.3 desires that such person have the aid of counsel, he shall be represented by counsel selected by such parent, guardian or custodian without regard to his own wish not to be represented by counsel or to select different counsel to represent him.

Comment. This section is as approved at the June meeting.

732.4. The provisions of Section 732.1 and 732.3 relating to the

rights of a parent, guardian or custodian are inapplicable in any case where, at the commencement of the hearing or at any time thereafter, it appears to the court that the interest of such parent, guardian or custodian is adverse to the interest of the person named in the petition.

Comment. This section was considered but not formally approved at the June meeting.

Comment on Appendix B. These sections supersede the existing Section 732 of the Welfare and Institutions Code. This section provides:

As soon as possible after the return of the citation or other process, the court shall proceed to hear and dispose of the case in a summary manner.

It is recommended that the proposed statutes be renumbered so that Section 732 will be left in the code. This is done not because Section 732 is thought to be a desirable statute, but because revising juvenile court procedures is not the task assigned to this Commission by the Legislature. The Governor's Special Commission is studying and will make recommendations concerning juvenile court procedures. That body will undoubtedly recommend the revision of Section 732 as a result. To make clear that the recommendation of this Commission is concerned only with the right to counsel and the use of the term "ward", it is suggested that the amendments recommended by the Commission avoid altering statutes relating to juvenile court procedures except insofar as it is necessary to do so to guarantee the right to counsel and limit the use of "ward."

APPENDIX C

Preliminary Recommendations for Changes in the California Juvenile Court Law Prepared by The Governor's Special Study Commission on Juvenile Justice.

RECOMMENDATION #3

THE BASIS FOR JUVENILE COURT JURISDICTION SHOULD BE MORE EXPLICITLY DEFINED AND SHOULD PROVIDE FOR THREE SEPARATE CATEGORIES: (1) ABANDONED AND NEGLECTED MINORS, (2) MINORS DISPLAYING DELINQUENT TENDENCIES, AND (3) MINORS COMMITTING DELINQUENT ACTS. IN ADDITION THE RANGE OF PERMISSIBLE DISPOSITIONS FOR EACH OF THESE THREE CATEGORIES SHOULD BE SEPARATELY DEFINED.

Comments:

Some observers contend that the juvenile court's jurisdiction is so broadly defined that a majority of California's children are potentially subject to court wardship. While this may be an overstatement, it is accurate to observe that the juvenile court law lumps together elements of neglect, waywardness, delinquency, and mental deficiency without discriminating between serious and minor delinquent acts and behavior problems.

In this connection, the juvenile court can now assume jurisdiction on the basis any one or a combination of 14 broad sub-sections outlined in Section 700 of the W&I Code. These range from violations of any-state, county, or city laws, regardless of whether they are serious felonies or extremely inconsequential misdemeanors, to habituating a public pool room. In actual practice, several of these sub-sections are seldom used. In fact, according to information furnished by the Department of Justice's Bureau of Criminal Statistics, out of more than 36,000 initial petitions disposed of in 1958 by juvenile courts throughout the state, less than 15 petitions were filed under Section 700 W&I Code, sub-section (f) (vagrancy), sub-section (g) (visiting a pool or beer hall), and sub-section (h) (using intoxicating liquor or drugs), and only 26 petitions were filed under sub-section (a) (child found begging).

It is the Commission's opinion that Section 700 should be basically revised because of its ambiguous and excessively broad language, and because it fails to differentiate between the type of acts or conditions which grant the juvenile court jurisdiction.

It is proposed that greater clarification and differentiation is needed, and this can be obtained if the conditions under which minors are petitioned to the juvenile court are more explicitly set forth in three separate jurisdictional categories: (1) abandonment and neglect, (2) delinquent tendencies, and (3) delinquent acts.

At the same time, Section 740 of the W&I Code should be amended so that the range of permissible dispositions for the three major jurisdictional sections are separately enunciated.

A. DIFFERENTIATE DEPENDENT & NEGLECTED CHILDREN FROM DELINQUENTS:

A differentiation between delinquent and neglected children is currently implied in the juvenile court law by the requirement that neglected minors be segregated from delinquents in detention facilities. In addition, virtually all courts make a distinction in determining appropriate dispositions for these two categories of cases. However, the law needs further clarification for the following reasons:

In dealing with dependent and neglected children, the court's primary purpose is not to reform by restricting the activity of the juvenile, but to provide expanded facilities for normal development. On the other hand, in dealing with delinquents, some element of restraint is often a necessary part of the treatment plan.

Some juvenile court observers contend that there should be no differentiation between neglected and delinquent children because differentiation tends to further stigmatize the delinquent child. Proponents of this position assert that present statutes correctly consider all court wards as unfortunate children regardless of the specific circumstances which brought them before the juvenile court.

The District Court of Appeal has provided the most effective response to this assertion. In the Contreras case, the District Court commented: ". . . while the Juvenile Court Law provides that adjudication of a minor to be a ward of the Court shall not be deemed to be a conviction of a crime, nevertheless, for all practical purposes, this is a legal fiction presenting a challenge to credulity and doing violence to reason. Courts cannot and will not shut their eyes and ears to everyday contemporary happenings."¹

We are also aware that, to most people, juvenile courts are identified exclusively with delinquency. Consequently, a large part of the public assumes that all juvenile court wards are delinquents, despite the fact that 40% of the juvenile cases under probation department supervision are wards on grounds of parental neglect or abandonment.

Another argument advanced by those opposing differentiation between

¹In re Contreras, 109 Cal. App. (2d) 287 (299 P. (2d) 875 (1952)

these two classes of children is that many dependent and neglected children also exhibit delinquent behavior. In fact, it is contended that a large proportion of dependent and neglected children involves a fusion of anti-social conduct by the child and inadequacies in the home, and that the same general type of rehabilitative treatment is often needed for both types of children.

That this is a grossly inaccurate statement is evidenced by the fact that court wards for dependency and neglect are basically younger children whose age distribution is heavily concentrated in the age groupings with the lowest incidence of delinquency. Actually, half the minors referred to the juvenile court in 1958 for dependency and neglect were less than eight years of age and 78% were less than 13. Since the preponderance of delinquent referrals falls between ages 13 and 17 years, the age composition of the dependent and neglect caseload alone suggests little likelihood of delinquent behavior at the time of referral. To test this assumption, the Commission recently surveyed a sample of dependent and neglect court ward's case records. The findings were clear and unmistakable -- only an insignificant proportion of such children had histories of delinquency at time of referral.

It is true that some children originally declared court wards for dependency and neglect later engage in delinquent acts. This, however, can be attributed in part to the inability of juvenile court supervision to offset the deleterious home circumstances during the child's formative years. But to fail to differentiate between neglected children and delinquent children solely on the assumption that there is a potential -- however remote -- of delinquency, does not appear warranted or logical. This is especially true in view of our grossly inadequate delinquency prediction methods and the added knowledge that only a small proportion of children with emotional problems become serious delinquents.

In terms of limitations on disposition, the Commission believes that abandoned, neglected or dependent children should not be committed to the Youth Authority or county camps, nor should they be "sentenced" to juvenile halls. Outside of these restrictions, the Commission believes the court should have flexibility in making any appropriate disposition including foster home placement, placement in children's institutions or with relatives, or allowing the child to remain in his own home. The court should also be empowered to provide medical, dental, and psychiatric care if the need arises.

B. DIFFERENTIATE BETWEEN MINORS MADE WARDS FOR DELINQUENT TENDENCIES AND THOSE VIOLATING SPECIFIC CRIMINAL LAWS:

The juvenile court can now assume jurisdiction over minors whose behavior pattern constitutes a "tendency" towards delinquency even though these children have not committed overt serious anti-social acts. These deviant acts range from truancy to incorrigibility and would not be considered criminal offenses if committed by adults.

The Commission recognizes that the greatest possibilities of rehabilitation may exist where behavior problems are incipient and that early treatment can forestall more serious behavior at a later date.

It is also obvious that assistance and authoritative controls may be necessary and desirable for these children. However, we do not believe that such children should be permitted to be sent to the Youth Authority. With that one exception, the Commission believes the courts should have wide latitude in providing treatment to meet the more immediate and urgent needs of delinquency prone children. We are equally convinced that such limitations on court disposition will not prove a handicap either to the courts or to probation departments.

C. SPECIFIC DELINQUENT OFFENSES:

Numerous juveniles in California commit serious crimes against persons and property in which protection of the general public becomes a demonstrated factor for consideration. Often severe restrictions on the juvenile's activities seem to follow in these situations. However, these should be supported by respectable proof of the jurisdictional facts and more precise procedures.

The present law permits the courts to choose between a wide range of dispositions, varying from probation to Youth Authority commitment. We believe that this range of dispositions should remain unchanged.

However, a far greater number of children are brought before juvenile courts for minor offenses, and, currently, most of these children either are granted formal or informal probation. A much smaller number are sent to juvenile camps and a relatively insignificant number are committed to the Youth Authority. Thus, the courts appear to be discriminating between major and minor offenses in their dispositions, and we, therefore, see no present need to restrict the court in these circumstances and thereby run the risk that it may be prohibited from dealing effectively with serious behavior problems manifested only by a series of minor offenses.

WELFARE AND INSTITUTIONS CODE

§700. Persons subject to jurisdiction: Generally. The jurisdiction of the juvenile court extends to any person under the age of 21 years who comes within any of the following descriptions:

(a) Who is found begging, receiving or gathering alms, or who is found in any street, road, or public place for the purpose of so doing, whether actually begging or doing so under the pretext of selling or offering for sale any article, or of singing or playing on any musical instrument, or of giving any public entertainment or accompanying or being used in aid of any person so doing.

(b) Who has no parent or guardian; or who has no parent or guardian willing to exercise or capable of exercising proper parental control; or who has no parent or guardian actually exercising such proper parental control, and who is in need of such control.

(c) Who is destitute, or who is not provided with the necessities of life by his parents, and who has no other means of obtaining such necessities.

(d) Whose home is an unfit place for him, by reason of neglect, cruelty, or depravity of either of his parents, or of his guardian or other person in whose custody or care he is.

(e) Who is found wandering and either has no home, no settled place of abode, no visible means of subsistence or no proper guardianship.

(f) Who is a vagrant or who frequents the company of criminals, vagrants, or prostitutes, or persons so reputed; or who is in any house of prostitution or assignation.

(g) Who habitually visits, without parent or guardian, a public billiard room or public poolroom, or a saloon or a place where any spirituous, vinous, or malt liquors are sold, bartered, exchanged, or given away.

(h) Who habitually uses intoxicating liquors or habitually uses opium, cocaine, morphine, or other similar drug without the direction of a competent physician.

(i) Who persistently or habitually refuses to obey the reasonable and proper orders or directions of his parents, guardian, or custodian; or who is beyond the control of such person.

(j) Who is a habitual truant from school within the meaning of any law of this State.

(k) Who is leading, or from any cause is in danger of leading, an idle, dissolute, lewd, or immoral life.

(l) Who is insane, feeble-minded, or so far mentally deficient that his parents or guardian are unable to exercise proper parental control over him, or whose mind is so far deranged or impaired as to endanger the health, person, or property of himself or others.

(m) Who violates any law of this State or any ordinance of any town, city, or county, of this State defining crime.

(n) Who is afflicted with syphilis, gonorrhoea or chancroid and is in need of medical and custodial care, or both.