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A New Approach to Deinstitutionalization

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Disposition Case Advocacy in San Francisco's Juvenile Justice System: A New Approach to Deinstitutionalization

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This article examines the impact of defense-based disposition case advocacy in San Francisco commitment rates to state juvenile correctional facilities. Historically, this juvenile justice system committed a large percentage of youths to state institutions. These rates were strongly influenced by the probation system's penchant for recommending custodial confinement. Defense-based case advocates began presenting alternative disposition reports to judges in 1980. As a result, between 1980 and 1990, commitments to state correctional facilities fell 73%. The evidence suggests that case advocacy is an effective strategy for reducing commitments to juvenile correctional institutions.

The dominance of probation department's disposition recommendations is an established tradition in the juvenile court. As the court's official agency designated to "diagnose the child's condition and prescribe programs to alleviate it," probation's influence over disposition decisions historically has gone unchecked (Siegel and Senna 1985, p. 345). However, with the unprecedented increase in the number of incarcerated youths during the past decade, probation's control at juvenile disposition hearings is beginning to be challenged.

To stem the rising population of institutionalized youths, disposition case advocacy by agents outside, and in opposition to, the probation system is proving highly successful in promoting the use of more humane and less restrictive options. Disposition case advocacy, as described in this study, refers to the efforts of lay persons or nonlegal experts acting on behalf of youthful offenders at disposition hearings.

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RESEARCH ON DISPOSITION CASE ADVOCACY

The first study on the impact of disposition case advocacy was conducted by the RAND Corporation in an experimental project initiated by the National Center on Institutions and Alternatives (NCIA) in the Los Angeles Juvenile Court. With funding from the Seaver Foundation and the Office of Juvenile and Delinquency Prevention, RAND researchers randomly assigned 243 youths, who were recommended by their probation officers for commitment to state juvenile correctional institutions, to control and experimental groups. Youths selected for the experimental group received defense-based disposition reports prepared by case advocates, whereas youths in the control group were given standard defense attorney representation (Greenwood and Turner 1991).

The RAND Corporation researchers found that 72% of the youths receiving defense-based disposition reports, as compared to 49% of the control group, were diverted from state correctional facilities. The success of the NCIA project was achieved despite determined resistance from Los Angeles County Juvenile Court personnel. After completing their study, the researchers (Greenwood and Turner 1991) concluded: "The story of the NCIA Los Angeles Juvenile Project is not one about how to run a juvenile program, but about the problems of getting more youth into such programs in the face of limited cooperation or outright hostility from juvenile justice officials" (p. 92). Although confronted with intense resistance, the NCIA Los Angeles Project provided quantitative evidence of the effectiveness of disposition case advocacy for diverting youths from correctional facilities.

THE IMPACT OF CASE ADVOCACY ON SAN FRANCISCO'S JUVENILE JUSTICE SYSTEM

Prior to the introduction of disposition case advocacy, child advocates in San Francisco relied on information campaigns, public protests, ballot initiatives, research reports, and legislative lobbying to advance reforms and to urge diversified programming. However, the juvenile probation system continued its historical emphasis on referring youths to secure detention centers and state correctional institutions (Jefferson and Associates 1987). A recent study by the National Council on Crime and Delinquency (NCCD) found that San Francisco's Juvenile Probation Department detained 77% of the youths referred by police to its Youth Guidance Center, a rate NCCD researchers considered exceptionally high (Steinhart and Steele 1988). Also,

until 1981, San Francisco had one of the highest commitment rates to the California Youth Authority (CYA), the state's juvenile correctional system.

In response to this overuse of incarceration, child advocates in San Francisco pioneered deinstitutionalization through disposition case advocacy. The primary strategy employed by case advocates was the use of defense-based disposition reports as a means of countering the influence of the probation system's disposition reports.

Although bureaucratic resistance was often fierce, case advocacy in San Francisco was buttressed by the presence of the Coleman Advocates for Children and Youth, a strong, local child advocacy group with a broad constituency. Active since the early 1960s in promoting alternatives to juvenile incarceration through public education and citizen mobilization, Coleman Advocates provided invaluable political support for case advocates in warding off attacks from hostile judges and probation personnel.

Case advocacy was first introduced in San Francisco in 1979 when two social workers from the public defender's office began presenting disposition reports for youthful offenders recommended for CYA commitments. During the 5-year period from 1981 through 1985, San Francisco's total CYA commitment rates fell by 34% in relation to the preceding 5 years (see Table 1). Commitment rates, as measured by youths per 100,000, declined by 11% in the same period (see Table 2). Accompanying the declining San Francisco CYA commitment rates was a drop in the number of youths waived to the adult court (see Table 3).

In 1986, the recently established San Francisco-based Western Regional Office of NCIA, which later became the Center on Juvenile and Criminal Justice (CJCJ), received a grant from the San Francisco Foundation to provide disposition reports for CYA-recommended youths to court-appointed, nonpublic defender, juvenile defense attorneys. Over the 5 years from 1986 through 1990 when NCIA/CJCJ (hereafter, CJCJ) disposition reports were introduced, San Francisco's total CYA commitments fell 59% (see Table 1). In relation to the per 100,000 youth population, the commitment rate during the same period declined by 53% (see Table 2).

ANALYSIS OF SAN FRANCISCO'S DISPOSITION CASE ADVOCACY

To analyze the impact of disposition case advocacy in San Francisco, data on commitment rates and youth populations from California counties with comparable demographic characteristics were obtained from the CYA. The CYA is responsible for administering California's 16 state juvenile correctional institutions. In addition, statistics on county juvenile arrest rates were

TABLE 1: Total CYA Commitments from San Francisco County: 5-Year Averages

	Average Total	Percentage Decline
1976-80	106.4	N/A
1981-85	70.6	33.6
1986-90	28.6	59.5

SOURCE: California Youth Authority (1988).

TABLE 2: CYA Commitment Rate from San Francisco County Per 100,000 Youth (1976-90) 5-Year Averages

	Average Total	Percentage Decline
1976-80	185.4	N/A
1981-85	164.4	11.3
1986-90	77.5	52.8

SOURCE: California Youth Authority (1988).

TABLE 3: San Francisco County Total Number of Juveniles Waived to Adult Court (1978-90)

Year	Remands
1978	11
1979	15
1980	15
1981	23
1982	13
1983	6
1984	7
1985	14
1986	9
1987	3
1988	0
1989	6
1990	14

SOURCE: San Francisco County Probation Department.

obtained from the California Department of Justice's Bureau of Criminal Statistics. The San Francisco Juvenile Probation Department provided yearly totals on the number of youths waived to the adult court. The San Francisco Public Defender's Office and the Center on Juvenile and Criminal Justice

records supplied information on acceptance rates of case advocate recommendations. Along with statistical information, historical data were examined from primary and secondary sources.

Efforts of Public Defender and CJCJ case advocates to reduce CYA commitments were strengthened in 1987 when the Omega Boys Club, a local community-based agency, began appearing in court on behalf of neighborhood youths. Along with its after-school motivational and tutorial programs, the Omega Boys Club provides peer counseling for youths confined in the Youth Guidance Center. As case advocates, Omega Boys Club workers make personal appearances at disposition hearings to urge judges to use less restrictive options. In most instances, Omega offered to supervise youths in the community (Johnson 1991).

The combined efforts of the Public Defender's Office, CJCJ's defense-based disposition reports, and the Omega Boys Club contributed to a 73% drop in total CYA commitments during the 1980s (see Table 1). When measured by youths per 100,000, San Francisco's CYA commitments declined by 58% (see Table 2).

The impact of case advocacy is further illuminated when San Francisco's CYA commitment trends are compared to 10 other California counties with similar demographic characteristics. In 1981, San Francisco had the highest percentage of CYA commitments in relation to arrest rates of the 10 counties examined. By 1985, San Francisco's CYA commitment percentage in relation to arrest rates fell to sixth place, and by 1990, it was the lowest (see Table 4).

In relation to its CYA commitment rate per 100,000 youths, San Francisco was the only county to exhibit a consistent and steady decline throughout the decade. No similar pattern was present in any other county examined (see Figure 1).

With the presentation of defense-based disposition reports, the acceptance of probation officers' CYA recommendations plummeted to less than 25%. In contrast, a 2-year sample of acceptance rates for the public defender's case advocacy project reveals an acceptance rate among judges of 78% (see Figures 2 and 3). A similar evaluation of 22 CJCJ cases presented to San Francisco juvenile court judges between 1987 and 1989 showed an acceptance rate of 77% (see Figure 3). According to data from the public defender's office, case advocates convinced probation officers 30% of the time to modify their recommendations prior to disposition.

Although probation officers vigorously opposed the efforts of case advocates, they conceded their effectiveness. When questioned regarding the falling CYA commitment rates due to the influence of defense-based disposition reports, Terry Twing, President of the San Francisco Probation

TABLE 4: County Juvenile Court CYA Commitments as a Percentage of Juvenile Arrests at 5-Year Intervals

1981		1985		1990	
San Francisco	2.0%	Kern	2.8%	San Joaquin	2.2%
Kern	1.8%	Los Angeles	1.8%	Kern	1.8%
Sacramento	1.4%	Sacramento	1.1%	Los Angeles	1.6%
Los Angeles	1.2%	San Joaquin	1.1%	Sacramento	1.6%
San Mateo	1.2%	Santa Clara	1.1%	Alameda	1.3%
San Joaquin	1.1%	San Mateo	1.0%	San Mateo	1.1%
Alameda	1.0%	San Francisco	0.8%	San Diego	0.9%
Santa Clara	0.8%	Alameda	0.7%	Santa Clara	0.9%
San Diego	0.4%	San Diego	0.5%	Orange	0.6%
Orange	0.3%	Orange	0.3%	San Francisco	0.5%

SOURCE: California Youth Authority, California Bureau of Criminal Statistics.

Officer's Union, responded, "We're frustrated." Twing confirmed that "only one in four youths whom they recommend for the youth authority is actually being sent by judges" (Furillo 1990).

A study, entitled "The Use of Social Workers in a Public Defender Office" (Wald 1972), examined the differences between defense-based sentencing reports and probation department presentence reports. According to Wald, although probation reports were standardized and offense focused, defense-based sentencing reports were individualized and more detailed about each defendant's background. Unlike probation reports, defense-based reports included a complete rehabilitative plan that identified specific alternative dispositions. Wald attributed the probation department's failure to consider noninstitutional alternatives to high case loads, routine practices, and disparate philosophies.

DISPOSITION ADVOCACY AS A DEINSTITUTIONALIZATION STRATEGY

Case advocacy provides a means of directly challenging conventional practices and organizational inertia. The most important impact of case advocates was their ability to force the system to confront its inconsistencies.

In most circumstances, probation officers base their CYA recommendations on the perceived absence of available community or residential programs. If the youth has "failed" previous placements, the CYA recommendation is invoked on the basis of protecting public safety through

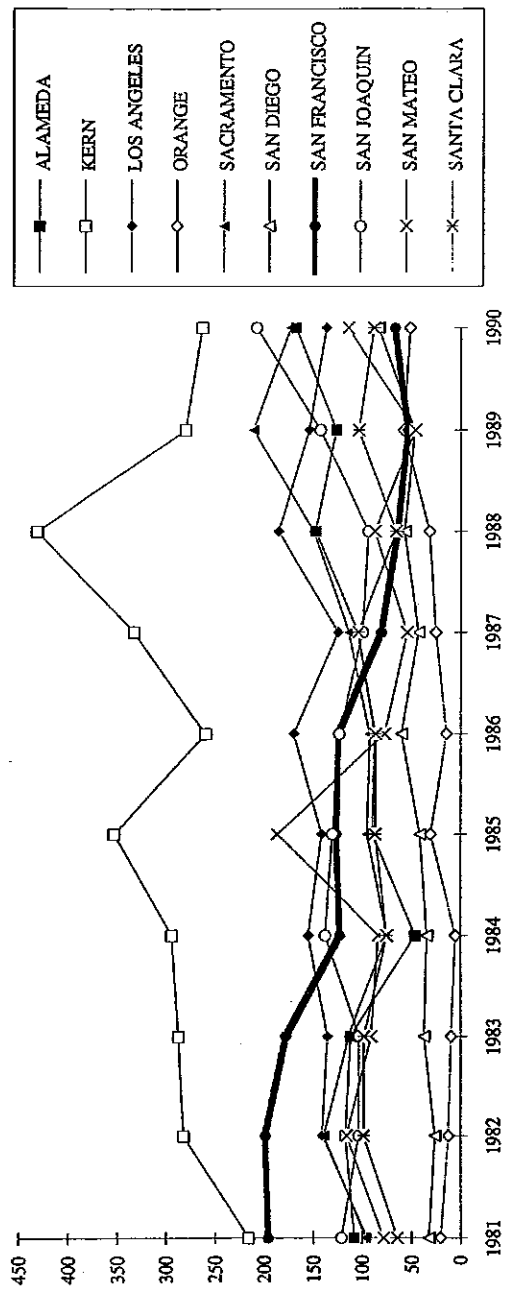


Figure 1: Ten-Year Commitment Rates by Youth Population Per 100,000
SOURCE: California Youth Authority (1988).

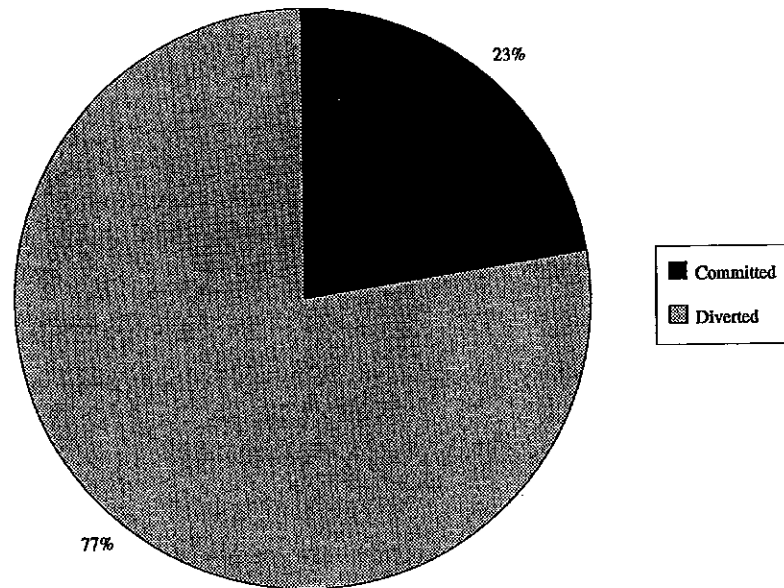


Figure 2: Acceptance Rates of Public Defenders' Case Advocate Recommendations (cases recommended for CYA by probation officer, 1987-88)^a
SOURCE: San Francisco Public Defenders' Office.
a. N = 22.

incapacitation, which is the belief that public protection is enhanced when criminal or juvenile offenders are securely confined. In California's juvenile justice system, there is a pervasive perception that a range of treatment and education programs is provided by the CYA. This belief gives impetus for viewing CYA commitments as a productive disposition (Doyle and DelVecchio 1989).

However, contrary to popular notions, California's juvenile correctional system is among the most violent and repressive in the United States. Numerous studies reveal the daily survival struggle of CYA wards in overcrowded, violent dormitories, where little meaningful interaction occurs between youths and staff. Wards quickly learn to act violently and aggressively to survive in the CYA's deeply rooted prisonlike subculture (DeMuro, DeMuro, and Lerner 1988; Lerner 1986). The inability of harsh institutional conditions to favorably impact criminal behavior is suggested by CYA recidivism rates that show 70% to 88% of parolees being rearrested within 1 year of their release (Baird 1988; Greenwood 1987). When case advocates

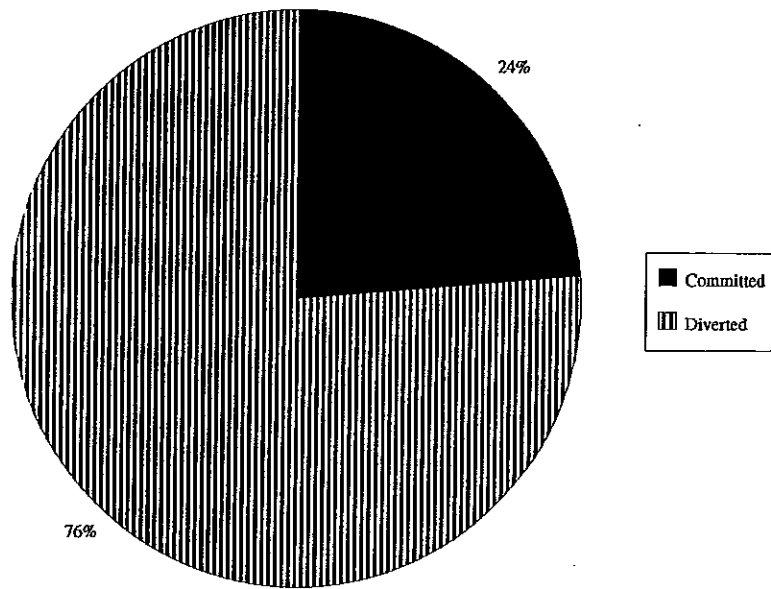


Figure 3: Acceptance Rates of Public Defenders' Case Advocate Recommendations (cases recommended for CYA by probation officer, 1989-90)^a
 SOURCE: San Francisco Public Defenders' Office.
 a. *N* = 21.

provided information regarding conditions in the CYA and its failure to reduce recidivism, judges became more receptive to alternatives.

Among the unique aspects of case advocacy in reducing CYA commitments is its inconspicuous impact. Data show that even when juvenile court judges were publicly calling for increased CYA commitments, the number of youths actually being sent continued to decline (Doyle and DelVecchio 1989). This subtle effect was revealed when

Supervising Juvenile Court Judge Douglas C. Munson said he has no idea why he and his colleagues are sending fewer youthful offenders to CYA.

"I haven't even looked at the records," Munson said. "It just depends on what is recommended to the court. I can't comment on the statistics." (Furillo 1990, p. 1)

In another instance, a juvenile court referee, who early on expressed his hostility to CJJ in a newspaper article, continued to adopt CJJ recommendations 70% of the time over 5 years (Aronson 1987).

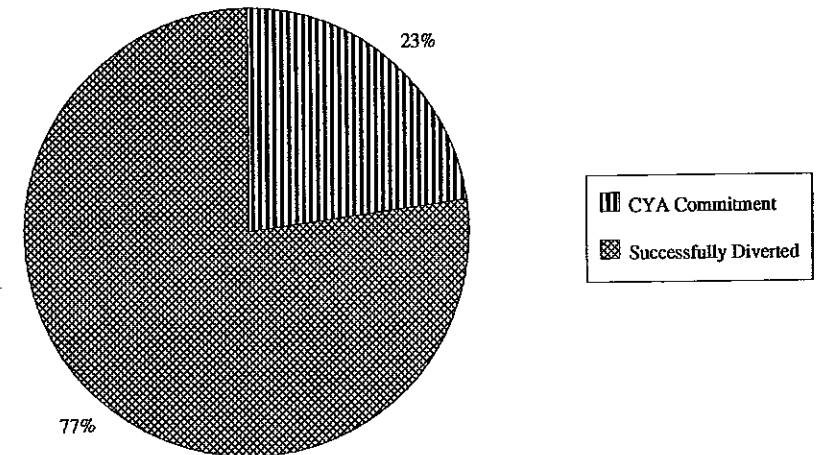


Figure 4: San Francisco Juvenile Court Cases Successfully Diverted from CYA Placement (1987-89)^a
 a. *N* = 22.

According to Edwards (1976), the use of defense-based disposition reports ensures that "the decision will be more informed, the process more open and the judge less of a rubber stamp for the probation department" (p. 51). By offering information that may not otherwise be made available, case advocacy improves systemwide accountability and necessitates a closer examination of particular cases.

CONCLUSION

The application of disposition case advocacy to divert San Francisco's youthful offenders from the CYA presents a new model of deinstitutionalization. Historically, deinstitutionalization depended on the efforts of a correctional administrator, who implemented reforms from within the agency. However, despite the demonstrated superiority of well-developed community-based systems in reducing recidivism and providing humane care, only a few select states and jurisdictions have successfully reduced their institutional populations (Blackmore, Brown, and Krisberg 1988; Krisberg, Austin, Joe, and Steele 1988; Lerner 1990; Macallair 1993; Palmer 1992). Protected by strong vested interests, political apathy, and administrative inertia, most

juvenile justice systems in the United States continue to rely on large, 19th-century institutional models (Miller 1991).

Vigorous sustained disposition advocacy focused on institution-bound youthful offenders promotes deinstitutionalization without requiring a systemwide mandate or consensus. Without the cooperation or concurrence of the probation system, case advocates substantially reduced San Francisco's commitments to state correctional facilities. The San Francisco experience in disposition case advocacy provides a new approach toward reducing institutional populations and overcoming the professional routines that promote and sustain institutionalization.

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