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The Boston Bar Association Task Force on Children in Need of Services (CHINS) has just completed an extensive study of one of the most significant and intractable problems in our society today - truancy. The Task Force was broadly constituted with members from the court system, private practice, the Probation Department, the Department of Youth Services, the Attorney General's Office, the Suffolk County District Attorney's Office, service groups and academia.

On behalf of the Boston Bar Association, I want to express my sincere gratitude to each member of the Task Force, whose untiring efforts produced this extremely significant analysis and report. Above all, the BBA is indebted to Ronald Kessel, the Task Force's Chair, and his law firm, Palmer & Dodge LLP. Ron's leadership sustained the Task Force over the lengthy time necessary to complete its work. We also owe much gratitude to Jianne Elder, Vice Chair, whose personal commitment to the mission of this Task Force has been a key ingredient to its success.

Ron was ably assisted by his colleague at Palmer & Dodge, Emily Donovan, a member of the Task Force. Palmer & Dodge also provided highly skilled staff and the services of a statistician.

Our community knows that its most important resource is our children. The future of our community is in their hands and the quality of their education is one of the most important components in their future citizenship and leadership. Truancy is a blight on the future of our society and, as this report demonstrates, needs immediate attention. I sincerely hope that appropriate officials and the community at large respond to this report in a positive fashion to address this very significant problem.

Once again, my thanks to the Task Force members for devoting an enormous effort for the good of Boston.

Mary K. Ryan
President
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BOSTON BAR ASSOCIATION TASK FORCE
ON CHILDREN IN NEED OF SERVICES
REPORT ON TRUANCY

JULY 30, 1998

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At the request of the Children, Youth and Families Task Force of the Boston Coalition, the Boston Bar Association organized its own Task Force to study the problem of truancy in Boston and truancy cases under the Children In Need Of Services ("CHINS") Statute. In its review, the Task Force limited its focus to truancy in the Boston Public Schools and CHINS truancy cases in the Suffolk County Juvenile Court.

The Task Force could not have completed this project without the encouragement and cooperation it received from the Chief Justice of the Juvenile Court Department, Francis G. Poitrast; his successor, Martha P. Grace; the First Justice of the Suffolk County Juvenile Court, Paul D. Lewis; the Associate Justices of the Court; the Superintendent of the Boston Public Schools, Thomas W. Payzant; the Commissioner of the Boston Police Department, Paul Evans; and the District Attorney of Suffolk County, Ralph C. Martin, II.

Members especially note the support and ideas we received from the Director of Hearings, Appeals and Attendance, Joseph Smith, and the commitment and insights of the Court’s Chief Probation Officer, Joseph M. O’Reilly, and Assistant Chief Probation Officer, Alfred E. Gavaghan. The hours spent with school administrators, supervisors of attendance, probation officers and judges proved invaluable.

We appreciate all of their assistance. The Task Force, however, is solely responsible for this report, including its conclusions and recommendations.

The Task Force considers its work to be a part of a collaborative effort that sees truancy as everyone’s problem, not one to be conveniently assigned to the schools alone. It is in this spirit that the Task Force, in addition to drawing its own conclusions and making its own recommendations, has gathered and reported facts and opinions for the use of others. Accordingly the report:

- describes the Massachusetts CHINS Statute and the Court’s authority under it, truancy procedures in the Boston Public Schools and in the Suffolk County (Boston) Juvenile Court, and truancy prevention initiatives in Boston and elsewhere;
- analyzes school attendance and CHINS case data; and
- recounts the views set out in previous Massachusetts studies and expressed in interviews with those dealing with truants on a daily basis.

The price of including all of this information is the length of the report, hence the following Executive Summary. The summary, however, does not attempt to capsulize this information and only summarizes some of our conclusions and recommendations. You are urged to read the complete report.
EXECUTIVE SUMMARY

Truancy in the Boston Public Schools

- Absenteeism in the Boston Public Schools is a pervasive problem. In the 1996-97 school year of 180 days, 34.5% of the 59,346 students were absent sixteen or more days. The percentages by school level were: elementary school – 28.8%; middle school – 35.1%; and high school – 44.8%.

![Pie charts showing percentages of students absent 16 or more days by school level.](chart)

- The Boston Public School Department deals with absenteeism and truancy first at the classroom level with school personnel contacting parents. If a student accumulates five or more unexcused absences, under the school department policy the student must be reported to the supervisors of attendance by filing with them an Attendance Officer Card ("AO card"). If the efforts of the assigned supervisor of attendance are not successful and the student accumulates 15 days or more of unexcused absences, a CHINS case is begun in the Suffolk County Juvenile Court ("Boston Juvenile Court").

- There is an extraordinarily large number of students who are not being reported to supervisors of attendance for further action. In the 1996-97 school year only 5,424 cards were filed with the supervisors of attendance even though there were 20,465 students absent sixteen or more days. Within school levels, moreover, there are large differences among schools in their compliance with the reporting policy.
Of the reported truants, supervisors of attendance initiated CHINS cases in the Boston Juvenile Court against 1,118 (20.6%) of them.

The Task Force’s report analyzes data for the 1996-97 school year. We understand that for the 1997-98 school year AO cards and CHINS case filings increased by about 1,000 and 280 respectively.

CHINS Cases in the Boston Juvenile Court

- An analysis of two months of CHINS cases filed by the Boston Public Schools demonstrates that truancy does not discriminate by gender or race. Ninety percent of the CHINS truants for whom family data was available, however, came from one or no parent homes.
- The bulk of CHINS cases are handled by probation officers informally as a consensual process in which they cannot compel attendance at meetings, programs or schools.
- By the time CHINS cases are filed in the Boston Juvenile Court, students have accumulated on average more than 20 days of absences. Eighty-five percent of all CHINS truant petitions in our analysis involved children 12 years old or older — ages when patterns of school attendance have become more established.
- While no statistical generalizations are justified, an analysis of one month of CHINS cases established that the overall attendance rate of CHINS students in the sample neither improved nor declined after the CHINS intervention.

System Problems and Solutions

- Truancy is not a problem that should be the burden (economically or otherwise) of the Boston Public Schools alone.
- The efforts of the Boston Public Schools, social service providers, law enforcement agencies and the court should be viewed as a single unified system for dealing with truancy. The system is not producing acceptable results because the system needs fixing. It is not a matter of people undermining a system that would otherwise work.
• Truancy presents an opportunity for those who concentrate on enforcement to join forces with those who focus on the delivery of educational and social services. Truancy, however, should remain a noncriminal status offense.

• Despite their seductiveness, pilot programs that are limited in scope and time will never be the solution. Truancy in Boston is not a pilot problem. We see no choice but to recommend system-wide changes.

• Truancy is a form of habitual behavior that is best dealt with sooner rather than later. Early intervention should be a priority with a special focus on the elementary schools and quick system response to early indications of truancy at all grade levels.

• Two quite different basic philosophies and related strategies should be used. One is a simple behavioral approach that regards truancy as intolerable behavior and takes away the option of being a truant. The second recognizes that educational and social services must be available for more lasting and deep-rooted changes in lifestyle.

**Recommendations**

• The following recommendations are not ranked by importance but rather are listed, more or less, in the order that reflects the truancy process: detection and identification of truants, intervention to get them back in school, provision of educational and social services, and monitoring the effectiveness of the results. However, the heart of the matter is, and ultimately success depends upon, the delivery of services that transform academic failure and family dysfunction to academic growth and family support.

• The School Department should implement a computer information system that records excused and unexcused absences using consistently applied criteria on a system-wide basis. Supervisors of attendance should get truancy reports from the computer system and not have to rely solely on teachers and school staff to generate AO cards.

• The number of supervisors of attendance (there are 8 for the entire city now) should be increased and their follow-up roles expanded. Inconsistent school policies regarding tardiness and late arrival should be amended to require schools to keep all apprehended truants and late arrivals at schools or at truancy centers.

• Boston police officers, Boston school police, MBTA police, and probation officers should be given, by legislation, the same authority as supervisors of attendance to apprehend truants without warrants and take them to schools or truancy centers. In conferring this authority, there are some concerns. Truancy is not a criminal offense. The line between criminal arrest and noncriminal truancy apprehension should not be blurred to create justification for otherwise improper or illegal searches or seizures. Truancy sweeps should be conducted by the Boston police throughout the city on a regular basis.

• When truants return to school, steps should be taken to break the cycle of return to school, embarrassment, failure, and return to the streets. The school Student Support Team should have needs assessments (including Chapter 766 evaluations where appropriate) made and remedial programs developed. In addition to regular classroom placements, other alternatives should be considered including special classes, alternative tracks, schools-within-schools, alternative education schools, vocational schools, pilot schools, and charter schools.

• The Task Force recommends a multidisciplinary program beginning with selected elementary schools that will involve the collaboration of the schools with community social service providers.

• The “failure to cause” a child to attend school statute should be amended to provide for a substantial monetary penalty (the present penalty is only $20). The purpose of the increased
sanction is to give the court leverage to work out pretrial arrangements whereby parents could avoid monetary penalties by meeting with school staff, attending parent education programs, etc.

- Top-down management should define truancy policies and procedures that are consistent and specific, monitor compliance with them, and develop case protocols for dealing with truants at all levels of the truancy process.

- The CHINS Statute should be amended so that it applies to parents as well as children. Truants and parents should receive certain services through direct court referrals. The failure to deal adequately with truants under the CHINS Statute results from a failure to fund and provide services, not from an inherently flawed statute.

- At a minimum the court and its probation officers should be able to refer CHINS truants directly to program spaces dedicated to court referrals for (in addition to the existing Boston Juvenile Court Clinic's diagnostic services) academic remedial services, after-school counseling/activities, and parent education. Such "contracted for" referral spaces should be available to probation officers without the necessity of court custody determinations. These referral spaces should represent net additions to programs and hence would require additional funding.

- So far as the Task Force is aware, the CHINS data study that the Task Force conducted is the only attempt to measure the effectiveness of CHINS court interventions in improving attendance. In this aspect of our study, we used truancy cases filed or scheduled for hearing in November 1996 in the Boston Juvenile Court. The School Department should do a similar annual analysis starting with the 1997-98 school year. If the department's study confirms the results of our study, and if no changes are made by the schools and the court in dealing with CHINS truants, serious consideration should be given to terminating the filing of truancy cases except where other exacerbating conduct or circumstances are present.

- A similar annual analysis should be done by the School Department to measure the effectiveness of interventions by the supervisors of attendance.
As stated in the Preface to this report, the CHINS Task Force was established at the request of the Children, Youth and Families Task Force of the Boston Coalition. The Boston Coalition is an organization of individuals from government, law enforcement, business, healthcare, community, and media organizations, all of which are committed to reducing violence, fighting substance abuse, and assisting the criminal justice system in Boston.

In the course of its work, the Children, Youth and Families Task Force had become concerned that the population of children served by the CHINS Statute was growing rapidly and that the problems faced by these children were increasing in both number and complexity. Furthermore, the continued functioning of the CHINS law, or some analogous statute, was critical in the eyes of many involved in the Boston Coalition, law enforcement, and the courts because, in their view, the CHINS Statute is the primary statute which functions to prevent delinquency. In the face of growing pressure on the CHINS system and in the light of criticisms of the CHINS Statute lodged by other study groups, the Boston Coalition saw the need to develop a clearer directive to address the problems of CHINS youth and their families more effectively.

The Boston Coalition turned to the Boston Bar Association for an objective review. With this intent and in the spirit of the Association's pro bono commitment to the City of Boston, the Boston Bar Association undertook a study of the CHINS Statute, convened a Task Force on Children in Need of Services (“Task Force”) and held initial organization meetings.

Prior to the start of those meetings, the leadership of the Task Force narrowed the charter of the Task Force to the application of the CHINS Statute to truancy in Boston Public Schools. By limiting the study to truancy and not including “stubborn,” “runaway” or “habitual school offenders” (the other “status offenses” also covered by the CHINS Statute), the Task Force’s efforts were more focused. This decision also permitted the Task Force to observe the functioning of the CHINS Statute in a single geographic area with a substantial truancy problem, a single juvenile Court, a single school system, and a single social service network. Again, by working with the representatives of a relatively small number of institutions, the Task Force dedicated more time to learning about their real world experience. In the minds of the Task Force members, this increased the odds of producing a helpful report.

The Task Force met on a monthly basis. Most of the meetings were devoted to discussions with representatives of the Boston Juvenile Court, the Boston Public Schools, the Boston Police, the Suffolk District Attorney, and other organizations devoted to providing services to youth. The Task Force formed three subgroups that met independently and concentrated respectively on the Boston Juvenile Court, the Boston Public Schools and the Community. Members continued to interview those who had direct experience with truants and to collect data. The Task Force also was informed by previous studies.

The Task Force is much indebted to Barbara M. Gueth, the Manager of Litigation Support Services at Palmer & Dodge LLP, whose skilled and diligent management of the statistical data and the CHINS data study was indispensable. The members also deeply appreciate the care, commitment and discipline with which Mary R. Kelly, also of Palmer & Dodge, took charge of and produced the manuscript.

In matters as complex and far-reaching as those covered in this report, it would have been impossible for all the members of the Task Force to agree about everything. The signatories to the report, however, agreeing with its general analysis and direction and believing in the value of reporting the consensus view, have not felt compelled to indicate their individual preferences or differences in manner of expression or otherwise.
STATUS OFFENSES

Truancy is one of several "status offenses," conduct that except for the age of the actor would not be an offense at all. Typical status offenses include truancy, running away, and stubbornness (disobeying school staff or parents), and in some jurisdictions, alcohol possession and curfew violations. While everyone agrees that these kinds of behaviors by the young are undesirable, disagreement has arisen as to the way society should deal with them. Some advocate a treatment response — providing social services to deal with problems underlying the behavior as well as the behavior itself. Others call for a punishment response with the emphasis on enforcement and sanctions.

Early State Law Developments

The shift from harsh adult-type punishment to rehabilitation as the societal means of dealing with misbehavior by the young began in this country in the nineteenth century. State legislation provided for the removal of children from their families and the circumstances that were deemed to be responsible for the misbehavior. Unfortunately, the houses of refuge and other places that were established for the care of these children were not themselves always free from harshness and cruelty.

Separate juvenile judicial processes were begun almost 100 years ago to take into account the differences between children and adults and to deal with children who engaged in criminal conduct, those who engaged in certain noncriminal conduct, and those who were in need of care and protection. The court assumed broad authority to intervene into the lives of children. In the 1960s, statutes began to distinguish between juvenile delinquency (criminal behavior) and status offenses (noncriminal behavior). State statutes referred to the latter offenses as CHINS, MINS, FINS, and PINS (children, minors, families or persons in need of services/supervision) and established separate court procedures from those dealing with juvenile delinquents.

Truancy

While truancy has remained a status offense, more recently the response to truancy has focused more on crime prevention than on the traditional principal reason for dealing with school absenteeism compliance with compulsory attendance laws. New enforcement techniques include conducting truancy sweeps, establishing truancy centers, fining parents, and loss of driving privileges. Advocates of these techniques point to reductions in daytime crime rates and increased school attendance. Others suggest that these short-term measures are ignoring long-term family and school problems that require remedial services.
The current Massachusetts law establishing status offenses is set forth in Chapter 119, §§ 21 and 39E-39J of the Massachusetts General Laws (as amended, the "CHINS Statute"). The CHINS Statute was enacted by the Legislature in 1973. Until 1973, Massachusetts criminal law provided for a fine and/or imprisonment for stubborn children, runaways, wayward children, and habitual school offenders and truants. These children were subject to the jurisdiction of Department of Youth Services, the state agency that operates correctional institutions for juvenile delinquents. The 1973 legislation created a new category of status offenders (stubborn child, runaway, and truant), made status offenses noncriminal, and eliminated secure detention of status offenders with juvenile delinquents. These CHINS cases were removed from the Juvenile Court Department's delinquency jurisdiction. A major effect of this change was to take responsibility for and authority over status offenders away from the Department of Youth Services and place it with what is now the Department of Social Services.

A letter dated November 19, 1973 to the Governor's Legislative Secretary from District Court Chief Justice Franklin Flaschner explains the policy reasons for the legislation:

The decriminalization of the offenses known as being a stubborn child, a runaway and a truant, and the elimination of an adjudication of a juvenile as a delinquent by reason of a judicial determination of any one of the aforementioned statuses is long overdue. The re-definition of public policy as it should be concerned with the conduct of children generally falling into these categories is wisely drawn in [the Senate bill] as 'a child in need of services'. Of course, these procedures should be on the civil side of the Court and every attempt should be made to resolve the problems consensually and informally with an extension to the child and his family through the Court of all the social resources of the Court and the community which might be helpfully brought to bear on the situation. [The Senate bill] represents this kind of an approach. It then provides the necessary sanctions for the Court to apply in more aggravated cases where either the child or one or both of his parents is uncooperative, and in this connection ample provision, heretofore not existing, is given to the Court to implement its orders. This legislation goes a long way toward providing the Courts with social tools they previously did not have.

44 RODERICK L. IRELAND, MASSACHUSETTS PRACTICE § 142 (1993).

Statutory Framework

The CHINS Statute establishes the statutory framework for handling all status offenses throughout the Commonwealth. The language of the statute is in some respects convoluted. This, no doubt, has contributed to the confusion and erroneous impressions that many people have about the CHINS process. Since the words of the statute, however, are the basis for, and the beginning of any analysis of, the CHINS process, we sacrifice brevity for completeness in summarizing these statutory provisions. The CHINS Statute:

General

- Defines a truant as "... a child between the ages of six and sixteen who persistently and willfully fails to attend school ..."
- Establishes a noncriminal procedure for determining whether a child is in need of services, and if so, the disposition of the matter.
- Grants the child the right to counsel at all hearings, and if the child is unable to retain counsel, requires the court to appoint counsel.
- Confers jurisdiction on the Boston Juvenile Court for Suffolk County.

Application for Petition and Hearing

- Authorizes only a supervisor of attendance (not a parent or others) to apply for a petition seeking a determination that a child is
in need of services based on allegations of truancy.

- Requires upon application for a petition that the court clerk (i) set a hearing date for determining whether a petition should issue, (ii) notify the child of the hearing, and (iii) request a probation officer to conduct a preliminary inquiry as to whether the best interests of the child require that a petition be issued.

- Provides that the Boston Juvenile Court shall hold a hearing during which it receives the recommendation of the probation officer and either (i) declines to issue the petition because there is no probable cause to believe the child is in need of services, (ii) declines to issue the petition because it finds that the interests of the child would be best served by referring the child to a probation officer for informal assistance without a trial on the merits, or (iii) issues the petition and schedules a trial on the merits. The procedure is slightly different if a child is brought in on an arrest warrant in which case a petition is immediately issued.

Informal Assistance

Whenever a child is referred to a probation officer for assistance, the CHINS Statute:

- Gives the probation officer authority to refer the child to appropriate organizations for psychiatric, psychological, educational, medical and social services and to conduct conferences with the child and the child’s family to effect agreements designed to resolve the situation and eliminate the need for a judicial trial on the merits.

- Makes clear that during these referrals and conferences neither the child nor parents may be compelled to appear at any conferences, produce any papers, or visit any place.

- Authorizes the court clerk to issue a petition and set a date for a trial on the merits if the child or parents fail to participate in good faith and the probation officer so certifies.

Trial on the Merits

- Authorizes the Boston Juvenile Court, when a petition seeking a determination that a child is in need of services has been filed, to issue a summons requiring the child and parents to appear at the hearing. If the child fails to obey the summons and fails to appear before the court, the court may issue a warrant for the child.

- Requires a trial by a jury of six unless waived, any waiver being subject to a right of appeal for a trial by a jury of six.

- Provides that if the court finds the allegations in the petition to have been proved at the hearing beyond a reasonable doubt, the court may adjudge the child to be in need of services.

Orders of Disposition

- Authorizes the Boston Juvenile Court upon making such an adjudication to:
  - permit the child to remain with the child’s parents subject to any conditions and limitations the court may prescribe including provision for medical, psychological, psychiatric, educational, occupational and social services, and for supervision by a court clinic or by any public or private organization providing counseling or guidance services;
  - place the child in the care of a relative, probation officer, or other qualified adult, a private charitable or childcare agency or other qualified agency subject to such conditions and limitations the court may prescribe (including the above services); or
  - commit the child to the Department of Social Services with such conditions and limitations as the court may recommend. The Department of Social Services shall give due consideration to the recommendations, may not refuse an out-of-home placement if recommended by the court, but shall itself direct the type and length of such placement.

- Prohibits a child in need of services from being committed to a county training school or institution for juvenile delinquents, but permits commitment to a group home for therapeutic care where there are also juve-
nile delinquents. Also prohibits detention in a police station or town lockup.

- Limits orders to six-month periods that may be extended for additional six-month periods. No order for a truant can extend beyond the truant's sixteenth birthday.

**Appeals**

- Grants a child adjudicated to be in need of services an appeal for a trial *de novo* in a jury-of-six session of the Boston Juvenile Court. The child may waive a jury trial claim and have the appeal heard by a judge without a jury.

- Provides that any further review may be had in the Appeals Court.

As this summary indicates, the CHINS Statute, in addition to contemplating informal assistance, establishes a fairly elaborate noncriminal process for dealing with truants (and other status offenders). There are hearings on the application for a petition as well as the petition itself. The child has a right to counsel and a right to a jury trial on the merits of whether the child is in need of services. In addition, there is a right to appeal.

**The Limits of Court Authority**

The consensual nature of the informal assistance provided by probation officers under the CHINS statute means that they lack the authority to compel children or their parents to come to meetings or go to places of referral. Although the statute has given judges a powerful instrument in granting them the authority to make child custody determinations, their authority is also subject to significant limitations. Some of these limitations are discussed below.

**Children**

What may surprise some is that a judge under the CHINS Statute cannot simply order a child to go to school. In one of a small number of Massachusetts cases dealing with children in need of services, the Supreme Judicial Court held that direct orders to attend school are not valid under the CHINS Statute. In *In Matter of Vincent*, 408 Mass. 527 (1990), a juvenile court judge had determined that Vincent was a child in need of services for his repeated and persist-
Whether because of doubts about legality, or because it is deemed inappropriate, the contempt power has been sparingly used under the CHINS Statute with its policy mandates of decriminalization and deinstitutionalization.

Since the obvious sanction for contempt is short-term commitment to a secure facility, holding a CHINS youth in contempt, moreover, raises practical as well as policy problems. The Department of Social Services does not maintain locked detention facilities, and the Department of Youth Services maintains them only for juvenile delinquents.

Parents

The CHINS Statute confers no court jurisdiction over parents. While the Boston Juvenile Court does have the authority to issue summonses for parents to appear at hearings, its authority to issue affirmative orders is limited to orders of disposition dealing only with the custody and placement of the child. Determinations of child custody and placement as a practical matter nonetheless can have a significant effect on parent behavior. The CHINS Statute does not include, however, any direct way for the court to order parents to do anything other than to appear at a hearing.

The law that does directly apply to parents in the truancy context is the “failure to cause” statute. Massachusetts General Laws, chapter 76, section 20 provides that every parent in control of a child required to attend school shall cause such child to attend school. If the child misses seven full days or 14 half days of school within any six-month period, then the parent may be fined up to $20. An idle threat for those parents “in the know.”

Department of Social Services

With the policy focus on prevention, the predecessor to the Department of Social Services was substituted for the Department of Youth Services as the principal state agency charged with the responsibility for delivering services to status offenders under the CHINS Statute. While the statute catalogues a long list of medical and social services that the court may prescribe in permitting a child to remain with the child’s parents or in making placements of the child with others, the court cannot order the Department of Social Services to deliver specific services. This is so because the Department of Social Services has discretion to make its own clinical determinations. This discretion is reflected in a regulation covering court-prescribed services by the Department in CHINS cases where the Department itself does not have custody of the child. The regulation states that such services may be provided if the services are available and the Department determines in its clinical judgment that they are appropriate, and then only to the extent the Department is reasonably able to comply. 110 C.M.R. 4.64 (1996).

In cases where the Department does have custody of the child (i.e., court-ordered commitment to the Department), the CHINS Statute was changed in 1995 to make it clear that while the court can recommend conditions and limitations on the commitment, the Department’s only obligation is to give them due consideration. There is only one exception. The Department may not refuse an out-of-home placement, but even in this case the Department determines the type and length of the placement.

In addition to any legislative policy determinations, the constraints on the court’s authority to order the Department to deliver specific services are based upon general doctrines of separation of powers and judicial review. The court may not exercise the functions of the executive branch, but may review determinations of a public agency to ensure that the agency is carrying out its legal obligations. See Charrier v. Charrier, 416 Mass. 105 (1993); Care and Protection of Jeremy, 419 Mass. 616 (1995); and Care and Protection of Isaac, 419 Mass. 602 (1995).

Contract Services

Questions about the Boston Juvenile Court’s authority over the Department of Social Services are eliminated to the extent that the court has access to other agencies or organizations that have contracted to take its referrals. In the past the Boston Juvenile Court has been able to call upon a more extensive range of educational/social services through court-funded contractual arrangements with provider organizations. In 1986, for example, the court completely funded
the Compass, Dorchester Youth Collaborative, EDCO, Little House, and the Log School programs. The aggregate annual cost in 1986 was $600,000 with a total of 200 slots for court referrals. Under these programs a range of services including alternative education during school hours, intensive remedial education, after-school services, tracking, crisis intervention, and family counseling was delivered. While the services and emphases differed among programs, they all sought to eliminate truant behavior.

Although these programs (with perhaps one exception) have continued in reincarnated forms (Compass is now a Chapter 766 program and EDCO is a work/study program only for high school students), they are no longer court-funded, and hence the court does not have any direct referral slots. There are now only two programs directly affiliated with the court:

- The Boston Juvenile Court Clinic handles some 400 juveniles per year in juvenile delinquency, CHINS, and care and protection cases. The clinic does detailed evaluations in serious delinquency and care and protection cases. Truancy case evaluations take much less time — one to three hours each. The Clinic’s services are strictly diagnostic with no treatment component.

- The Citizenship Training Group (CTG) is an after-school program that served over 300 youth in 1997. CTG runs separate thirteen-week programs for boys and girls targeting juvenile delinquents and youth at-risk of criminal activity. The programs are staffed with probation officers and counselors who provide tutorial, job development, and life skills workshops.
Reinventing wheels can be challenging and at times even fun, but not necessarily helpful and certainly not efficient. To avoid the delusional trap that our Task Force’s efforts are a first time endeavor and, much more importantly, to take advantage of the thinking and to build upon the contributions of those who preceded us in studying the CHINS Statute, we briefly review the products of their hard work.

There have been three major Massachusetts studies involving the CHINS Statute initiated respectively by the executive, the legislative, and the judicial branches of the Commonwealth. These studies were much more ambitious endeavors than our project. Two of the three covered a broad range of juvenile legal matters that extended well beyond CHINS and all three, unlike ours, dealt with all the CHINS status offenses on a statewide basis.

Our capsule references to their reports do not do justice to the richness of their language or their comprehensiveness. We have been quite selective in what we do summarize. Our references are naturally limited by our narrower focus on truancy in the Boston Public Schools. All three reports, moreover, are lengthy and hence brevity is our only practical option. We, however, urge you to read them in their entirety.

THE GOVERNOR’S/MASSACHUSETTS BAR ASSOCIATION’S COMMISSION ON THE UNMET LEGAL NEEDS OF CHILDREN

According to the 1987 Report of the Governor’s/ Massachusetts Bar Association’s Commission, its survey of the unmet legal needs of children was the first study of its kind in Massachusetts. The Commission had planned to study the CHINS Statute, but the formation of the special legislative commission discussed below caused the Governor’s/MBA Commission to forego detailed recommendations about the statute. Instead, the Commission focused on state intervention, Court procedures and resources and training in the context of care and protection and custody cases. The Commission could not avoid, however, making some general comments about the CHINS Statute and the handling of CHINS cases, and also touched on truancy.

- The Commission acknowledged that there are, even among its own members, widely differing views on the extent to which courts should be involved in CHINS cases, if at all. The court legitimately should be involved in protecting the rights of parties, insuring that the bureaucracy makes services available, and pressuring the parties to comply with service plans.

- Compliance with a plan of supportive services under the CHINS Statute is strictly voluntary, and hence often breaks down in difficult cases. Except for the authority to commit the child to Department of Social Services, the court lacks authority to enforce its orders. Resorting to bluffs or threats only undermines respect for the courts and social service system.

- With respect to specific problems, the Commission offered the responses of some of its members:
  - expand the court’s jurisdiction to include families, not just children;
  - give the court specific authority to enforce its orders with safeguards establishing standards, requiring written judicial findings, and limiting sanctions so that status offenses do not become in effect criminal offenses; and
  - empower the court with safeguards to make specific placement orders.

- While the Commission recommended the use of mediation by the courts in CHINS cases as an informal alternative to resolving family disputes in litigation, the Commission expressed the view that mediation does not work well in truancy cases.

- In an appendix to the Commission’s report, a subcommittee on due process raised some due process issues for further consideration:
  - the due process rights of children under the CHINS Statute relate to the hearing stage, but thousands of youth never get hearings with representation because their cases are
handled informally by probation officers — especially truancy cases;

- when a CHINS petition is applied for, the probation officer meets with the child without the appointment of counsel; and

- while the CHINS Statute calls for two hearings — one to determine whether a petition should be issued at all and the second to adjudicate — most cases never go beyond one hearing because of the informality of the process.

SPECIAL LEGISLATIVE COMMISSION ON CHILDREN IN NEED OF SERVICES

In October of 1989 a Special Legislative Commission on Children in Need of Services issued its Final Report — "In Trouble" Children and Families in Need of Services? The report evidences a broad-ranging review of problems related to dealing with CHINS youth. The Commission’s report covered four major areas: profiles of children and families in need of services, the roles and responsibilities of schools, the law and the courts, and services for adolescents and families in need. We refer to two of them.

The Roles and Responsibilities of Public Schools*

- There is an absence of adequate data on nonattendance with the reasons for absenteeism and leaving school unknown for significant numbers of children. Some children end up dropping out in the face of repeated punishment. The increase in teen parenting and teens working to support themselves adversely affects school attendance. Many students who do not go to school have repeated disciplinary problems and academic failure resulting in grade level retention, the wrong placement, and lack of adult supervision. Once students drop out they rarely return to any educational program.

- The Commission noted that there were many possible causes for frequent tardiness and erratic school attendance: parental neglect, interest, or disability; fear of violence or harassment; lack of motivation to learn; chronic mental or physical health problems; family conflict; differing cultural norms relating to the importance of schooling; substance abuse; homelessness; frequent failure or punishment at school; peer pressure; childbearing or rearing; employment responsibilities; and chronic fatigue.

- School attendance policies and practices vary widely in the Commonwealth. Some of them discourage attendance. In some schools absenteeism can result in suspension and a prohibition against make-up work during the suspension. In other schools absenteeism can result in automatically lowered grades and failing ones. Other schools have no established procedures, especially when parents are not available or are unable to help.

- Many students who leave school have long histories of unnoticed or unchallenged absenteeism and antisocial behavior. Early intervention would reduce the risk of escalating problems. Effectively dealing with high-risk students requires cooperation among schools, families and social agencies. This cooperation is made difficult by conflicting schedules, priorities, confidentiality requirements, and perspectives on causes and solutions as well as fragmented education and guidance programs, and agencies, courts and schools with their own bureaucracies and differing policies and standards.

- Court referrals interrupt school attendance. Courts are not able to assess educational needs and in some jurisdictions probation officers say it is difficult to obtain school cooperation in getting educational services for CHINS youth.

- Particularly at the secondary school level, teachers frequently lack training in child development matters and methods of recognizing problems and locating services for students. The possibility that high-risk students will not get appropriate attention is increased where there are large class sizes and caseloads, and staff reductions have reduced access to alternative education and special programs.

- Courts and schools should develop programs to divert CHINS youth away from the court system and guarantee that schooling continues through the increased availability of alternative education programs and cooperative arrangements between schools and the courts.

The Law and the Courts*

- In dealing with the CHINS law and the role of the courts, the Commission’s principal concerns related to the failure of the law to (i) recognize sufficiently the dynamics of children in conflict with their families and schools; (ii) encourage
the cooperation of children, parents, social services and schools in resolving these conflicts; and (iii) ensure that children or families will seek, accept and have access to affordable services and assistance in dealing with problems contributing to family or school-based conflict.

- These concerns caused the Commission to focus on expanding problem prevention and remedial services beyond children to include whole families, and determining the type and degree of judicial involvement necessary in cases involving family and school conflicts. The Commission concluded, among other things, that:
  - the involvement of family members in the resolution of CHINS cases is paramount;
  - reform should be directed to prevention and early intervention to resolve conflicts prior to resort to the courts;
  - with this diversion of the bulk of the cases away from court involvement, juvenile probation officers’ roles should be limited to the most difficult cases where there is a service plan, services have been provided or offered, and there has been no resolution of the problem;
  - judicial involvement is still necessary where children are seriously endangered or disputes between service providers must be adjudicated;
  - the practice should be discontinued of labeling children in need of services as “status offenders;” identifying them as “truant,” for example, evokes an implication of guilt, criminality, and punishment and exacerbates the conflict;
  - there should be developed and implemented a comprehensive state and local plan for affordable, specialized, community-based services for troubled youth and their families including parent education programs, family mediation services, and family advocacy services; and
  - the legislature should consider reforming the CHINS Statute by adopting the Commission’s proposed new legislation. The new legislation would change the law to extend participation in services to families as well as children and set in motion a process by which families would be referred or could apply directly for diagnostic evaluation services, the development of a service plan, and follow-up services. Only after good faith efforts to comply with the plan could a court petition be filed.

**Dissent and Criticism**

- A dissent to the recommendation for legislative reform believed that the positive recommendations of the Commission could be accomplished under the present CHINS law with its simplicity and flexibility. The Commission’s report also noted the disagreement of the then Chief Justice of the Juvenile Court Department with the limitations imposed by the reform legislation on a petitioner before there could be access to the courts under the CHINS law. The Chief Justice believed that the problem was not with the law, but rather with the lack of appropriate services available to troubled children.

**SUPREME JUDICIAL COURT COMMISSION ON JUVENILE JUSTICE**

The Commission on Juvenile Justice established by order of the Supreme Judicial Court issued its Final Report in June 1994. The major subjects of the report were the consideration of children in need of services, case management issues pertaining to child welfare proceedings including care and protection cases, and proposed rules of child welfare procedure. We refer only to the recommendations and comments about CHINS.

**Statute and Process**

The Commission:

- proposed, as the ultimate goal, the repeal of the CHINS Statute, believing that stubbornness, running away, and truancy can be dealt with more effectively by private and public welfare organizations or schools;
- recommended in the interim the immediate implementation of informal diversion programs with cases submitted to a multidisciplinary screening committee and a diversion contract administered by a probation officer;
- recommended the interim strengthening and modification of the CHINS Statute to deal with cases that may require formal processing of a CHINS application under the statute by among other things:
  - involving parents as parties,
• holding an initial court appearance with notice to parents, the child, and the Department of Social Services,
• providing counsel for the child at this appearance,
• holding a preliminary hearing following this appearance when the Court would either dismiss the application due to lack of probable cause or file a petition and schedule a hearing;

recognized that many parents expect the court system to offer immediate solutions and that the courts are asked to play the role of disciplinarian without the sanctions available in delinquency cases; and

• emphasized that the long-term goal of repealing the CHINS Statute should not occur until the necessary community and educational resources are available and organized to offer effective assistance.

Criticism of CHINS System

The Commission views discipline and functional behavior within the family as the responsibility of the family and/or school, with the assistance of child welfare organizations as necessary. The Commission faults the present CHINS system for:

• forcing court personnel, including judges, to function as child welfare providers without proper training and knowledge;
• imposing on the courts a volume of applications/petitions that ensures few cases will receive the quality of intervention/resolution that is warranted (the Commission noted that some 75% of CHINS cases are diverted to informal probation);
• adding credence to the misconception that the child labeled a CHINS status offender is acting alone without reason and requires state intervention;
• appearing to portray unrealistically the court as the place where the "problem" will be "fixed" by persons other than the involved parties;
• obscuring the complex needs of status offenders and their families by the artificial classification of them as truants, runaways, or stubborn children;
• according status offense cases low priority; and
• failing to understand the needs of status offenders and to develop services to meet those needs.

The Commission concluded more generally that the problems raised by truancy cases as well as the other status offenses of stubborn children and runaways should be dealt with by the courts only if the cases are care and protection in nature.

Truancy

More specifically, with respect to truancy the Commission noted and concluded that:

• “Although there are often many underlying social, family, and economic issues, truancy is by definition a school problem.”

• “Truancy petitions comprise nearly half of all CHINS petitions issued by Courts throughout the Commonwealth. This statistic compares unfavorably with other states, where the number of truancy cases as a percentage of all CHINS offenses averages only 16 percent.”

• The burden of truancy cases on the Commonwealth’s courts is disproportionate to what other states handle. The reasons are uncertain.

• School systems should be responsible for redressing attendance problems and working with children and families to assure educational needs are met for students.

• The two broad areas in which the courts take some responsibility for dealing with truancy involve the arranging of or providing for services and disciplining the child. In each area the system is flawed.

• A long-term plan must be devised to correct the present absence of “multidimensional services,” i.e., services that deal with the reasons for truancy. These reasons include family problems (court authority should be expanded to deal with the entire family and a stabilizing school environment should be provided), the lack of a “culture of achievement” in schools, problems relating to school safety, and social problems.

• The recommendation of the Special Legislative Committee on Children in Need of Services to rewrite the CHINS Statute to deal with the entire family context was endorsed.

• The long-term plan must also establish a predictable and consistent disciplinary system in both the primary and secondary schools. High-risk children benefit from the safer and predictable environment of school where routinized activity enhances their sense of control.
The Commission rejected the idea of granting the courts more authority to enforce school attendance orders as being counterproductive. The Commission's view was that it would have minuscule effect on truant behavior and would draw truants further into the criminal justice system.

Minority Dissent

A minority view criticized the Commission's report for overreaching beyond its more modest assignment of dealing with the administration of civil legal proceedings, and disregarding two recent major reform statutes that, among other things, would make the Juvenile Court Department statewide and add 21 more judges to hear juvenile cases. With respect to CHINS cases, the minority view:

- criticized the Final Report for a "confused proposal" to eliminate CHINS cases;
- made the following points:
  - CHINS cases give judges the opportunity to do preventive work by evaluating problems and making referrals where there is serious antisocial behavior,
  - a majority of CHINS cases are successful where courts give them attention,
  - early preventive intervention is a critical part of a juvenile justice system,
  - CHINS cases are nontraditional and usually nonadversarial,
  - the proposal to eliminate CHINS cases reflects a bias in favor of traditional adversarial litigation; and
- expressed the opinion that if CHINS cases are abolished, the "street" — not the Department of Social Services and the schools as the Commission believes — will take care of CHINS children.
The primary focus of our report so far has been about the law. We have described the CHINS Statute, its background, some court decisions under it, and studies criticizing it — all subjects with which a task force of the Boston Bar Association should feel quite comfortable. The previous studies, however, did not have the benefit of much hard data about the real problems underlying the application of the statute. One of the objectives of this report was to build upon previous studies by providing data specifically about truancy. Accordingly, we enter into what are for us uncharted waters.

We start with the numbers and gratefully acknowledge the enrollment, attendance, and related truant process information for the school year 1996–1997 that we received from the Boston Public School Department. It forms the basis for this part of our analysis and we have relied entirely on this data. We have seen somewhat different enrollment numbers for the school system reported in newspapers and on the Internet. Our enrollment information is based upon a summary report on absenteeism for the school year 1996-1997 furnished by the School Department. Using this report as the database, our analysis covers a total enrollment of 59,346 students at 124 schools including all three levels: elementary (32,178 students at 81 schools), middle (9,929 students at 20 schools) and high (17,239 students at 23 schools).

Set out below is a chart and table that shows by school level the number of students who were absent 5 or less days, 6 to 15 days, 16 to 27 days, 28 to 50 days, and more than 50 days out of a school year of 180 days. Also set out below are three pie charts that show this absentee information as percentages of total enrollment for each school level.

### Boston Public Schools 1996-97
**Number of Students by Absentee Category**

<table>
<thead>
<tr>
<th>Absent Category</th>
<th>Elementary</th>
<th>Middle</th>
<th>High</th>
</tr>
</thead>
<tbody>
<tr>
<td>5 or less days</td>
<td>9,187</td>
<td>2,612</td>
<td>3,639</td>
</tr>
<tr>
<td>6-15 days</td>
<td>13,738</td>
<td>3,835</td>
<td>5,870</td>
</tr>
<tr>
<td>16-27 days</td>
<td>6,370</td>
<td>2,170</td>
<td>3,672</td>
</tr>
<tr>
<td>28-50 days</td>
<td>2,438</td>
<td>1,038</td>
<td>2,595</td>
</tr>
<tr>
<td>more than 50 days</td>
<td>445</td>
<td>274</td>
<td>1,463</td>
</tr>
<tr>
<td>Total</td>
<td>32,178</td>
<td>9,929</td>
<td>17,239</td>
</tr>
</tbody>
</table>
This absentee data does not make any distinction between excused and unexcused absences, and we believe that reliable information making this distinction does not exist on a system-wide basis. Accordingly, for the purposes of this statistical analysis we have arbitrarily used as our criteria for truancy a student who has been absent a total of 16 or more school days, i.e., the equivalent of more than three weeks of school. We believe that this provides an ample allowance for excused absences with the greater risk being understating rather than overstating truancy rates. The written policy of the Boston School Department, for example, defines a truant as a student who has five or more unexcused absences. To avoid confusion we refer to our definition (a student who has been absent 16 or more days whether excused or unexcused) as a “16-day absentee.”

There were for the 1996-1997 school year 20,465 16-day absentees representing an extraordinarily high 34.5% of the total student enrollment. As you would expect, the highest percentage of 16-day absentees was at the high school level — 44.8%, and the lowest percentage was at the elementary school level — 28.8%. The middle school level was in the middle — 35.1%.

The same 16-day absentee information presented on the basis of the number of students (rather than percentages) gives another perspective on the magnitude of the problem.
The Procedure for Dealing with Truancy

The Boston Public School Department’s process for dealing with truancy begins at the classroom and school level with school personnel having responsibility for taking initial action through telephone calls and letters. When a student has accumulated five days of unexcused absences, under the School Department’s policy the student should be reported to the supervisors of attendance by sending an Attendance Officer Card (“AO card”) to that office. The card contains the identity of the truant, attendance information, and a description of action taken to date. More than one AO card can be filed on a student and this is sometimes done.

Upon receipt of the card, the student’s case is assigned to one of the supervisors of attendance. The supervisors of attendance, with some individual variations among them, will attempt to contact parents through telephone calls, letters and home visits. If the efforts of the assigned supervisor of attendance are unsuccessful and the truant has 15 or more days of unexcused absences, the court liaison supervisor of attendance initiates Court proceedings by filing a CHINS application in the Boston Juvenile Court and notifies the school that this has been done. A relatively small number of “failure to cause” cases are also filed against parents who have not caused their child to attend school.

A simple flow chart of the school department’s process looks like this:

![Flow Chart]

These overall numbers establish that there were on average 26.5 AO cards filed per 100 16-day absentees. A breakdown by school level is more revealing. The middle schools account for almost half (48%) of all the AO cards filed, with high schools and elementary schools trailing with 24.2% and 27.8% respectively. What is most telling, however, is that this represents 74.8 AO cards for every 100 16-day absentees in the middle schools. On the other hand, there were only 17 and 16.3 AO cards filed per 100 16-day absentees at the high school and elementary school levels respectively. The AO card filing rates also varied dramatically among schools within the same school level. The reason why there are such disparate AO card filing rates is not clear. What is clear is that the use of supervisors of attendance is proportionately higher (in fact, dramatically so) at the middle school level with proportionately much less use made of them at the high school and elementary school levels.

This weighting in favor of the middle school level carries through to the CHINS process. The percentage of CHINS cases by school level are as follows: high school — 36.9%; middle schools — 51.3%; and elementary schools — 11.8%. But again, what is most revealing is the number of CHINS cases compared to the number of 16-day absentees at each level. The
middle schools lead by far with the number of CHINS cases being 16.5% of the number of 16-day absentees. The percentage for high schools is 5.3% and the percentage for elementary schools is a nominal 1.4%.

The following chart graphically depicts this information by the number of students, cards and CHINS cases.

![Bar chart showing the number of students absent 16 or more days, AO cards sent, and CHINS cases filed for Elementary, Middle, and High Schools.]

<table>
<thead>
<tr>
<th></th>
<th>Elementary</th>
<th>Middle</th>
<th>High</th>
</tr>
</thead>
<tbody>
<tr>
<td>Students absent 16 or more days</td>
<td>9,253</td>
<td>3,482</td>
<td>7,730</td>
</tr>
<tr>
<td>AO cards sent</td>
<td>1,507</td>
<td>2,605</td>
<td>1,312</td>
</tr>
<tr>
<td>CHINS cases filed</td>
<td>132</td>
<td>573</td>
<td>413</td>
</tr>
</tbody>
</table>

The Schools

This report concentrating on the truancy process after action by teachers and school administrative staff members has failed to get the child back to school on a regular basis. Everyone agrees, however, that action at the school level is of critical importance. Because these efforts involve direct communication between the school and parents, they provide the opportunity to change for the better the relationship that the family has with the school — a key factor in improving attendance over the long run.

Under the stated policy of the School Department, a student must attend class at least 85% of the time in order to receive a passing grade, and children at risk of failing for this reason should be referred to the school’s Attendance Review Team. There are a series of escalating contacts by phone and letter that notify parents of the attendance requirement, the number of days missed, and the number of school days in the marking period. The strictness with which the 85% rule is applied varies among schools. We understand that starting with the 1998-99 school year the percentage has been increased to 93.3%.

Although we did not undertake a broad-based survey, members of the Task Force did interview a limited number of school administrators to get their views on matters relating to truancy. We capsize some of their individual responses and perceptions.
Elementary Schools

- Truancy is a problem in the middle and high schools, but not in the elementary schools.
- High absenteeism is often due to sickness (asthma), lengthy family visits to places of family origin, or tardy students being recorded as absent.
- Early childhood education is an absolute necessity since children cannot begin school at age 6 and be expected to succeed when many of their peers have had several years of preschool experience.
- There is a huge disparity in the academic abilities of elementary school children. More literacy programs, after-school remedial programs, and family support are necessary.
- Inability to read is a real problem that leads to truancy in later years.
- Students should remain in elementary schools beyond the fifth grade where the school environment is more nurturing. The middle school transition is complicated by the fact that many students are not able to attend a middle school in their neighborhood with their elementary school classmates.
- Supervisors of attendance should have backgrounds in guidance or social work. It should not be a punitive or police-oriented system.
- Probation officers should be “community based.”

Middle Schools

- The feeling of anonymity that many students experience in the transition from smaller, more child-centered elementary schools to larger, more stressful middle schools is a factor in the incidence of truancy.
- Truancy rates go up with older students and higher-grade levels.
- While some parents are willing to cooperate with schools in addressing truancy, many more parents simply do not have the resources or capacity to intervene effectively with their own children. Only in a small percentage of cases were children “out of control” and refusing to listen to their parents.
- Many parents must leave for work earlier than their children leave for school, making it impossible for them to monitor school attendance on a daily basis.

- Middle school truancy has multiple causes, including family dysfunction, poor academic performance, delinquent behavior, and the lack of connection between school and student. Strategies to deal with these causes include team configurations to reduce anonymity, parental outreach programs, additional counseling resources, after-school and extracurricular activities, and academic support programs.
- There is a duplication of effort between school staff and supervisors of attendance. Supervisors of attendance replicate the contacts made by teachers without direct knowledge of the students, families and academic situations.
- Often supervisors of attendance do not keep teachers and administrative staff informed. Some had never met the supervisor of attendance assigned to their school.
- School administrators were frustrated with the inefficiency of the CHINS process. While some probation officers reported back to schools regularly, many others did not keep school personnel informed about the status of cases.
- While truancy should not be dropped as a grounds for filing a CHINS application, unless “more teeth” can be put into the statute it is unlikely to have a great effect on reducing truancy. The most chronically truant students know how to “work the system” and are not deterred by the threat of a CHINS case.

High Schools

- The sheer volume of truants is a huge problem. More staff is needed to deal with truant/behavior challenges.
- Extending the school day for those needing more academic time is not an option because of transportation policies and the state’s time and learning standards.
- Students expelled from other schools end up in Boston Public Schools.
- Communication is a major challenge with a high percentage of student telephone number and address information being wrong.
- In addition to the same family problems experienced at other school levels, daycare for younger siblings and older students’ own children is a problem.
- Possible strategies to deal with truancy include tardy lockout to increase timeliness, consistent application of the 85% attendance rule, uni-
forms, night school, increased sanctions for students and parents, decreased class size, and alternative schools for chronic truants.

- Some probation officers monitor attendance and stay in touch with the schools. Others do not visit schools to check on the students and to keep the schools informed about their cases.

- At the high school level CHINS is a "joke." The behavioral problems are entrenched and no services are available.

**Supervisors of Attendance**

During the 1996-97 school year the supervisors of attendance relocated to one site; a system-wide database for AO cards and CHINS case applications was put in place; truancy sweeps with the Boston police, Boston school police, MBTA police, and probation officers were conducted; the supervisors of attendance participated in "Operation Daylight" (a collaboration with the Boston Police Department Area C11 and the Dorchester Court Probation Office targeting truants absent 50 days or more); and a Truancy Hotline was established. In addition to dealing with their own caseloads and filing CHINS cases, the supervisors of attendance filed 183 "failure to cause" cases and 42 school offender cases (students who violate school disciplinary rules).

Most of the supervisors of attendance obviously spent most of their time managing their assigned cases. We recount some of their individual observations and opinions.

- Supervisors of attendance are responsible for all the students who live in Boston including those who go to parochial and other private schools, pilot schools and charter schools, regardless of where those schools are located.

- In addition to drug and family problems, peer pressure is a powerful factor contributing to truancy.

- AO card information is often incomplete and inaccurate. This compounds the difficulty of locating truants and their families.

- Supervisors of attendance have long days because their nights and weekends must be used to make contact with parents.

- They do not use the "failure to cause" statute frequently because many parents are on welfare.

- Supervisors of attendance feel isolated. They have little communication with the rest of the school system or probation officers. Once a CHINS case is filed, they have nothing more to do with it.

- Probation officers handle both CHINS cases and delinquency cases, resulting in a much larger number of probation officers being involved with Boston Public School students than if fewer probation officers specialized only on CHINS cases. Probation officers have other cases that they consider to be of a higher priority than truancy cases.

- The CHINS Statute should not be repealed. The threat of court action often gets parents to take school attendance more seriously. In fact, we need tougher laws so that parents and truants cooperate. This does not mean that truancy should be made a crime.
The CHINS process picks up where the Boston Public School process ends, i.e., with the filing of an application for a CHINS petition by the supervisor of attendance assigned to the Boston Juvenile Court. A spectator familiar with the provisions of the CHINS Statute (see description under the caption Statutory Framework above) would reasonably expect to see in the courtroom lawyers, judges, jurors, and social service workers in addition to children and parents. The reality is just the opposite. Lawyers, judges, juries and social service workers, in fact, are rarely to be seen in the courtroom in regular truancy cases. Only in a very small number of the cases is there an adjudication on the merits before a judge. Rather, the Clerk-Magistrate’s Office and the Probation Office handle the bulk of the cases.

This process is grounded in the authority given the Boston Juvenile Court by the CHINS Statute to provide informal assistance. Under the statute the court has authority to decline to issue a petition based on a determination that the interests of the child are best served by referring the child to a probation officer for informal assistance without a trial on the merits. Unlike some other juvenile courts (e.g., Barnstable and Worcester) that use multidisciplinary screening committees, in the Boston Juvenile Court the probation officers do not have such assistance available.

The case in the hands of a probation officer becomes a completely voluntary one in which an agreement is worked out. The probation officer, for all practical purposes, can only advise and counsel. Unlike a juvenile delinquency case, for example, there is no probation to be (or threatened to be) revoked. This absence of probation officer authority together with constraints on judicial authority under the CHINS Statute has been a source of frustration for those trying to carry out the purposes of the statute.

Judges

Despite this frustration, judges at the Boston Juvenile Court opposed eliminating the CHINS Statute in the absence of an alternative because the elimination of the CHINS process without something else in its place would, in their opinion, further weaken the court system’s ability to help children. Judges, if allowed to choose, would in one way or another strengthen the statute. We repeat some of the views expressed by individual judges about CHINS cases:

- CHINS cases are their most important cases because they are opportunities to prevent children from becoming juvenile delinquents.
- CHINS youth have such a broad spectrum of problems that an interagency approach is necessary. The court should be given the authority to mandate services and resolve interagency disputes about their responsibility to provide services. It is frustrating not to be able to order clearly needed services, but removing the court entirely would make matters even worse — not better.
- CHINS cases are the most difficult to manage because judges and probation officers’ only real tool is persuasion. For this reason there are some who do not want to take them. On the other hand, some like the cases because they involve more of a counseling and social work role. As one judge put it, in delinquency cases the lawyers do all the talking while in CHINS cases the children do the talking.
- On contempt orders, the judges differed in their views. Some would not issue a contempt order against a child in a CHINS case. Different reasons were given:
  - such an order would be of doubtful legality;
  - the effect of such an order would be to criminalize conduct that the statute decriminalized;
  - it would punish the victim; and
  - the absence of appropriate services that can be court-mandated would make such an order unreasonable.

Other judges would hold a child in contempt where, for example, the safety of the child is a concern or the conduct is egregious disrespect of the court.
It is difficult to assess the success of court intervention while failure is more immediately obvious.

The above opinions were expressed about CHINS cases in general. In addition to CHINS truancy cases, Boston Juvenile Court judges deal with truancy matters in the context of other CHINS, juvenile delinquency and care and protection cases. With respect to truancy they made individual observations that included the following:

- Almost all juvenile delinquents started as truants.
- Contrary to popular misconceptions, most parents care and are willing to help, but some are overwhelmed by their own problems and parenting roles.
- Parents lack parenting skills and cannot navigate the Boston Public School system acting as effective advocates for their children.
- To be effective, it is critical that the court’s jurisdiction extend to parents. For example, the court should be able to order attendance at parenting programs. An amendment to the “failure to cause statute” could be a vehicle for accomplishing this.
- While the care and protection statute provides for family intervention on the grounds of parental failure to provide educational care, it is rarely used and only when there are really aggravating circumstances. The system, because of case volume alone, would break down if the court were to handle a substantial number of truancy cases as care and protection cases.
- Perhaps more use could be made of adolescent assessment units run by the Department of Social Services, although the 90-day evaluation period may be too long in most cases. Since these units are staff-secure facilities, their use with truants would solve the problem of evaluating students when schools cannot because the child is absent.
- Most truants cannot read or write at anywhere near an acceptable level. Core evaluations are not given. The court should have authority to order Chapter 766 evaluations and treatment. Alternative schools with a therapeutic and antitruancy emphasis need to be established.
- More resources should be available in the schools for early intervention, better contact with parents, and special educational services. To keep truants in school requires special education resources such as tutors, and a drug-free stable home environment where children can sleep and study.
- There is a vicious cycle of getting truants back in school only to have them fail at their schoolwork, and end up back on the street.
- CHINS truancy cases are filed only after absences totaling weeks — which is much too late. More should be done at the elementary school level before truancy becomes a habit. Dealing with truants at the middle school level is already too late. The key is to deal with absenteeism before it becomes ingrained.
- Working relationships between courts and police are good. Working relationships are also good with the Department of Social Services, but the department’s caseload is too heavy. Working relationships with schools are nonexistent.

**Probation Officers**

The Boston Juvenile Court is a busy court. During fiscal year 1997 there were a total of 3,796 cases of all types (juvenile delinquency, care and protection and CHINS cases) assigned to probation officers. About 36 probation officers were available to handle them. In managing this heavy caseload, probation officers divide their time between the courthouse and the field. With the Boston school busing program, home visits and school visits (both are required in every truancy case) often involve going to different parts of the city.

A new case assignment system has been designed that will assign cases and schools to probation officers by zip code. If a child goes to school in a different area, another probation officer assigned to the school in that area will be responsible for coordinating with the school staff. Under the new system probation officers are expected to be out in their assigned areas three days per week, and their first stop in the morning will be at their assigned schools.

Many of the views expressed by judges were also expressed by probation officers, and we will not repeat them. We list some additional individual observations and insights:
The fear of going before a judge can provide the leverage to get a child to sign a voluntary agreement and change his/her behavior. Most parents are terrified over the idea of possibly losing custody of their children.

While school and home visits are a mandated part of the probation officer's case handling, the critical element is parental follow-up.

Ineffective parenting, peer pressure and the influence of adult predators and enablers add to the difficulties of dealing with truants who already suffer from low self-esteem, anger, and/or drug and alcohol abuse. To deal with this, there must be more programs directly accessible to, or run by, the court.

Because the court cannot order services and does not run programs that provide a menu of services, the contempt power of the court should not be used. It would be unreasonable to use the power to enforce an inadequate service plan.

Many truants have fallen so far behind that they feel they can never catch up. Moreover, they are embarrassed to display their lack of learning in front of their peers. Avoiding school is a strategy for dealing with both problems.

When truants are returned to school there are no special programs to help them catch up. Just putting them back in regular classrooms without special help leads to embarrassment, acting out and more absenteeism. By far the most important challenge is to improve their reading levels so they can perform in the range of their peers.

There is not much that can be done when truancy cases are filed in May or June.

There is an absence of data that documents the outcomes of CHINS case results.

It makes no sense to eliminate the CHINS Statute. CHINS cases are the only cases that are preventive in nature. They present the opportunity for early identification and intervention, but society is much more willing to spend money locking up kids than steering them away from delinquency.
In addition to the information we obtained from judges and probation officers in our interviews, we sought statistical data about CHINS truancy cases. Except for some basic case volume information, such data did not exist. Accordingly, with the encouragement and help of the Boston Juvenile Court’s Chief Probation Officer and an Assistant Chief Probation Officer, we designed and conducted a review of truancy cases. It was time-consuming work.

A total of 255 truancy cases out of 1,118 such cases initiated by the Boston Public School Department in the 1996-1997 school year were reviewed. They represented 143 November and 112 April cases. These were all the cases filed in those months plus all cases for which preliminary hearings were scheduled in the same months. November was selected because it was after the school start-up period, but well before the close of school in June, leaving enough time to measure attendance results. April cases could not be used for this latter purpose, but they provided information about pre-CHINS filing absenteism levels for later in the school year. We excluded from our analysis all Chelsea, Revere and Winthrop cases because, even though they are in Suffolk County and within the Boston Juvenile Court’s jurisdiction, they have their own school systems.

An experienced Litigation Support Manager supervised the data collection process. Coding forms were designed with the assistance of the Probation Office, a coding team of eight members reviewed the files, and a team of three secretaries performed the data entry. A statistician, Chris Corcoran, was hired to do the statistical analysis of the school and CHINS data. All their contributions were invaluable.

CHINS Truants

Based on the data the files did contain (data for some types of information was insufficient), we can reliably report on a demographic breakdown of the cases by gender, race, family situation (number of parents with whom the child is living) and school level. The results are as follows:

### CHINS Truants

#### Gender

- Male: 52.2%
- Female: 47.8%

#### Number of Parents at Home

- Two: 8.8%
- Other*: 6.4%
- One: 92.8%

#### Race

- Hisp/Oth: 29.6%
- Black: 44.4%
- Asian: 5.9%
- White: 21.0%

#### School Population

- Hisp/Oth: 25.6%
- Black: 48.4%
- Asian: 9.2%
- White: 16.9%

*Relative, foster parent, guardian, etc.
These percentages confirm the view of judges and probation officers that truancy does not discriminate by gender. The data also dramatically underscores the fact that an overwhelming number (more than 90%) of CHINS truancy cases for which we had parenting data involve single parent or no parent homes, again supporting the judgment of judges and probation officers that truancy is a family problem. With respect to a racial breakdown, we also had School Department system-wide statistics that show some variances from our CHINS sample, particularly with respect to Asians. While our statistical testing suggested that these variances could reflect some actual racial differences in the CHINS truant and school-wide populations, we could not conclude with statistical confidence that this was the case.

A school-level analysis of the data gets more complicated. When all the November and April cases were analyzed on a school-level basis, compared to each other on a monthly basis, and compared to the total CHINS cases for the school year reported by the School Department, the results were surprising. First we present the comparisons and then we offer a possible explanation.

### School Level Table

<table>
<thead>
<tr>
<th></th>
<th>November</th>
<th>April</th>
<th>November &amp; April</th>
<th>Total Year</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Number of CHINS Cases</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>High</td>
<td>79</td>
<td>33</td>
<td>112</td>
<td>413</td>
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<tr>
<td>Middle</td>
<td>55</td>
<td>54</td>
<td>109</td>
<td>573</td>
</tr>
<tr>
<td>Elementary</td>
<td>9</td>
<td>25</td>
<td>34</td>
<td>132</td>
</tr>
<tr>
<td></td>
<td>143</td>
<td>112</td>
<td>255</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th>Percentage of CHINS Cases</th>
</tr>
</thead>
<tbody>
<tr>
<td>High</td>
<td>55%</td>
<td>30%</td>
<td>44%</td>
</tr>
<tr>
<td>Middle</td>
<td>39%</td>
<td>48%</td>
<td>43%</td>
</tr>
<tr>
<td>Elementary</td>
<td>6%</td>
<td>22%</td>
<td>13%</td>
</tr>
<tr>
<td></td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
</tr>
</tbody>
</table>

A comparison of the percentage mix by school level of November and April cases shows that as a percent of total CHINS truancy cases, high school level cases decreased from 55% to 30%, elementary school cases increased from 6% to 22%, and middle school cases increased from 39% to 48% although the number of middle school cases for the two months was the same.

A comparison of the case total percentages for November and April with the School Department totals for the year also shows variances. In our combined two-month sample, high school cases are overrepresented by 7% and middle school cases are underrepresented by 8%.

We suggest an explanation for these variances. As we learned from our interviews with the supervisors of attendance, each school year starts with a new beginning. Hence there is a start-up period in September as the truancy reporting process begins all over again. Analogously, as the end of the school year and summer vacations approach, reporting of truants and filing of CHINS cases could reasonably be expected to fall off. This means that the flow of truancy cases could vary from month to month in volume throughout the school year. Our November and April sample supports this explanation. The number of November CHINS cases was 28% higher than the number of April cases.

Our data also suggests that the mix of cases by school level also varies month to month with, for example, as the table demonstrates, high school volume higher in November and elementary school volume higher in April. On the other
hand, as we indicated, the number of middle school cases in November and April were essentially the same. One reason we believe is that for CHINS truants the number of days absent in general accumulates at a lower rate in elementary school as compared to high school. Unfortunately our database only included one elementary school case in November with pre-CHINS attendance information. Other school absenteeism data that we do have for the period prior to filing a CHINS case, however, is consistent with this explanation.

**Pre-CHINS Average Number of Absences Per Quarter**

<table>
<thead>
<tr>
<th>School Type</th>
<th>November</th>
<th>April</th>
<th>November &amp; April</th>
</tr>
</thead>
<tbody>
<tr>
<td>High</td>
<td>20.9</td>
<td>13.2</td>
<td>16.9</td>
</tr>
<tr>
<td>Middle</td>
<td>17.8</td>
<td>10.7</td>
<td>12.5</td>
</tr>
<tr>
<td>Elementary</td>
<td>7.0</td>
<td>7.2</td>
<td>7.2</td>
</tr>
<tr>
<td><strong>All Schools</strong></td>
<td>19.6</td>
<td>11.4</td>
<td>14.2</td>
</tr>
</tbody>
</table>

**CHINS Intervention**

Each application for a CHINS petition filed by the court liaison supervisor of attendance includes as supporting information the number of absences for the child since the beginning of the school year. Previously we looked at pre-CHINS absentee rates in connection with analyzing the mix of CHINS cases by school level. Here we are concerned with the number of absent days prior to filing the CHINS application as an indication of the accumulated quantity of lost school time and the timeliness of the CHINS intervention.

**Average Number of Absences During School Year Prior to Filing CHINS**

<table>
<thead>
<tr>
<th>School Type</th>
<th>November</th>
<th>April</th>
<th>November &amp; April</th>
</tr>
</thead>
<tbody>
<tr>
<td>High</td>
<td>22.4</td>
<td>40.2</td>
<td>27.7</td>
</tr>
<tr>
<td>Middle</td>
<td>17.9</td>
<td>27.5</td>
<td>22.6</td>
</tr>
<tr>
<td>Elementary</td>
<td>11.9</td>
<td>25.2</td>
<td>21.9</td>
</tr>
<tr>
<td><strong>All Schools</strong></td>
<td>20.0</td>
<td>31.0</td>
<td>25.0</td>
</tr>
</tbody>
</table>

The average accumulated days absent for all schools was the equivalent of four school weeks in November and six school weeks in April. CHINS intervention on a micro-level (days) is clearly not early. On a macro-level (years), there are also indications for concern. Eighty-five percent of the CHINS truants were 12 or more years old.
CHINS Attendance Results

There remains the obvious important question of whether CHINS intervention is effective. The method for determining the answer and the answer itself is a little more complicated than at first might be suspected. We have no attendance data for truants for whom an application normally would have been filed, but in fact was not. Hence there is no control group against which to measure results. This is different from a medical clinical trial, for example, where placebos are used.

Without a proper control group, the CHINS students must serve as their own controls. We accomplish this by calculating the difference in individual student absentee rates before and after the CHINS intervention. The absentee rate is defined as the number of days absent divided by the total number of days of class. Using the November CHINS truants as our sample, our measure of effectiveness is the absentee rate during the first quarter minus the combined absentee rate for the third, fourth, and, for a few students, "fifth" quarters.

The average difference in absentee rate for the November CHINS truants is a positive 1.3%, indicating that the absentee rate declined slightly. Whether this positive result is significant is a question best answered using statistical procedures. We calculated a 95% confidence interval for the true rate difference assuming our November sample is a random one. This confidence interval can be interpreted as a range of possible values that are consistent with our observed data. This range is shown in the following plot as the vertical line centered at the observed difference of 1.3%. The value of zero rate change is represented by the horizontal line. Note that the horizontal line lies well within the range of the confidence interval.
Since the horizontal line intersects the confidence interval, this shows that "no change in absentee rates" is a conclusion consistent with our observed data. Moreover, comparing the change in absentee rates among various demographic groupings, including gender, parental situation, race, and school level, revealed no significant differences between members of any group in the amount of truancy rate change. While there were no significant differences in the amount of truancy rate change by school levels, there was a significant difference between the middle school and high school levels with respect to the percentage of truants whose attendance showed improvement — 63% of the middle school as compared to 43% of the high school November CHINS truants showed some improvement.

We also can fairly conclude that there has been no significant overall decline in the absentee rate for November CHINS truants. This result, together with the absence of a control group that might establish otherwise, raises the possibility that CHINS truants might have had worse attendance except for the CHINS intervention. Similarly, it would be a mistake to automatically assume that the CHINS process lacks any preventive efficacy because we do not know what attendance rates would have been if the CHINS Statute did not exist.

Most importantly, our conclusions about attendance rates after CHINS intervention are limited to the November cases. Because for November as compared to April, the number of high school CHINS cases was disproportionately high, the number of elementary school cases was disproportionately low, and pre-CHINS absentee rates were significantly higher, the November cases cannot be treated as representative of CHINS cases for other months. As a group, the November CHINS truants might be more incorrigible and hence, CHINS intervention less effective for them than for others.

There are some other general cautionary reminders that should be made. This study deals only with truancy and not running away or stubbornness, is limited to the Boston Juvenile Court, and covers only students in the Boston Public Schools. It would be a serious mistake to draw any general conclusions about either the efficacy of the CHINS Statute as applied to other status offenses or its efficacy in the rest of the Commonwealth.
Truancy is not just a problem for schools and courts; it has become a major concern of law enforcement agencies. These agencies see a strong link between truancy and crime, and hence between truancy prevention and crime prevention. In particular, the Boston Police Department ("Boston Police") has seen a direct connection between middle and high school truancy and daytime crime. More generally, the Suffolk County District Attorney's Office ("Suffolk District Attorney") and the Boston Police believe that truancy increases the risk of drug and alcohol abuse. They also believe that chronic truancy leads to juvenile delinquency and that juvenile delinquency leads to adult crime. These concerns have resulted in two significant initiatives and a recent new pilot program.

- **Community Based Juvenile Justice Program**

  In 1994 the Suffolk District Attorney established the Community Based Juvenile Justice Program to identify both chronic and violent juvenile offenders and youths at risk of developing delinquent behaviors. Under the program, schools, child welfare agencies, the Boston Police and the Suffolk District Attorney collaborate on enforcement and intervention. Regular monthly roundtable meetings are convened at schools throughout Suffolk County. Several of the roundtables have an increased focus on high-risk middle school truants and provide interventions prior to the filing of a CHINS application in court. Data is being gathered to assess the efficacy of these interventions and to plan for a more comprehensive truancy program in the county.

- **Truancy Sweeps**

  The Boston Police began conducting truancy sweeps in Dorchester as a result of frequent juvenile arrests for daytime crimes. One to three times a week, from 9:00 a.m. to noon time, officers patrol areas known to be gathering places for youths. Supervisors of attendance, Boston school police, probation officers, and, in areas that include MBTA jurisdiction, MBTA police accompany them. The sweeps are for information only. Youths who look to be of 16 years or younger are stopped and questioned as to whether they belong in school. The officers take the youths’ names, addresses, school assignments and locations where stopped. The information is given to the Boston Public School Department, which sees that it is distributed to the school and parents.

  In Area C-11 the Boston Police report a significant reduction in daytime crime as a result of the truancy sweeps. The Boston Police estimate that truants commit approximately 50% of all daytime crimes in Dorchester. Recognizing the results of the Dorchester sweeps, other police districts are conducting sweeps on a regular basis in Forest Hills, Downtown Crossing, East Boston, Mattapan, Roxbury, and Charlestown.

- **Truancy Reduction Pilot Program**

  The Boston Police have set up a pilot Truancy Reduction Program that focuses on providing early stage intervention for students and their families utilizing resources in the community. The program continues participation in the Community Based Juvenile Justice Program, collaboration with the Supervisors of Attendance, and truancy sweeps, but also adds referrals to the Boston Police Youth Service Providers Network and the Boys and Girls Clubs, home visits by the Youth Service Providers Network's officers and social workers, and the development, with community organizations, of a strategic plan to create jobs and improve school attendance.

  The goals of the program are to reduce criminal behavior, return children to school, involve parents in their children's lives, and make parents aware of their obligation to send their children to school.

  The same considerations have resulted in a truancy prevention program in Worcester that involves a law enforcement and school collaboration and Federal funding for truancy initiatives in Massachusetts by state district attorneys.

- **Worcester Truancy Prevention Program**

  During the 1996-97 school year, Worcester initiated the Worcester Truancy Prevention Program, a collaborative effort of the schools, police, and court. A Student Attendance Center was established where truants can be dropped off or referred. About half of the students are
brought in by police. The police have the authority to do so because they have been designated Supervisors of Attendance. The police, however, will let the child go after getting student identity information if the truant is uncooperative. The program has raised collective bargaining issues about additional police duties without compensation. The staff at the Center deals with parents, makes social service referrals, delivers elementary school students back to school, and runs a three-day truancy abatement program for middle and high school students before letting them return to school.

- **State District Attorney Initiatives**

Two and a half million dollars in Federal funds are being distributed by the Executive Office of Public Safety to the Commonwealth’s district attorneys for the creation of innovative truancy programs. The district attorneys will develop programs in collaboration with local school districts and tailor them to address specific needs within their counties. Many of these programs will include additional truant officers to monitor and enforce attendance, patrol during the school day, apprehend suspected truants, and evaluate each truant’s specific attendance problem. In addition, these truant officers will work evenings in order to visit with parents of delinquent students.

The Boston Police School Safety Coordinator reports that the department’s review of “best practices” truancy initiatives around the country, including the Dade County elementary school program described below, establishes that successful initiatives:

- have methods for identifying those at risk and the causes of the truancies;
- reach across all grade levels;
- have support services in place to overcome causal factors;
- follow-up to ensure compliance;
- work through multi-agency collaboratives; and
- most importantly, have a strong enforceable law to deal with parents and guardians who fail to send their children to school.

- **Truancy Programs in other States**

As we have seen in our discussion of the limitations on court authority under the CHINS Statute, Massachusetts does not have a strong truancy law that applies to parents and guardians. The “failure to cause” statute, under which a parent can be fined up to $20 if a child misses school for 7 full or 14 half days within a six-month period, does not carry any real weight as a tool to modify parental behavior. By way of comparison we first take a look at Florida law and a particularly noteworthy program in Dade County. We then briefly describe some other pilot programs to give a general sense of what they are about.

- **Dade County, Florida**

While Florida has laws similar to those in Massachusetts defining compulsory school attendance and parental responsibility, the sanctions are much more severe. A parent who fails to have a child attend school can be found guilty of a misdemeanor punishable by imprisonment. In addition, under the Florida CHINS Statute a judge can order a child to attend school and perform other tasks. The Florida statute also provides that a child-in-need-of-services can be found in contempt for violating a court order. In such a case, the child can be held in a staff-secure facility for 5 days for a first offense or 15 days for subsequent ones. The child also can be ordered to perform community service.

With this statutory support, Dade County in the 1994-1995 school year began its elementary school truancy intervention program (TIP) in four elementary schools. According to the most recent report on the program, it has expanded to cover 104 elementary schools planned for the 1997-98 academic year. TIP, like the Truancy Councils described above, has the key elements of a mandatory meeting with law enforcement, school, and social service representatives and the delivery of educational and social services. The TIP intervention is triggered from computerized lists indicating 5 unexcused absences from school. The lists are subject to the subpoena powers of, and are delivered to, the State Attorney’s office. The State Attorney sends a letter that in addition to notifying parents of the meeting reminds them of the potential for criminal prosecution under Florida law. Continued unexcused absences or a lack of parental cooperation results in an escalation of law enforce-
ment involvement to meetings at the State Attorney’s Office and possible prosecution. The State Attorney reports that TIP has resulted in substantial improvements in attendance, grades, and effort, and a reduction in student conduct violations.

At the middle school and high school levels where parents may not be as direct a causal factor in truancy or may not be as willing to help, Dade County relies on Operation Clean Sweep. Under this cooperative effort of local law enforcement agencies, the county State Attorney, and the schools, truancy sweeps are regularly conducted during school hours and the truants returned to school. There does not appear to be, however, a consistent method of dealing with them once they are back in school. Under consideration is a recommendation to require after-school attendance with tutoring and remedial component and to require a loss of student privileges during the school day.

Programs in other states reflect this same dual approach of enforcing parental responsibilities and offering assistance to parents in meeting them. They also recognize that the truants of today are more likely to be involved in criminal behavior than their predecessors who in another era played old-fashioned “hookey.” Accordingly, local enforcement agencies and not just traditional truant officers are being given roles in combating truancy.19

- **Oklahoma City, Oklahoma**

The Oklahoma County District Attorney’s office initiated a truancy program that involves a partnership of local law enforcement, public school officials, and the District Attorney’s office. The Oklahoma state legislature enacted a truancy law that (i) authorizes the filing of misdemeanor charges against parents whose children miss 10 or more school days, or parts of days, within a semester without a valid excuse; and (ii) authorizes peace officers to detain truant juveniles and transport them to program centers.

Oklahoma City has two truancy processing centers to which truant children are brought by local police. The centers are staffed by volunteer citizens, members of the police department, and representatives from the county sheriff’s office. Children are brought to the center and interviewed. The center contacts the schools to verify the child’s enrollment and attendance status, and then the child is turned over to his or her parents. The center follows up with the child’s school to check on attendance patterns.

The District Attorney sends parents of truant children an informational letter on the compulsory attendance statute and the consequences of nonattendance. Referrals for additional social services may be made in cases of suspected abuse or neglect. According to law enforcement officials, daytime crime has been significantly reduced since the program’s beginning.

- **St. Paul, Minnesota**

School counselors, the county attorney’s office and police work together to combat truancy at all school levels. Children with 3 to 5 days of unexcused absences are referred to the St. Paul Youth Services Bureau, which offers counseling and family intervention services. A staff person from the bureau spends time at the school and monitors attendance. There is an educational program run by the office for first-time truants and their parents. The office enters into contracts for improved attendance with the possibility of a court hearing if there is not compliance with the contract. If necessary, the case is referred to the county attorney’s office for legal action. The program also involves police who deliver truants to an Attendance Center from which they are released only to parents or guardians. The center accepts about 20 students a day. The Attendance Center has been well received because it eliminates cumbersome processing at the police station. During the first year of the Center’s existence, the Police Chief reports that crimes such as purse snatching were reduced by almost 50%.

School attendance enforcement is combined with a curfew. Students aged 15 and younger must be in their houses by 10:00 p.m. every night. Students aged 16 and 17 must be in their houses by 12:00 a.m. every night. Students who violate the curfew are taken to the Attendance Center. The numbers of students being brought to the Attendance Center for curfew violations has decreased each year.

- **Kern County, California**

A Prevention Program Coordinator organizes the efforts of the schools and probation department to address truancy in Kern County. Truancy is defined as a minimum of 3 unexcused absences or tardies. Each school’s attendance clerk maintains attendance records for all students. De-
pending upon the school’s structure, either the attendance clerk or the vice principal will notify the deputy county probation officers of any truant individuals. A probation officer will then meet with a truant’s family at least four times, and often refer the family to social service agencies (a majority of students receive such services), make unannounced home visits, and check weekly on attendance. If attendance fails to improve, the school may refer the case to the District Attorney’s office. Generally, the probation department tries to work with the truant’s family to improve school attendance. If the family fails to cooperate and the problem persists, the parents may be charged with a misdemeanor and can be fined up to $250 and/or serve time in jail.

In cases where parental neglect may be an issue, the probation officers may refer the juvenile to child protective services. The program also has a citation component through the juvenile court. Under the program, the court may suspend a truant student’s driver’s license, or if the student is of age to receive their license, the court may delay receipt of it until attendance improves.

For the 1996-1997 academic year, 45% of the students involved in the truancy intervention program had zero unexcused absences and 61% of the students had less than 5 unexcused absences.

**Glendale, Arizona**

The Glendale program consists of a partnership of over 10 cities and towns and 20 school districts. Over 125 schools and more than 130,000 students are covered under the program, which targets children between the ages of 6 and 16. The partnership is sponsored by a coalition of citizens, businesses, human service agencies, educational institutions, civic leaders, chambers of commerce, local courts and law enforcement. This diverse sponsorship allows for a broader-based effort to combat truancy. A brochure, for example, was created for local businesses informing them to call the school district if truant students are spotted on the streets.

Each school has an attendance clerk whose responsibilities include maintaining daily attendance records, notifying parents of absences, and sending letters home in cases of 3 days of unexcused absences. Should truant behavior continue, the attendance clerk issues a citation to the student, stating the date when the student and his/her parents must appear in court. Counseling services and diversion programs are available for both students and parents.

The program is staffed by college and university interns who handle school and home visits, court appearances, presentations to schools and local community groups, student mentoring, and student follow-up. The interns are an integral part of the program in that they help alleviate much of the burden that was previously placed on school staff, allowing truancy problems to be addressed more expeditiously. Interns receive comprehensive training from local law enforcement, school personnel, juvenile court personnel, and a family counseling M.S.W. Interns are trained in areas such as state and local laws relating to truancy and juveniles, school and court procedures, and how to interact with parents.

The program has seen a substantial reduction in truancy both among those parents who received a three-day letter and those who received truancy citations.

These programs recognize not only the high costs but also the complexity of dealing with truant behavior. They marshal schools, law enforcement officials, social service agencies, Courts, and community groups into coordinated efforts to reduce truancy. The theory is that intervention reduces truancy, truancy prevention reduces juvenile delinquency, fewer people become victims of crime, the number of potential adult criminals is reduced, taxpayers save money, and children get better educations.
Little has been said so far about the roles local community agencies and organizations play in truancy prevention and intervention. As a group they represent a kaleidoscope of entities widely differing in size, capacity and focus. One challenge of the CHINS Task Force was to learn about these organizations and the services they offer for truants and the families of truants.

At the request of the Task Force and the Boston Coalition, the Office of the Attorney General conducted a survey in the first quarter of 1998. The result is the resource guide delivered with this report. It briefly describes more than 20 responding organizations and, although most of the programs are not specifically designed as truancy programs, the services they provide relate generally to education and help in dealing with truancy. The programs serve participants from all racial, religious, and socioeconomic backgrounds and serve youths residing in every part of the city. One program specializes in working with gay, lesbian, and bisexual youth.

The organizations range from large well-established groups with multiple sites, such as the Boys & Girls Clubs of Boston and Boston Community Centers, to smaller recently formed neighborhood programs. Some are affiliated with the Boston Public Schools, the courts, neighborhood churches or community health centers. Their services range from full-time alternative education to one or more specific services such as tracking (monitoring the student’s daily attendance, academic performance and after-school activities), tutoring, other educational and remedial academic assistance, career awareness (or job readiness) programs, educational advocacy, parent support and skill training, and general counseling. One program, for example, targets middle school students who are failing at least one subject, have been identified as probable school dropouts, and have disciplinary and school attendance problems.

The largest of the 20 programs services between 300 and 400 students annually, but not all of them are chronic truants. As a rough estimate there are about 2,000 truants participating annually in all these programs, representing about 10% of the number of Boston Public School students absent 16 or more days. The directors of many programs indicated that they would have the capacity to serve many more children if they received additional funding.

The Views of Community Organizations

During the Fall of 1997, graduate students in the Public Management Department at Suffolk University conducted a brief telephone survey for the CHINS Task Force. The purpose of the survey was to get the views of community organizations on a number of truancy related matters. Twenty-six organizations responded with the following results:

- Half of the respondents were not familiar enough with the CHINS Statute to know if it was effective or not. Of those who were familiar with the statute, 60% felt that CHINS was helpful in working with truant youths.

- There was significant agreement among the respondents that keeping children in school required the joint efforts of families, school, community organizations and the courts.

- When asked from their organization’s perspective who had the most responsibility to help truant youth get back to and stay in school, their answers with the percentage of respondents so answering are as follows: families (30%); school (27%); community organizations (23%); and courts (20%).

The CHINS Task Force also conducted a focus group session with representatives from 11 youth service providers. Some of their individual reactions and opinions together with additional individual survey responses were:

- The courts had significantly more money in the 1980s to contract with community agencies to provide tracking services and alternative school education. Because the funding stream has dried up, there simply are too few services available for outreach, tracking and intervention. What money is still available is earmarked to pay for incarceration of juvenile delinquents.
The CHINS Statute is ineffective because services simply do not exist to deal with truancy. The answer is funding community organizations with services being provided locally rather than in a distant court.

Judges’ hands are too often tied when it comes to CHINS cases. The courts need to be empowered to order specific services, for example, participation in alternative programs. The courts should partner more effectively with community organizations, schools and the police.

The legal system needs to deal more effectively with adults and businesses that undermine the efforts of parents to keep their children in school. Prosecutors ought to be able to bring a “contributing to the truancy of a minor” charge against adults.

It is not surprising that kids don’t bother going to school given the physical conditions, lack of resources, and atmosphere of hopelessness. Some teachers and administrators send certain youth the message that they don’t care if they drop out of school. These are the students who cause trouble in the classroom and lower test score averages.

Private schools do a better job of keeping children in school than do public schools. Some public schools do a better job than other public schools in calling parents and using truant officers.

School ending times are much too early. It is critically important to provide adequate supervision of youth after school hours (2:00 p.m. to 6:00 p.m.). There should be after-school programs that are not just for the best and the brightest.

Parents are struggling with their own problems and do little to keep their children in school. On the other hand, there are parents who try their best. Parents need the support of schools and community organizations.

The focus group agreed with the original intent of the CHINS Statute (namely to decriminalize a young person’s failure to attend school regularly and to instead offer services that remove the factors interfering with school attendance). An “at-risk-of-truancy” tracking system and a monitoring system of youth who do return to school is desperately needed. The group would welcome statutory reform that would give judges the authority to order specific services.
CONCLUSIONS AND RECOMMENDATIONS

This report has described the Massachusetts CHINS Statute and the constraints of the court’s authority under it, reviewed previous Massachusetts studies that have dealt with CHINS, analyzed school absenteeism statistics, reported on truancy processes in the Boston Public Schools and the Boston Juvenile Court, summarized the results of a CHINS data study, reported law enforcement initiatives, and reviewed the roles of community organizations. In doing this we have reported the views of representatives of the schools, police, service providers, judges and probation officers. A vast amount of ground has been covered. We conclude our report by identifying key observations, describing the general considerations that guided our analyses, and making specific recommendations.

KEY OBSERVATIONS

In one sense our observations include all the data and opinions of others that we have discussed in this report. As we said early on, the Task Force’s emphasis was learning from those who are on the front lines fighting the problem of truancy. One of our main objectives was to collect and recount these views so that others could benefit from them. Hence, we erred on the side of inclusiveness with the price being the length of our report. Now, if anything, we err on the side of arbitrary exclusion in identifying some key observations.

The Statutes

Under the CHINS Statute the court’s authority to issue affirmative orders is limited to orders of disposition dealing only with the custody and placement of the child. The court cannot mandate specific services or placements by the Department of Social Services. The extent of the court’s inherent contempt power under the CHINS Statute has never been decided by the Supreme Judicial Court. The contempt power has been only sparingly used.

The CHINS Statute contemplates informal assistance. Under informal assistance the probation officer can make service referrals, meet with the child and family and enter into agreements with them, but the probation officer cannot compel a child or parents to appear at any conference, produce papers or visit any place.

- A separate statute dealing with parents who fail to cause their children to go to school has a penalty of only $20.

- There is no statutory definition of truancy that triggers reporting or other required action by schools.

- Police and probation officers lack the statutory authority to return truants to school.

The Schools

- Absenteeism in the Boston Public Schools is a pervasive problem. In the 1996-1997 school year 34.5% of the 59,346 students were absent 16 or more days. The percentages by school level were: elementary school – 28.8%; middle school – 35.1%; and high school – 44.8%.

- There are an extraordinarily large number of truants who are not being reported. In 1996-1997 only 5,424 notices of truancy were given to the supervisors of attendance even though there were 20,465 students absent 16 or more days. The number of such notices for every 100 of these 16-day absentees by school level is: elementary school – 16.3; middle school – 74.8; and high school – 17.0. Within school levels, moreover, there are large differences among schools in their compliance with the reporting policy.

Of the reported truants, 1,118 (20.6%) ended as CHINS cases in the Boston Juvenile Court.

The Task Force’s report analyzes data for the 1996-97 school year. We understand that for the 1997-98 school year AO cards
and CHINS case filings increased by about 1,000 and 280 respectively.

- The lack of system-wide records of absenteeism on an excused and unexcused basis makes effective policing of the reporting system at best extraordinarily difficult. The result is intervention that begins too late or does not happen. The reporting level of the elementary schools to supervisors of attendance, for example, is extremely low.

- There are eight supervisors of attendance responsible for all the children who reside in Boston, not just those who go to the Boston Public Schools. The supervisors of attendance had to handle some 5,400 public school truancy reports in 1996-1997, an average of 675 per attendance officer. This caseload as a practical matter severely restricts the amount of time they can spend on each case.

The Streets

- Students in effect have the option of remaining on the streets. Police and probation officers do not have the authority to pick up truants and return them to school. Only the eight supervisors of attendance have such authority, and they are expected to cover the entire city.

- The schools in effect return students to the streets. Truants who end up back in school are placed in their regular classrooms without needs assessments, additional remedial tutoring or alternative placements. The cycle of under-performance, embarrassment, failure, and return to the streets begins again.

The System

- Truancy is not a problem that should be the burden (economically or otherwise) of the Boston Public Schools alone.

- The Boston Public School and Boston Juvenile Court truancy processes taken together look like three different escalating levels of intervention starting with teachers and school staff, progressing to supervisors of attendance, and ending with probation officers. When stripped to their essentials, however, all three levels of intervention are more similar than dissimilar — a series of contacts (letters, phone calls, and visits) that are a mix of coaxing and threatening.

- The regular processing of truants does not result in additional educational or social services that deal with educational deficits, individual behavioral issues, or parenting and family problems. Interventions by supervisors of attendance and probation officers (other than in extraordinary cases with aggravating circumstances) typically do not result in educational or social service plans or referrals.

- While there are numerous social agencies and community organizations with their own vibrant programs, these programs are limited in size by resource and funding constraints. There is no overall coordination among the schools, the court, and these providers.
There is also a lack of coordination and sharing of information between the court and the Boston Public Schools and within the school system itself. Teachers and school staff often do not even know who is the assigned probation officer or what is happening with a given case. Teachers are not informed of the progress made by supervisors of attendance. Teachers and school staff, for their part, rarely keep supervisors of attendance and probation officers up to date.

There have been good examples of coordinated efforts (e.g., truancy sweeps and roundtables involving supervisors of attendance, Boston police, school police, probation officers, MBTA police, the Suffolk District Attorney, social service agencies and other school representatives), but they have reached only a tiny portion of the truant population.

When viewed as an overall system, the combined efforts of the Boston schools, court, police, district attorney, and social agencies comprise a system that is not working.

The People and The System

Companies have wasted enormous amounts of time, energy, and money throwing a succession of people at a problem only to find out later that the real cause of their business shortcomings was not the people, but rather the process their people were expected to carry out. We are of the opinion that the failure to deal effectively with truancy in the Boston Public Schools is a process problem, not a people problem, and that the solution involves changing the process, not the people.

In fact, we have been impressed with the people who are on the front lines combating truancy. Supervisors of attendance and probation officers displayed remarkable care and concern for their troubled charges. It frankly surprised us. Given the enormous size of the truancy problem, their frustrations with the inadequate resources available to them, and their sense of isolation, we would have expected to see rampant cynicism and gloom. Instead, we saw engaged, committed professionals.

The Director of Hearings, Appeals and Attendance for the Boston Public Schools, Joseph Smith, is an example. His individual efforts to collect meaningful truancy data for the first time, raise the profile of the problem within the school system, advocate for truants and his staff of Supervisors of Attendance, and propose strategies are heartening. The basis for an important section of this report is his data. Our report also owes much to the Chief Probation Officer of the Boston Juvenile Court, Joseph M. O'Reilly, and Assistant Chief Probation Officer, Alfred E. Gavaghan. Their unqualified belief in the importance of juvenile delinquency prevention through truancy prevention, their dedication to our CHINS data study project, and their openness were reassuring. On the law enforcement side, Captain Robert Dunford of the Boston Police Department and Gretchen Graef of the Suffolk District Attorney's Office have led truancy prevention initiatives involving innovative collaboration among the schools, court, and police.

We have shamelessly stolen ideas from all of them.

GENERAL CONSIDERATIONS

Good management planning practices for large businesses and other organizations suggest that whenever management is faced with something that is not working right, the process of fixing it should include at a minimum asking and answering four simple questions:

Is the problem caused by people, a process or system, or both?

If it is a system problem, are there general principles, values, or objectives that should shape the solution?

Should the proposed solution be extensive or narrow in scope?

To what extent should the manner of fixing the problem be spelled out in detail?

We now deal with these four questions. The answers are more complicated than the questions.
It would be naïve to assume that all the employees of any large organization (and the Boston Public Schools, the Boston Juvenile Court, the Boston Police, and the Suffolk District Attorney’s Office are large organizations) are stellar performers. But what we do believe is that the problem is not people who are not up to the task and, hence, undermine a system that would otherwise work. In fact, we believe just the opposite. There are willing and able people whose efforts do not produce the results all of us would like to see because of the system and its limited resources.

**Enforcement and Prevention**

By “system” we mean (as we earlier indicated) the total complex of schools, court, police, district attorney, and social service providers. Our view is that solving the truancy problem should not and cannot be the burden (economic and otherwise) of the Boston Public School Department alone. This broader “system” perspective raises the balancing of criminal enforcement versus social service remediation in a new and slightly different context.

This balancing was resolved in favor of remediation in the CHINS statutory context by making truancy a status offense and not a crime. We are of the view that this was and continues to be sound public policy. Truants should not be convicted as criminals and mixed with a criminal population. Making truancy a crime is more likely to induce rather than prevent future juvenile delinquency. The supervisors of attendance, probation officers, and judges whom we interviewed are of the same opinion.

As we have seen, in more recent times, however, there has been a new law enforcement focus on truancy as a way of reducing present crime, and not just future juvenile delinquency. The link between daytime crime and truancy is well established. The Boston Police have evidence of this link in our own city. Accordingly, law enforcement agencies are participating in truancy reduction programs and no longer leaving matters to the schools alone. We believe there is a significant and appropriate role for law enforcement agencies in dealing with truancy, but this does not mean truancy should be made a crime.

We stress this distinction because the “get tough with crime” trend of the last decade has made incarceration the crime prevention remedy of choice. Despite the enormous resulting growth in prison populations and the high costs of imprisonment, the alternatives of prevention and rehabilitation have fallen out of fashion. Prevention, particularly for youth who have not already become criminal offenders, has not been the priority that one would have expected.

There is some logic to all of this. Incarceration directly incapacitates a criminal from committing further crimes (except perhaps in prison). The effectiveness of earlier stage prevention measures could never be so clearly established. “Empirical proof” that prevention works and is cost effective is inherently more difficult. So far as we know there have not been any rigorous studies of the relative costs and effectiveness of various early intervention approaches as compared to incarceration, and to one another, that are regarded as definitive. With severe constraints on public resources, the priority given to funding criminal enforcement and incarceration over earlier stage crime prevention measures is understandable but regrettably unwise.

Although by its own admission far from conclusive, a RAND study reported that a program offering graduation incentives, and another based on parent training, appeared to be cost effective as compared to California’s “three strikes law” with its long mandatory sentences for repeat offenders. The RAND study does not suggest that prevention should be a replacement for incarceration. Although expensive, the California “three strikes law,” for example, has a significant impact on reducing serious crime. Prevention measures and incarceration, however, are not, and should not be, mutually exclusive.

Being “tough on crime” does not mean that early intervention programs like truancy prevention should not be funded. In fact, just the opposite is true. Truancy presents an opportunity for those who concentrate on enforcement to join forces with those who focus on the delivery of educational and social services. We believe this collaboration is important as a crime prevention initiative. It obviously is also important as
an educational one. The happy result is that there is no choice to be made between keeping our streets safe and educating our troubled youth.

Pilot Programs and Other Matters

Pilot programs are dangerously seductive. In fact, they are almost irresistible. By limiting the scale of an undertaking, pilot programs dramatically reduce staffing burdens, management responsibility and costs. At the same time, everyone can hold forth about everything that is being done. The talk flows and the money does not. There is nothing particularly terrible about this except that it creates the illusion that matters are being dealt with effectively when in reality they are not. The descriptions of out-of-state truancy programs are a good example. While they are impressive reading, a closer look usually reveals that they only reach a small part of the truant population.

Not only are pilot programs limited in scope, they are limited in time. Social service providers and educational advocates tell us that the history of dealing with troubled youth in Boston is littered with the corpses of programs that worked and died. They are like the proverbial carnival that arrives with great fanfare and steals away in the night. Their passing and the service void they leave go unnoticed.

Truancy in Boston is not a pilot problem. It is a pervasive one, and pilot programs alone will never be the solution. Despite our misgiving that they too often disguise themselves as solutions, we are nevertheless endorsing a pilot program but only as part of an overall plan. It is an innovative program that as a pilot can be put in place quickly and its efficacy tested before a more expensive scale-up.

With this single exception, we see no choice but to recommend some system-wide changes. This is not to suggest, however, that we have been without restraint. There are major educational and employment matters that we believe are beyond the scope of our Task Force’s charter despite their possible impact on truancy. We have not reckoned with complex issues relating to neighborhood schools, merit and social promotions, alternative educational tracks, downsizing schools, changing middle school grade-levels, raising the compulsory education age, charter schools, preschool programs, work rules and union contracts. We urge that those concerned with these matters take into account the consequences for dealing with truancy in making their decisions.

The Details of Implementation

Task Forces like ours have the luxury of thinking great thoughts and leaving the much more difficult challenge of implementing their ideas to others. It is dreadfully unfair but unavoidable. This Task Force not only lacks the management authority to implement anything, but it also lacks the requisite management skills. We are not professional school, court, or police administrators. It would be foolhardy and presumptuous for us to attempt to spell out how they should go about their management responsibilities. The details of implementation should be left to the professional managers.

As a Task Force of the Boston Bar Association, there are other areas where we would have been comfortable making highly detailed recommendations. But again we have resisted the temptation. Unlike previous Massachusetts studies dealing with the CHINS Statute and more general juvenile justice matters, our recommendations do not deal with the specifics of legislative or regulatory changes, due process, or other procedural issues. Our failure to do so does not reflect a view that such matters are unimportant. For example, we consider the right to counsel as contemplated by the CHINS Statute as important. Rather, it reflects our bias that in beginning to deal with the problem of truancy it is permissible and even desirable to resist the natural inclination of lawyers by being less legal process and more social problem oriented.

Accordingly, our recommendations are more in the nature of a general planning blueprint.

RECOMMENDATIONS

In dealing with truancy, what you do and when you do it are both important. Truancy is a form of habitual behavior that is best dealt with sooner rather than later. The less ingrained the behavior has become, the greater the odds of changing it for the better. Hence, early intervention
is a critical part of our recommendations in two ways. First, a special focus is placed on the elementary schools. Second, at all school levels, a quick system response to early indications of truancy is a prime objective.

The recommendations also manifest two complementary but quite different basic philosophies and their related strategies. One is a simple behavioral approach that regards truancy as intolerable behavior and deals directly with it by taking the option of being a truant away. The second recognizes that educational and social services must be available to bring about more lasting and deep-rooted changes in lifestyle.

These themes are reflected in a total system approach that recognizes not only the schools, but also social service providers, law enforcement agencies, and the court as key players. We have not ranked our recommendations by importance, but rather have listed them more or less in the order that reflects the process: detection and identification of truants, intervention to get them back in school, provision of educational and social services, and monitoring the effectiveness of the results. The heart of the matter is, and ultimately success depends upon, however, the delivering of services that transform academic failure and family dysfunction to academic growth and family support.

In fashioning these recommendations, our thinking has been tempered by fiscal and political realities. In our opinion the recommendations are both necessary and sensible.

- The School Department should have available through its computer information system updated attendance records that keep track of all excused and unexcused absences for all students in all schools on a current basis. The attendance records should reflect consistently applied criteria for determining excused and unexcused absences.

The School Department’s central attendance records do not have reliable information on excused absences. An up-to-date record of unexcused absences reflecting consistently applied criteria, however, is essential to managing an early intervention program and policing it. Patterns of excused absences that reflect excessive absenteeism also must be identified in the attendance reporting system.

- The supervisors of attendance should get truancy reports from the computer information system and not have to rely solely on the teachers and school staff to generate AO cards.

Under the School Department’s attendance policy, teachers are supposed to report students with five or more unexcused absences to the supervisors of attendance by sending them AO cards, but the number of truants who are not reported is unacceptably high. Schools (and perhaps teachers), moreover, vary widely in their reporting practices.

There are perfectly understandable reasons why burdened teachers may not make the effort to report truants and get them back to school. Recognizing this, the School Department should cause truancy reports (the computerized equivalent of AO cards) to be generated centrally and sent to the supervisors of attendance.

- The number of supervisors of attendance should be significantly increased and their follow-up roles expanded.

With their present caseloads, supervisors of attendance are fully occupied with just the basics of early intervention (letters, phone calls and home visits) without time for follow-up with students, parents, and the Student Support Teams in the schools.

If there were substantial compliance with the School Department’s present truancy reporting policy, moreover, their caseloads would rise to levels where it would be impossible for them to maintain even the initial basics of caseload management, let alone the follow-up home visits that the supervisors of attendance should make for the Student Support Teams.

- The Boston Police, Boston School Police, MBTA Police and Boston Juvenile Court Probation Officers should be given by legislation the same authority as the Supervisors of Attendance to apprehend truants without warrants and take them to school.
Only the supervisors of attendance have this authority now. To take the truancy option away, truants must not be allowed to remain on the streets or public places. A concerted effort by the Boston Police and others with the same authority as the supervisors of attendance is essential if this is to happen.

Conferring this additional authority on the police is consistent with other specific Boston Police initiatives to reduce truancy and the modern view that gives police a more supportive presence in the community. There are some concerns. Truancy is not a criminal offense. The line between criminal arrest and noncriminal truancy apprehension should not be blurred to create justification of otherwise improper or illegal searches and seizures. The community, moreover, may view the additional police authority as a source of harassment rather than welcomed help. Ultimately, success will depend on police and community cooperation, and resolving other issues.

We understand that Mayor Menino and the Boston City Council have petitioned the General Court for special legislation to the foregoing effect, the only difference being that our recommendation also includes probation officers.

- The Boston Police, Boston School Police, MBTA Police and Boston Juvenile Court Probation Officers on a regular basis should conduct truancy sweeps throughout the City.

Truancy sweeps are being conducted on a selective basis by the Boston Police, but for information only. Police officers question the truants, report their identities to the School Department, and have no choice (they have no authority to apprehend them) but to let them continue on their way. These sweeps should be scaled-up so that they are done on a regular basis throughout the city. As part of the sweeps, students should be returned to schools. Both police and probation officers should supplement these sweeps with individual apprehensions.

- The School Department should adopt a policy that requires all schools to keep apprehended truants and late arrivals at school.

Different schools apply different tardiness policies and practices that for some include locking out late arrivals. There should be a consistent practice throughout the system that mandates retention at school, but not necessarily in the classroom. Truants should not have the choice of remaining on the streets let alone be given an excuse for doing so. They should be penalized with after-school detention unless they engaged productively in individual remedial or classroom activities during regular school hours.

- Truancy Centers could serve as alternative places to return truants.

Instead of in effect maintaining truancy centers at each school, separate truancy centers could be established primarily for logistical reasons. The centers, however, should be run by the schools. Students would be dropped off at the centers, and then either transported to their schools or retained there. While at the centers they would receive short-term counseling and remedial work, but longer-term needs assessments and remedial work would be done in the schools with the involvement of school Student Support Teams.

- Truants who are significantly below their classroom mates in academic performance should be given needs assessments, receive remedial help and be given appropriate class placements.

When truants return to school, steps should be taken to break the cycle of return to school, embarrassment, failure, and return to the streets. The school Student Support Team should have needs assessments (including Chapter 766 evaluations where appropriate) made and remedial programs developed. In addition to regular classroom placements, other alternatives should be considered including special classes, alternative tracks, schools-within-schools, alternative education schools, vocational schools, pilot schools, and charter schools.
Truants in need of services should receive certain services through direct court referrals.

Despite prior Massachusetts studies that have criticized the CHINS Statute for all sorts of reasons (see the summaries under the caption Massachusetts Studies), the Task Force believes that its failed promise to adequately provide a range of services to children in need is not the result of an inherently flawed statutory scheme, nor is it the result of substantial reliance on probation officers informally handling truancy cases. Rather, the cause is a failure to fund and provide services.

While the 1994 Supreme Judicial Court Commission's study recommended multidisciplinary screening committees in all cases and there are examples of this in other juvenile courts, we believe that given the case volume in the Boston Juvenile Court, such committees are not a practical option in regular truancy cases. We also believe that it would not be productive to reopen the issue of court-mandated services by the Department of Social Services.

Accordingly, our recommendation is much more modest. At a minimum the court and its probation officers should be able to directly refer CHINS truants to program spaces dedicated to court referrals for (in addition to the existing Court Clinic's diagnostic services) academic remedial services, after-school counseling/activities, and parent education. Such "contracted for" referral spaces would be available to probation officers without the necessity of court custody determinations. These referral spaces should represent net additions to programs and hence would require additional funding.

The CHINS Statute should be amended so that it extends to parents as well as children.

Both the 1989 Special Legislative Commission's Report and the 1994 Supreme Judicial Court Commission's Report recommended extending the CHINS Statute to cover the entire family. We agree. All our interviews confirm that the focus should be on parents as well as children.

In addition to parent education, there is, for example, a real need for family/school mediation services. Either probation officers should be trained to deliver these services, or services should be independently provided.

The "failure to cause" a child to attend school statute should be amended to provide for a substantial monetary penalty.

With more focus on early intervention in the elementary schools, we believe that supervisors of attendance should have available a "failure to cause" statute with a maximum monetary penalty that would give parents real cause for concern. For parents "in the know" the present penalty of $20 is more amusing than threatening, and in our view does not provide adequate pressure to get otherwise reluctant parents to cooperate with the schools. We stress the elementary school context because it is at this school level that the causal link between parent conduct and child absenteeism is the clearest.

The "failure to cause" statute has been sparingly used by the supervisors of attendance (183 cases in 1996-97) both because of the paltry $20 penalty and because of a concern that imposing a monetary penalty on poverty level families hurts children. This is, of course, the same dilemma faced in other criminal law contexts where parents are penalized. Our view, however, is that the court should have available a significant sanction. In this balancing of penalty versus harm to children, we draw a distinction between monetary penalties and incarceration. Imprisonment as a practical matter is likely to result in a temporary change in the child's physical custody, as someone else must take the responsibility for childcare. Child custody matters, therefore, are best left to the CHINS and not the "failure to cause" statute.

The purpose of recommending a substantial monetary sanction is to give the court
leverage to work out pretrial arrangements whereby parents could avoid monetary penalties by meeting with school staff, attending parent education programs, etc. Our recommendation presupposes that there will be social services available to those parents who need them to carry out their parental responsibilities in supporting school attendance and the academic progress of their truant children. If such services are not available, the imposition of monetary penalties on parents who, as a realistic matter cannot help their children without those services, would only make a tragic situation worse.

- **The Task Force recommends a multidisciplinary pilot program at selected elementary schools in addition to early intervention throughout the elementary school level.**

Elementary school absenteeism is high with a relatively small number of truancy reports submitted to the supervisors of attendance and an even smaller number of CHINS cases and “failure to cause” cases filed in the Boston Juvenile Court. The regular truancy process should be accelerated so that early interventions are made throughout the elementary schools.

In addition, we recommend a pilot program, the core of which is the creation of a truancy committee at the local school consisting of representatives of the schools and School Department, community social service providers, and the Boston Police. Under the program this multidisciplinary committee meets with the parents and truant child, develops a plan of action, monitors the truant’s school attendance and performance, and coordinates the delivery of educational services by the school and social services by community organizations.

The program is particularly appealing because it takes place at the school with school staff, deals not only with educational services but also with coordinating social services in the community, and does not involve the court unless the intervention does not work. If the parents or the child are not cooperating, the Supervisor of Attendance can bring a “failure to cause,” a CHINS case, or both.

- **Top-down management should define truancy policies and procedures that are consistent and specific, monitor compliance with them, and develop case protocols for dealing with truants at all levels of the truancy process.**

This recommendation is unfortunately more nebulous than the others, but it is nonetheless of real consequence. Teachers, school administrators, supervisors of attendance, and probation officers now have enormous discretion in how they manage their individual cases. In addition to required reporting and information sharing procedures, objectives for handling truancy cases at all levels should be established.

Case management protocols at each level relating to such matters as parent involvement, home and school visits, needs assessments, breadth and detail of service plans, remedial educational services, social service referrals, the use and comprehensiveness of contracts, tracking, and monitoring should be defined. With so many different players, a single case manager must be in charge at any given time, counseling techniques (e.g., contracts, mediation) determined, and criteria for passing cases along defined.

The point is to avoid recycling truants through essentially the same process at each step with the same disappointing results.

- **The School Department should do an annual analysis of the attendance of truants before and after intervention by supervisors of attendance and before and after CHINS court intervention.**

So far as the Task Force is aware, the CHINS data study that it conducted is the only attempt to measure the effectiveness of CHINS court interventions in improving attendance. The School Department should do a similar annual analysis starting with the 1997-98 school year. If the department’s study confirms the results of our study of November 1996 cases, and if no changes
are made by the schools and the court in how they deal with CHINS truants, then serious consideration should be given to terminating the filing of regular truancy cases. In this situation, supervisors of attendance would only file truancy cases when other exacerbating conduct or circumstances are present.

A similar annual analysis should be done by the School Department to measure the effectiveness of interventions by the supervisors of attendance.
We suggested earlier that there is something inherently unfair about making recommendations and leaving the far more difficult job of implementation to others. In one sense it is not quite as unfair as it seems. Others have the choice of disregarding what we have said here. We hope that they do not.

Everyone pays the price of truancy, and the longer we fail to deal with it, the higher the price. Instead of maturing into responsible adults, truants will remain our dependents on the streets and in prison. It is not just a question of money — as if that were not enough. The uneducated inexorably drain the spirit of our neighborhoods and city. For all the frustration and anger truants understandably stir in us, they are our youth. None of us would trade for their bleak todays and tomorrows.

At the beginning of this report we pointed out that in matters as complex and far-reaching as those we have covered, it would have been impossible for all the members of the Task Force to agree about everything. The signatories to the report, however, agreeing with its general analysis and direction and believing in the value of reporting the consensus view, have not felt compelled to indicate any individual preferences or differences in manner of expression or otherwise.

Respectfully submitted,

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2 *Id.* at 94-95.


4 *Id.* at 33-34.

5 *Id.* at 37.

6 *Id.* at 43-44.

7 Special Legislative Commission on Children in Need of Services, The Commonwealth of Massachusetts, "In Trouble" Children and Families in Need of Services (1989).

8 *Id.* at v-ix, 13-28.

9 *Id.* at ix-xii, 29-50, Appendix A.

10 *Id.* at 37.

11 *Id.* at 38-39.


13 Executive Summary at 3; Final Report at 11.

14 Executive Summary at 3; Final Report at 11-22.


16 *Id.* at 12, 122-27.

17 *Id.* at 95-99, Minority View, submitted by Hon. James M. Cronin, joined by James C. Doyle, Jr., Esq.


19 For a general discussion and description of the programs listed below, see Eileen M. Garry, *Truancy: First Step to a Lifetime of Problems*, Juvenile Justice Bulletin (Office of Juvenile Justice and Delinquency Prevention, U.S. Department of Justice), October 1996. The program descriptions in the CHINS Task Force's report also reflect more recent information obtained directly from individuals involved with programs.


21 *Id.* at 3, 26-27, 37-38.

22 *Id.* at xiv-xv.