

New Jersey, INTERIM REPORT OF THE
Legislature. (COMMISSION TO STUDY CHILD ABUSE AND
Child Abuse OTHER ASPECTS OF CHILD WELFARE LAWS,
Study Commission, (PURSUANT TO ASSEMBLY CONCURRENT
RESOLUTION No. 86, 1970)



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LETTER OF TRANSMITTAL

TO THE SENATE AND GENERAL ASSEMBLY OF THE STATE OF NEW JERSEY:

Pursuant to Assembly Concurrent Resolution No. 86 of 1970, the Commission to Study Child Abuse and Other Aspects of Child Welfare Laws of New Jersey submits herewith its first report on findings and recommendations.

/S/Millicent H. Fenwick
MILLICENT H. FENWICK, Chairman

/S/Senator Richard J. Coffee
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/S/Assemblyman Joseph A. LeFante
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/S/Assemblyman Austin N. Volk
ASSEMBLYMAN AUSTIN N. VOLK

/S/Senator Norman Tanzman
SENATOR NORMAN TANZMAN

STATE OF NEW JERSEY

INTRODUCED MAY 11, 1970

By Assemblywoman FENWICK, Assemblymen HÆELIG, MACRAE,
HIRKALA, GARIBALDI, DUGAN, KRAVARIK, CONWELL,
SUMINSKI, ESPOSITO, JACKMAN, HEALEY, EWING,
OWENS, SCHLUTER, IRWIN and SCANCARELLA

Referred to Committee on Revision and Amendment of Laws

A CONCURRENT RESOLUTION creating a commission to study the re-
vision of child abuse laws of New Jersey and other related aspects
of child welfare.

1 WHEREAS, Recent cases of child abuse have raised the question of
2 whether the present New Jersey laws pertaining to child abuse
3 are adequate to meet the circumstances of contemporary society;
4 and

5 WHEREAS, The creation of a commission to study and review such
6 laws would be the most effective method to determine their
7 adequacy; now, therefore,

1 BE IT RESOLVED *by the General Assembly of the State of New*
2 *Jersey (the Senate concurring):*

1 1. There is hereby created a commission to consist of 10 members,
2 five to be appointed from the membership of the Senate by the
3 President thereof, no more than three of whom shall be of the same
4 political party and five to be appointed from the membership of
5 the General Assembly by the Speaker thereof, no more than three
6 of whom shall be of the same political party, who shall serve without
7 compensation. Vacancies in the membership of the commission shall
8 be filled in the same manner as the original appointments were
9 made.

1 2. The commission shall organize as soon as may be possible
2 after the appointment of its members and shall select a chairman
3 from among its members and a secretary who need not be a member
4 of the commission.

1 3. It shall be the duty of said commission to study and review
2 the existing provisions of the New Jersey Statutes concerning
3 child abuse and other aspects of child welfare, and to make such
4 recommendations for the modification of said law as it shall deem
5 advisable and appropriate.

1 4. The commission shall be entitled to call to its assistance and
2 avail itself of the services of such employees of any State, county
3 or municipal department, board, bureau, commission or agency as
4 it may require and as may be available to it for said purpose, and
5 to employ such stenographic and clerical assistants and incur such
6 traveling and other miscellaneous expenses as it may deem ne-
7 cessary, in order to perform its duties, and as may be within the
8 limits of funds appropriated or otherwise made available to it for
9 said purposes.

1 5. The commission may meet and hold hearings at such place or
2 places as it shall designate during the sessions or recesses of the
3 Legislature and shall report its findings and recommendations to
4 the Legislature, accompanying the same with any legislative bills
5 which it may desire to recommend for adoption by the Legislature.

February 19, 1971--Filed

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I. INTRODUCTION

"Our State has but two resources--the earth and its children. We must stop wasting both."
Avrum Labe Katcher, M.D., President, New Jersey Chapter, American Academy of Pediatrics.

The Commission to Study Child Abuse and Other Aspects of Child Welfare has completed the first phase of its work--an examination of the law, procedures and practices concerning child abuse. This investigation revealed certain shortcomings in other fields concerning children (which will be touched on later in this report) and brought us to three conclusions on which all the findings and recommendations are based.

The first is that the State must clearly assume responsibility for the welfare of children in trouble--for children whose family situation endangers their welfare or who are endangering themselves or others. The permissive nature of New Jersey's present laws was criticized in a report on the problems of children published over three years ago, and the findings of this Commission further illustrate the tragic consequences that result when protection for children is promised by the legal powers, and facilities are not established to carry out the intention. We believe that this report will make clear, once again, the need for a change from the permissive to the mandatory responsibility.

"The permissive nature of the legislation dealing with the responsibility of the Department of Institutions and Agencies for services to children[must] be amended to make it mandatory, and not permissive as it now is, for the State to provide protection and services needed by children."
(Report of the Committee on Children's Services, The Welfare Reporter, July, 1968, p. 5).

The second conclusion reached by this Commission is that no child under State supervision or care who is not charged

with juvenile delinquency or who is not in need of special care shall be placed in an institution of any kind if an appropriate home can be found.¹ Even a temporary shelter should, if possible, be a home-shelter rather than an institution, and every effort should be made to secure for every child a permanent home situation as soon as possible. Avrum Labe Katcher, M.D., President, N.J. Chapter, American Academy of Pediatrics, has said:

"I wanted to offer two observations...one is that in general, if a child is to be taken care of outside his own home, the smaller the setting...the more home-like it is, the better it is for the child. The second point is that ...one of the most destructive elements is... uncertainty and indeterminance and the deleterious impact which these have upon the functioning of the child. Anything which results in a child feeling that he does not know to whom he belongs or where he is to live is going to adversely affect that child's function. It would be a psychic trauma."

The third and most important point is that our laws must reflect a new attitude towards children. Leaving aside the children who have committed serious offenses, (although our attitude towards them needs revision also), we have thousands of children in this State who have arbitrarily been divided into categories. The battered infant is clearly a victim--but would it not be more accurate to see the harassed, confused fourteen-year old, who simply cannot fit into his family and school situation, as perhaps also a victim of the shortcomings of his parents and the tensions of a society for which no one has prepared him? All of these are clearly children in trouble; there is no need to divide them further. The need is for the State to devise the services and facilities that will help the parents, strengthen the family and, if necessary, bring the child to a stable and constructive maturity.

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1. Benjamin Berzin, President-Elect, Shore Unit of N.J. Chapter of Social Services called attention to abuse within State institutions at the public hearing of this Commission: "I do want to caution in the area of building so-called shelters and institutions...Be careful of that. One of these days I am going to file a suit against institutions for child abuse or child neglect. I have had my tours of county shelters which were directed toward protecting children, and find children behind bars, behind closed doors...." (Public Hearing, March 26, 1971).

d

Even if these three conclusions are fully implemented by new laws, other changes will also be needed. The services available to families in trouble must be strengthened so that assistance is at hand before a crisis occurs. Court procedures are in need of review. These points, too, have been made in numerous reports of previous commissions; we cite them because they are related directly to the tragedies of child abuse and neglect that have been recounted in the public and private hearings held since February, 1971, and that have otherwise come to our attention from concerned people in many parts of the State.

II. SUMMARY OF FINDINGS

These findings emerge from six private meetings and one public hearing conducted by the Commission in Camden, Newark, Jersey City, Hackensack, Trenton and Atlantic City. Witnesses included prosecutors, doctors, psychiatrists, psychologists, policemen, and social workers of public and private agencies. However, the detailed findings are printed herewith without reference to any particular city or county because the Commission believes the public interest is better served by using the cases as illustrations of the magnitude and complexity of the problem rather than attempting to assign individual responsibility.

1. Physical abuse of children is far more prevalent in the State than is revealed under our current reporting law. It is probable that fewer than 20% of the known cases are now being reported.
2. There are inadequate procedures for the immediate removal of a child from his home or other place where the child is in danger. This failure stems from the absence of a clear definition of responsibilities and powers for intervening to protect children.
3. There are inadequate facilities for the temporary shelter of children whose lives and health are threatened.

4. There is no system for separating child abuse cases that should be treated as social and medical problems from those abusive practices and acts that should be prosecuted as criminal offenses.
5. Child abuse is occurring within public institutions that were intended to protect and rehabilitate children.
6. Child neglect is more prevalent than child abuse and often more damaging to the child's welfare. Because neglect is manifested in ways that are not as dramatic as outright physical beatings, it is not being treated as seriously as it should be.

A. REPORTING

Because all suspected cases of child abuse are not reported by physicians and hospital officials, even though the law mandates it, the current system is not carrying out the intention of the law to protect such children. Accurate and swift reporting would in itself give protection. Because many children killed by abuse have been the victims of repeated attacks, accurate reporting could often prevent the final and fatal beating. Neither is the reporting system performing its function of recording accurately the incidence of child abuse, which has been described by a doctor in a large children's hospital as "epidemic."

As reported by the prosecutors to the Central Registry of the Bureau of Children's Services there were 100 cases of suspected child abuse in 1969 and only 76 in 1970. (Note: See App. #1 of report, statistical summary of child abuse cases reported in New Jersey, 1967-1970). But in the hearings, the Commission was told of dozens of cases in counties from which none were reported, and in other counties the Commission was told of cases far exceeding the number reported.

The reasons for the failure of the reporting system include the following:

- a. Law enforcement officials are sometimes prejudging child abuse cases. Instead of reporting them to county prosecutors'

offices for their disposition, police in some cities advised the Commission they did not report suspected cases if in their judgment there was insufficient evidence for prosecution. In other cities, however, the police departments were the agencies most zealous in acting to protect the child, regardless of the probable criminality of the abusive acts.

b. Doctors are still reluctant to report suspected cases of child abuse, despite the immunity from lawsuit that is provided in the current law. According to surveys of doctors, including those of Dr. Larry B. Silver, fellow in psychiatry in Children's Hospital, Washington, D.C., strikingly high percentages of doctors (nearly 50% in one survey) are unaware of the community procedures when a doctor does suspect child abuse. In Dr. Silver's survey, three out of five physicians reported that they "never even thought of child abuse when they saw a child." But some New Jersey pediatricians are more alert. Dr. Joseph Boylan, Jr., reporting to the Conference of the N.J. Chapter of the American Academy of Pediatricians, wrote:

"Child abuse is a most serious problem for our society--ten percent of all early childhood accidents can be the result of adult physical abuse. Of all children who are abused, fifteen percent die and thirty percent are left with permanent serious disabilities."

c. Social workers are not reporting child abuse cases because they wish to avoid involvement in criminal procedures. Their judgment may have validity, but it is serving to minimize the public's awareness of the magnitude of the problem. A social worker director in one city said there were over 100 cases reported last year to that social agency alone, but less than 20 of them were reported as part of the over-all statistical report of that county for 1970.

d. Prosecutors, receiving what cases are reported, seem confused about their responsibility. The prosecutor in one

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county was sought out by a doctor who discovered new and old fractures of the skull when x-raying an 18-month old infant. He asked the prosecutor if he could hold the child, but the prosecutor ordered his return to his parents. A few weeks later, the child was brought back dead.

Some prosecutors seem confused as to definitions under the law: for example, in another county, the prosecutor did not report the repeated rapes of a six-year old girl to the Central Registry because the acts were not committed by a parent. Another prosecutor said he did not report a case of child abuse because the parent had admitted to it; he understood the law required him to report only "suspected" cases of abuse.

Prosecutors also expressed doubts about the effectiveness of criminal prosecution in dealing with child abuse. One prosecutor stated flatly that criminal prosecution of the abuser was irrelevant to the problem because it was not a deterrent to future abuse and might even be a factor in provoking further violent action against the child.

e. School officials are sometimes the only ones who could become aware of a dangerous family situation before a crisis occurs. Families may not be involved with the police, hospital social workers or the prosecutor and the school is often the only place where a member of a public agency is in touch with a child in trouble. School nurses, teachers and child study teams should all be alerted to the dangers of a disintegrating home situation and the possibility of child abuse. A member of a child study team who felt that the child was suffering unusual difficulties at home was told that the team considers "only educational difficulties and handicaps." It seems absurd that the public, which is paying a child psychologist, a school nurse and a school principal--highly skilled professionals who are most competent to judge a child--should not receive the benefit of their judgment especially because educational ability and performance may depend to a great extent on the home situation of the child.

The tragic consequences of the failures of the current law and protective services administration are indicated by these two cases:

1. A four-month old boy, born prematurely weighing 3 lbs. 4 ozs., was admitted and diagnosed as failing to thrive. A month later, the child was readmitted, suffering from dehydration, intestinal obstruction, a herniated disc and generally poor physical hygiene. An x-ray showed "evidence of probable old fracture of the shaft of the left humerus." The next week the hospital filed a child abuse report with the prosecutor and notified the Bureau of Children's Services. Two months later, the child was ready medically for discharge, and hospital officials were awaiting a report from BCS. The BCS worker said the child should be returned to the father, saying that "I think he is the one that abused the child, but he called and showed interest." There was no actual investigation of the family situation. However, the next day the BCS worker advised that the earlier report be disregarded, and that the child should be cared for by the mother. (The parents had separated since the child's hospitalization). The hospital social worker challenged these divergent recommendations and recommended removal of the child from both parents. A week later the child was placed in a foster home, pending further investigation.

2. A one-year old girl was admitted to a hospital in August, 1967, diagnosed as suffering from hip dislocation and rectal bleeding. Prosecutor's office and local Bureau of Children's Services office were notified by the hospital. Two months later, October, 1967, the child was admitted suffering from a fracture of a bone in her right foot caused, said the father, when she caught her foot in the crib. Prosecutor's office and BCS office notified again by hospital officials. In December, 1967, the child was signed out of the hospital by parents against medical advice. A public health nurse and BCS were notified. Eight days later the child was dead on arrival in the same

ies

As the Director of Social Services in the hospital stated:

"From this case, it is clear that the child abuse reporting is only a procedure, not protection for the child. You will also note that neither the Prosecutor's office nor the Bureau of Children's Services was able to determine the suitability of this family for this child's safe return home, prior to the date the parents signed the child out of the hospital, yet they had the report since 8/27/67. Almost four months elapsed between the date of reporting and the day the child was brought to the hospital D.O.A."

This was echoed several times in other counties: The reporting seems to be for statistics only, not for protection. Our investigation confirmed the poor rating given New Jersey in the national study of physical child abuse, Violence Against Children, by David G. Gil. In this analysis, New Jersey ranked 40th in 1967 and 42nd in 1968 in terms of reporting cases.

B. EMERGENCY PROTECTION

The need to remove a child, at once, from a dangerous situation is obvious, but the power and responsibility of those who might do so are not clear. There are too often delays in carrying out the primary intention of the law, which is to protect the child who is being abused. Most officials who appeared before the Commission believed the Bureau of Children's Services was the only agency empowered to remove the child who is in danger, but staff members of BCS offices throughout the State told the Commission their powers and responsibilities as outlined in laws and regulations are insufficient for carrying out this protective service. And in some counties, the police recounted their own informal but effective methods of removing the child for his protection.

Even when BCS officials are confident they have the power to remove children from danger, there are often delays in

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obtaining the necessary legal authorization. In some places, the judges will act within two or three hours, but other offices report delays of several days.

In the absence of clear legal authority, some social workers, doctors and hospital officials reported taking it on themselves to hold a child by subterfuge, insisting on the need for additional medical tests and other information. However, these same officials express concern over the absence of legal authority to take steps they consider to be essential for the welfare of the child. Henry R. Hollender, Chief of the Bureau of Children's Services, stated at the public hearing that "I think the physician who has a child in his office or in the hospital who has, in all probability, been abused, should have the legal right to detain that child until such time as the court has decided whether or not the child should be removed from the parents' control."

C. SHELTERS

Although no institutional shelter is the ideal solution for a child, few of the counties have made even this formal provision for emergency care. Only six of the 21 support, wholly or partially, shelter facilities for abused and abandoned children that are separate from juvenile detention centers: Essex, Passaic, Union, Bergen, Middlesex and Morris. In addition, there is a municipal shelter in Jersey City in the Margaret Hague Medical Center. Even where children are sheltered separate from those charged with some offense as juvenile delinquents, the facilities vary greatly in quality. One shelter, for example, is a room over an abandoned garage.

There is no shelter of any kind in the other counties, and juvenile detention centers are often being used, with serious consequences, for the temporary shelter of children who are abused, abandoned or neglected. The Commission heard testimony that supports recently published accounts that describe the undesirability of using these facilities for children who have done nothing, but are nevertheless placed and treated as delinquents. This practice, the Commission was told, has resulted in "temporary" detention of abused, abandoned and neglected children for periods

Even where good shelters are available, they may not be known to other officials of the same community who are responsible for the care and protection of children. In one county the welfare department relies upon a good private agency from which it purchases emergency shelter care at a minimum price, yet the police in the same city as the shelter said there was "no place" to which they could refer children for temporary shelter.

Sometimes the situation is reversed and further complicated because welfare agencies are confused about accepting children from the police. In one county, police who were aware of good private shelter facilities were told that the shelter would not accept abandoned children from the police because "we don't take delinquents."

The disparity of treatment and the lack of facilities is nowhere more clear than in the case of temporary shelter care.

D. SEPARATING TREATMENT AND PROSECUTION

Although our current law, with its provision for reporting solely to the prosecutor, strongly suggests that child abuse is purely a criminal matter, intelligent practice has already modified this. In one city, for example, the prosecutor stated that he relied mainly on the investigation and advice of the BCS in deciding whether or not to prosecute.

Sorting out the social and medical elements of child abuse from the criminal offense poses a challenge not only to the law enforcement and medical professions but to society at large. The problem is new in its present epidemic proportions and is so depressing and complicated that many people prefer to avoid it. Doctors and law officers who have attempted to stimulate awareness among their colleagues tell the Commission they encounter great resistance even on arranging discussions of the crisis. The prosecutor of one county tried without success for more than a year to gain a hearing on the subject before the county medical society.

Dr. Leontine Young, Executive Director of Child Services Association in Newark and author of several books and articles related to child welfare, believes that perhaps 95% of those who abuse children are mentally ill.

Some medical schools now teach child abuse as a "disease entity" and presumably more doctors in the future will be trained in diagnosing the symptoms of physical abuse, especially in the very young.

The problem is not viewed as essentially medical or criminal by some who appeared before the Commission. These witnesses said abuse often stems from ignorance and not malice or mental disturbance. They suggested incorporation into the school curriculum of a comprehensive course of study to include child development. As one witness said, "Many of these parents (who abuse their children) don't know what is normal behavior in a young baby."

E. ABUSE WITHIN INSTITUTIONS

Ironically, cases of serious mistreatment of children are reported as occurring within public institutions designed to "protect" children. The following case is the most detailed to be presented to the Commission.

In a shelter run by public officials for children under sixteen years of age, this was reported to be the standard procedure:

1. Seventy-two hours of solitary confinement are a standard part of the intake procedure.
2. All boys' heads are shaved.
3. No schooling is provided.
4. No recreation is provided except that the children are allowed to run around on a paved area enclosed in barbed wire.
5. Twenty of the 24 hours of each day are spent in the cell; only four hours are allotted to meals and recreation.
6. Riot gas is now used, "when necessary," as a replacement for the previously used "mace."

7. A nine-months stay is possible in this institution.

The overcrowding in many of our public facilities and the mixture of abandoned or difficult children with those who have committed serious crimes, have already been referred to and, in themselves, constitute an unacceptable form of treatment for children.

Finally, public institutions are failing very often to provide education for children in their care. In addition to the practice described above, one mental institution is reported as having kept a child without education for 14 years.

F. NEGLECT

"There is a thin line between neglect and abuse," said Dr. Bernice Boehm of the Graduate School of Social Work, Rutgers University, at the Commission's public hearing in March. Malnutrition, which may cause permanent brain damage, confinement in a dark cellar without adequate food or clothing and neglect of any medical examination or treatment--all of these were reported to the Commission and all, though not resulting in visible bruises or fractures, may be far more damaging than some physical injuries might be. And they are, as Dr. Boehm and many other social work and law enforcement officials testified, far more prevalent than child abuse.

III. RECOMMENDATIONS

Based upon our findings thus far, we recommend:

A. Passage of a broader, more effective reporting law covering physical child abuse, i.e., Senate Bill No. 747 as amended, which now awaits the Governor's consideration.

The organization of the Central Registry was not specified in Senate Bill No. 747, and the Commission recommends a three-stage reorganization of this Registry:

- a. The first stage would record all suspected cases of child abuse or neglect and perhaps should be headed CHILDREN IN TROUBLE so

there is no criminal prejudice or stigma attached to the listing. It would be, essentially, a medical or social service listing.

- b. "The action list." This records all cases which, upon investigation, show a need for protective action, whether removal to a hospital or a foster home, or, if necessary, prosecution.
- c. Disposition. The final stage. The placement of a child in a suitable facility, the return to his home, the successful medical counselling or treatment of the parents, or the results of the prosecution.

B. Establishment of a special Child Protection Unit whose members shall be trained in social work and in the laws of evidence; establishment in each police department of at least one officer with some training in social work who will cooperate, when necessary, with the Child Protection Unit in cases of child abuse. Only when a child is in immediate danger--or in the act of being beaten--can he be removed from the home without a judge's order.

The Commission recommends for consideration for legislation the procedures recently adopted in New York: in an emergency a peace officer or the Bureau of Children's Services should be able to remove a child who is in imminent danger without a court order and without parental consent, but only when there is imminent danger to the child's life or health. This should be followed at once by application to the court for the proper and customary order which, in ordinary cases, should precede any removal of the child. Hospitals, also, should be able to hold a child whenever there is imminent danger to the child's life or health, the court order for this having been obtained by the Bureau of Children's Services under the emergency or regular procedures described above.

C. Purchase of care from public and private, profit and non-profit, institutions or agencies. Through utilization of all facilities, which shall be inspected to secure proper standards of care, children can be helped without depending upon construction of major new State facilities and without excessive

costs to the public. The goal of care available for children of families in trouble should include the following:

- a. Home-maker services. When the parent is ill or hospitalized a home-maker will be much less of a shock to the child than removal from the home.
- b. Shelter in a private home. The placement of a child in a private home with an approved couple, with no suggestion of institutional care.
- c. Home shelter. A house with an approved couple, which is maintained by a small standard monthly payment plus a per diem for every sheltered child. For instance, one county now uses this system: \$28 for each bed reserved for a child plus board at the rate of \$100 per month. (Note: See also page 18).

D. Coordinate efforts to alert legal, medical, welfare and educational professions to the prevalence and nature of child abuse and to the need for zealous reporting of cases.

Fortunately, there are successfully coordinated programs in some counties, and a keener public awareness of the prevalence and nature of child abuse is the goal of a combined effort in Bergen County by the county medical society, the prosecutor's office, local law enforcement agencies, hospital personnel, and the Bureau of Children's Services. They have published an advisory pamphlet that includes information on procedures for reporting cases of abuse. But its real value appears to be the practical guidelines it affords to doctors and others who are most likely to have the initial contact with the abuser and the victim. Drawing on their combined experiences as doctors, social workers and police, the authors have printed suggestions for early diagnosis of potential as well as actual abuse. For example, the pamphlet notes that parents who may near the crisis point with their children often bring them to doctors or hospitals before any injuries have occurred. The pamphlet suggests this may be a signal for help and a plea for counselling in handling their child.

The Commission recommends that the State Department of

Educational authorities should instruct the child study teams that any suggestion of child abuse or of dangerous family situations should be reported to the Child Protection Unit at once.

The early detection, and hopefully, prevention of serious child abuse is seen as essential by many experts who have worked with children.

E. Require that public institutions comply with all the State regulations prescribed for private agencies.

F. Provide every child in a court procedure, whether civil or criminal, with his own legal counsel. The need for independent legal counsel was brought home to the Commission by this account: A fourteen-year old girl escaping from the rages of her alcoholic parent repeatedly took refuge with the parents of a school friend. On the sole accusation of her mother, the police took the child to the county detention center, from which she was sent to the State Home for Girls on the charge of being an incorrigible runaway. She was imprisoned for over a year solely on the accusation made by her mother although a thorough investigation would have revealed that the girl was acting for her own safety and well being. Ironically, had she committed some serious criminal offense she would have received more legal protection. The case illustrates the need for extending independent counsel to custody and other civil cases for such children. And, further, the Commission recommends that no child be detained on the complaint of the parent only, without investigation by the BCS or probation office.

G. Provide schooling for children under public care or supervision if they are away from their usual school longer than three weeks.

H. Intervene in family situations under laws and procedure that are based primarily on the condition of the child, and not focused on assessing or assigning the guilt or responsibility for the child's plight. The State's first move should be to protect the child, and second to investigate the reasons for his neglect. This does not mean that the same procedure would be followed in the

case of a child whose life is endangered by severe physical injuries as would be followed in the case of a child who is suffering from malnutrition, or otherwise is failing to thrive. The first case would, of course, require removal of the child to a hospital or doctor's office for treatment and perhaps temporarily to the custody of a public or private agency; the second would perhaps require immediate study of the family situation and counselling for the parents without removing the child from his home. The emphasis should be on concern for the child's welfare, not determination of guilt.

Because of a seeming preponderance of evidence supporting the view that abuse and neglect should not be treated primarily as criminal matters, the Commission seriously considered whether it should recommend the removal of all criminal statutes now governing these acts. However, in considering all the testimony and evidence presented, particularly those cases of blatant physical abuse by parents or guardians resisting any interference in the child's behalf, we decided these sanctions must remain as a last resort. The reason for retaining these sanctions is clearly evident in the case of a child's death from abuse or malicious neglect; in less serious cases, we believe it may be wiser to terminate parental rights rather than to incarcerate the parents.

IV. RECOMMENDATIONS FOR FURTHER STUDY

The Commission wishes to call attention to areas of study that it has not explored but which bear on the response that society makes to children who are in trouble. There are four that are outstanding and were repeatedly touched upon in the meetings on child abuse: social services, delinquency, adoption, and judicial procedure.

A. SOCIAL SERVICES REORGANIZATION

Our investigations substantiate the view of numerous other commissions and studies (Note: See excerpt from the Blum

You are viewing an archived copy from the New Jersey State Library and Alexander reports printed as App. #2 of this report.) that better coordination of existing public and private institutions and agencies must be a primary goal if all social services, including child protection laws, are to be administered effectively and economically. This is a far-reaching proposal and cannot be realized easily. But it seems a necessary step for a variety of reasons--social, psychological and financial.

The Commission recommends a study of the feasibility of combining all social services (with the exception of the Child Protection Unit) into a single organization to be called Community Services, organized on a local or community basis, rather than on a categorical basis. It would serve the public from "storefront" local offices which can draw on State, county and municipal resources for the benefit of local residents, somewhat in the fashion of the Multi-Service Center now operating in Hamilton Twp. The Child Protection Unit might operate from regional, central offices with responsibility for child abuse and neglect cases only.

B. DELINQUENCY

Juvenile delinquency, under our present laws, has thirteen definitions of which nine would not be a high misdemeanor or even a misdemeanor if the acts defined were committed by an adult. Revision is certainly needed and the Commission recommends urgent action in that field, removing the last nine definitions entirely. (See App. #4, definitions of delinquency).

In re Gault, 387 U.S. 1, 16 (1967) changed many of the procedures of earlier laws concerning juveniles, but the principles those laws were designed to establish are still valid: that acts committed by a child cannot be judged in the same light as those committed by an adult; that a child lives in a world he cannot choose or control; and that in the young, above all others, there is still great hope for a stable and constructive future.

State intervention must be used judiciously. A child apparently "idly roaming the streets at night" may have been sent

by his father to buy a newspaper; he has not necessarily, as an adult would have, chosen to go out at night. An "incorrigible" runaway may be escaping from a dangerous home situation which he is too frightened to complain about to any authority. A child guilty of "habitual truancy" may be perceptually handicapped in such a way that work-study is needed rather than school. (All these come under the definition of delinquency). On the other hand, there are, of course, children who have completely escaped from the control of anxious parents who are doing their best; there are those who have committed violent acts which society cannot tolerate. Clearly in all these cases the State must intervene. But all these cases cannot be treated alike. If they are, if the runaway and the truant and the "difficult" child are all herded together in a correctional institution with those who have committed serious offenses, we will continue to make criminals out of children who might have needed nothing more than a change of environment for a few months or a year.

It seems clear that the State must move toward a series of different types of facilities to take care of children in trouble. All experts agree that an institution is the most damaging and least constructive and that almost any other facility is to be preferred. Small institutions such as the 50-bed facility which the State is now planning would be valuable for drug-affected or disturbed children who need intensive medical care and a structured environment. But for the others there are better alternatives: temporary shelter homes, foster homes, and family residential homes. These may be in the child's home town, where he can go to the local school, or they may be away from the child's usual environment, if that is needed. An example of the latter are homes being organized at the Delaware Water Gap by the Department of Education in cooperation with the National Park Service. In five houses scattered over 600 acres sixty high school boys will be accommodated, twelve in each house. Their education will be vigorously pursued and the boys do plumbing, wiring, and carpentry as well as agricultural work. A pilot project, conducted on a farm in Hunterdon County, proved the success of this program, which can be conducted at a cost of about \$4,500 or less per child per year.

This is in sharp contrast to the high cost in larger institutions, and the results--because the cure is more carefully tailored to the disease--are very much more successful. As defined by the organizer of these programs, Mr. James Kimple, Superintendent of Schools in South Brunswick, they are designed for "pre-delinquents, potential drop-outs, battered children who do not fit into, or do not profit from, regular school programs." For the child who can handle his usual environment but whose family life is dislocated, a foster home in his own district, where he could go to his usual school, would naturally be preferable. But some children, who have never committed any crime need to be removed from their usual environment and these residential home schools seem an ideal solution.

For the juvenile who would be committed to a State correctional institution in the usual course of events, a promising development is the treatment center funded by the Law Enforcement Assistance Administration, soon to be located in Camden. The center will serve 30 children, with no more than 15 in residence. For parolees, there is an ongoing, year-old program, the Parole Resource Office and Orientation facility in Jersey City, which operates in a low-income housing project on a 24-hour a day basis. Both of these new programs share the valuable non-institutional, on-the-spot approach which the Commission recommends.

C. ADOPTION

Adoption, which provides the permanent home recommended by Dr. Avrum Katcher as one of the first requirements for a child's stable development, needs to be emphasized, encouraged and facilitated. Assembly Bill No. 2535, introduced on June 14, 1971, provides for subsidized adoption by foster parents, a practice which is already implemented in six States. One State, Maryland, has gone further and subsidized adoption by would-be parents as well as foster parents. This should be carefully studied with a view to the protection of the child from exploitation, the rights of the foster parents and the prevention of undue expenditure of public funds.

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A permanent family situation is so far to be preferred to another arrangement that can be made for an abandoned or neglected child that the State should make every effort on these grounds alone to facilitate it in every way possible. This will require extensive research in the types of safeguards which have been proved trustworthy and in the costs and social services necessary. The Commission hopes that this can be expedited.

D. JUDICIAL PROCEDURE

The Commission suggests a careful review of laws regarding termination of parental rights whether for reasons of adoption or because the family situation seems beyond rehabilitation. All the evidence presented strongly suggested that all the problems of children should be handled by a family court. For these reasons, we will be particularly interested in the commissions studying the juvenile delinquency laws (c. 71, P.L. 1968) and the desirability of establishing family courts in New Jersey (JR 12, 1968).

The complexity of the problem must not deter us from acting at once to repair and to extend the network of protective services for children. With this as the primary objective, it is evident that major procedural and substantive changes must follow governing our legal and social responses to children in trouble. We know what the situation is, and what we must do to correct it.

APPENDIX NO. 1

Current New Jersey Law on child abuse and statistics on suspected child abuse cases as reported by County Prosecutors to BCS Central Registry--1967 to 1970.

Chapter 30, P.L. 1964, as amended by Chapter 305, P.L. 1966

AN ACT providing for the mandatory reporting by physicians and hospitals of certain physical abuses of children.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. It is declared to be the public policy of this State:

C. 9:6-8.1.
Physical abuses
of children;
reporting of.

(a) that protection should be afforded to children who have had physical injury inflicted upon them by parents or other persons responsible for their care, and who are further threatened by the conduct of such persons; and

(b) that full immunity from legal action should be granted to physicians and hospitals who act in a professional capacity in making reports of such injury in order that protection of such children may be afforded in accordance with the laws of this State.

C. 9:6-8.2.
Terms defined.

2. For the purposes of this act the following terms shall, unless otherwise indicated, be deemed and taken to have the meanings herein given to them:

(a) The term "physician" means a fully licensed doctor of medicine or doctor of osteopathy; and any resident or intern on the staff of a hospital, whether or not fully licensed.

(b) The term "hospital" means any institution whether operated for profit or not which maintains and operates facilities for the diagnosis, treatment or care of 2 or more nonrelated individuals suffering from illness, injury or deformity or where obstetrical, convalescent, out-patient department or other medical or nursing care is rendered for periods exceeding 24 hours.

C. 9:6-8.3.
Report of
injury.

3. Any physician having reasonable cause to suspect that any child under the age of 18 brought to him or coming before him for examination, care or treatment, regardless of where the examination, care or treatment is performed, has had serious physical injury or injuries inflicted upon him other than by accidental means by a parent, parents, guardian, or person having custody and control of the child, shall immediately report or shall cause to be reported to the county prosecutor of the county in which the child resides such injury or injuries in accordance with the provisions of this act; provided, however, that when the examination, care or treatment is provided as a member of the staff of a hospital, such physician shall notify the person in charge of the hospital or his authorized representative who shall immediately report such injury or injuries in accordance with the provisions of this act.

C. 9:6-8.4.
Report;
contents of.

4. Such report shall be made immediately by telephone or otherwise, followed as soon thereafter as possible by a report in writing. Such report shall contain the names and addresses of the child and his parent, parents, guardian, or person having custody and control of the child and, if known, the child's age, the nature and extent of the child's injuries including any evidence of previous injuries, and any other information that the physician believes may be helpful in establishing the cause of the injury or injuries and the identity of the perpetrator.

C. 9:6-8.5.
Investigation
by county
prosecutor;
procedure.

5. (a) Upon receipt of such a report the county prosecutor shall cause the matter to be fully investigated and shall, as the results of his investigation may warrant, proceed in the manner prescribed by the laws relevant to criminal prosecution, or file a complaint with the Bureau of Children's Services, or with any other agency, public or private, authorized to perform protective services for children, in accordance with the provisions of law relevant to protective services for children.

(b) The county prosecutor shall, immediately upon receipt of any written report submitted by a physician or by a hospital pursuant to section 3 of this act, forward a copy thereof to the Bureau of Children's Services for the sole purpose of compilation by that agency of State-wide statistical data concerning such reports, provided, however, that the submission of such report shall not be deemed to be a filing of the complaint with the Bureau of Children's Services as provided by subsection (a). Any prosecutor or agency authorized by subsection (a) to investigate a report shall, upon completion of its investigation, on forms approved by the Bureau of Children's Services, submit its findings to said bureau for the sole purpose of the completion of its statistical data concerning such reports.

C. 9:6-8.6.
Report;
immunity from
liability.

6. Anyone acting in a professional capacity in the making of a report pursuant to the provisions of this act shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed. Any such person shall have the same immunity with respect to testimony given in any judicial proceeding resulting from such report.

C. 9:6-8.7.
Violation a
misdemeanor.

7. Anyone knowingly and wilfully violating the provisions of this act shall be guilty of a misdemeanor.

State of New Jersey
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Department of Institutions & Agencies
Division of Public Welfare

SUSPECTED CHILD ABUSE CASES AS REPORTED BY COUNTY
PROSECUTORS TO BCS CENTRAL REGISTRY - YEARS 1967-1970

	<u>1967</u>	<u>1968</u>	<u>1969</u>	<u>1970</u>
Atlantic	1	2	3	3
Bergen	9	6	13	15
Burlington	6	3	4	-
Camden	-	-	1	-
Cape May	2	-	-	-
Cumberland	-	-	-	-
Essex	33	16	26	31
Gloucester	-	-	-	-
Hudson	3	-	1	-
Hunterdon	1	3	-	-
Mercer	3	6	8	2
Middlesex	2	-	6	6
Monmouth	-	1	2	-
Morris	7	-	-	-
Ocean	5	3	5	3
Passaic	10	7	7	3
Salem	-	1	1	-
Somerset	-	-	-	-
Sussex	-	-	-	-
Union	-	-	23	13
Warren	2	-	-	-
TOTALS	84	48	100	76

SUSPECTED CHILD ABUSE CASES AS REPORTED FOR 1970

Race of Children

	Male	20
<u>White</u> -	Female	16
	Male	18
<u>Negro</u> -	Female	14
	Male	5
<u>Other</u> -	Female	3

Sex of Children

Male	43
<u>Female</u>	33
Total	76

Ages of Children

No. of Children

Under 6 months	11
6 months to 1 yr.	9
1 yr. to 2 yrs.	13
2 yrs. to 4 yrs.	12
4 yrs. to 6 yrs.	7
6 yrs. to 8 yrs.	4
8 yrs. to 10 yrs.	5
10 yrs. to 12 yrs.	2
12 yrs. to 14 yrs.	5
14 yrs. to 16 yrs.	6
16 yrs. to 18 yrs.	2

TOTAL	76
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Injuries Sustained*

No. of Children

Internal Injury	3
None Apparent	1
Bruises, welts	17
Abrasions, lacerations	12
Wounds, cuts, punctures	1
Bone Fracture (s) other than skull	13
Burns, scalding	7
Skull fracture	10
Subdural hemorrhage or hematoma	5
Malnutrition (deliberate withholding of food)	4
Sprains, dislocations	2
Cardiac arrest	1

*Note--One child died of injuries sustained. One case was ruled accidental death.

Results of Investigation

Cases ruled out (accidental)	-	49
Criminal Prosecution	-	23
Uncertain (under investigation)	-	4

Suspected Perpetrator

Natural Parent	-	62
Step Parent	-	1
Boy Friend of Mother	-	8
Not related	-	1
Grandfather	-	1
Sister	-	1
Baby sitter	-	1
Unknown	-	1

APPENDIX NO. 2

Section 18 of the Report of the ad hoc Committee
on Children's Services in New Jersey to the State
Board of Control of the N.J. Department of
Institutions and Agencies, 1968.

SECTION XVIII

Neighborhood Family Life Centers

The increasing specialization of all welfare services aggravates the fragmentation of services produced by the present organizational structure of the Department of Institutions and Agencies. This fragmentation, combined with the always detailed and often intricate and confusing eligibility requirements for services creates a bureaucratic labyrinth that baffles many of the people who seek these services. Indeed, a leading figure in welfare work in the State told the Committee that because of the "low visibility" of many social services, families who most need these services do not know of their existence and so are not receiving them.

The State does not bear all the responsibility for this condition. Much of it stems from the eligibility requirements established by Federal welfare programs (which badly need unification and systematization). Equitable distribution of the blame, however, does not help those who need services and do not get them because they are not aware of them or do not know where to go to find out about them, or lack the education or sophistication needed to handle the administrative requirements that would establish their eligibility for the service.

Unfortunately, the policies of the Department of Institutions and Agencies contribute measurably to the confusion that surrounds and clouds public welfare services. Each division of the Department operates in the field from different locations, and usually the regional and local offices of each division cover a different geographical area than do the regional and local offices of the other divisions. A partial listing reveals that the Division of Correction and Parole has twelve offices, the Division of Mental Retardation has four regions, and the Bureau of Children's Services has eighteen offices. Divisions open new offices or create new districts without notifying other divisions. Even agencies under the supervision of a single division open regional and local offices without consulting one another. Within the last five years the Bureau of Children's Services opened one new office in Essex County and the Essex County Welfare Board opened four new offices, without either agency making the attempt to open joint offices.

The proliferation of separate offices for each service inevitably leads to confusion for all concerned, to serious economic waste, and to reduced services to those who need them. Everything possible should be done to bring services to those who need them when and where they are needed, at an easily comprehensible level. It is discouraging and humiliating for a family which has more than one specific problem among its members to be questioned by a number of separate social workers representing individual services. The number of offices which the person seeking help should have to visit should be reduced wherever administratively feasible to a single location as close as possible to his home in a building well known to him as the center of neighborhood activities. In that building, which could well be called the Neighborhood Family Life Center, he would find trained personnel who would give him the counselling and assistance he and his family may need or who would refer him to a specialized resource or institution.

The Neighborhood Family Life Center would provide a "single door" to the entire range of social and welfare services. It would be a highly visible door, for the Center which would include many community activities, would become a focal point of the life of the neighborhood. People would quickly discover that if they needed help they could get it at the Neighborhood Family Life Center.

The Committee recommends:

(59) *The creation by the State, in cooperation with local governments, of Neighborhood Family Life Centers staffed with trained personnel of the Department of Institutions and Agencies, and of other concerned State and local governmental agencies, to provide services and to make referrals to other public agencies and to voluntary agencies.*

Though the Centers would not restrict their functions to services to children, each Center would provide the local base of operations of the Division of Services to Children and Youth (as it should for all divisions of the Department). The Division would carry out its intake function and its caseworkers would have their offices here. Parole and probation officers would also be in the Center, as would the offices and many of the activities of the community treatment program for delinquents recommended in an earlier section of this report.

To make these Centers genuine focal points of neighborhood life they should not only house representatives of other governmental agencies that provide direct services to the people, such as the Departments of Health, Education, Labor and Industry and Community Affairs. The Centers should also house representatives of non-governmental agencies and institutions that are important elements in the neighborhood and that provide significant services to the people of the neighborhood, including both sectarian and non-sectarian social agencies.

The Committee recommends that:

(60) The Neighborhood Family Life Centers should include as part of their operation and staff representatives of non-governmental social agencies and organizations, including both sectarian and non-sectarian social agencies and organizations.

It is important that the people of the neighborhood have a voice in the operations of the Centers. This will further the desired end of making the Centers a major element in the Life of their neighborhoods.

The Committee recommends that:

(61) An advisory board of seven to nine persons, representative of all sectors and interest groups in the neighborhood, be named for each Center by the Board of Control or some other official body, to serve for terms of three years, and with the chairman of each board to be elected by the members of the board of the Center.

The Neighborhood Family Life Centers should be under the administrative authority of either the Department of Institutions and Agencies or the Department of Community Affairs. The Committee, however, does not recommend that these Centers must necessarily be established and operated by the State. Instead, on the model set by the Community Mental Health Services Act of 1957, the Centers could be sponsored by local governmental agencies or private non-profit associations organized for the purpose of providing welfare services to all members of the community who need them. The State could allocate matching funds not exceeding a set percentage of the budget to the Center.

In addition to providing social and welfare services the Neighborhood Family Life Centers would fill another and equally important function in many disadvantaged neighborhoods. Many of the people in these neighborhoods, newcomers to urban society, are in the process of discarding traditional cultural patterns but have not yet found adequate replacements for their old values. They have no affiliations to established community institutions or organizations, their family ties are brittle and their family life is often violent, disturbed and discontinuous. They are isolated from the community, they are discouraged by the challenges they feel they cannot meet, and they are overwhelmed by the unaccustomed pressures and the unaccustomed freedom of their new lives. For many of these uprooted and alienated people the Neighborhood Family Life Centers will provide an institution with which they can identify, to which they can attach themselves, in which they will find the opportunity to express themselves, and from which they will get the support and guidance they need.

After deciding on its recommendation for the establishment of Neighborhood Family Life Centers, the Committee was delighted to learn that the Department of Institutions and Agencies had made similar recommendations in its "Aggressive Public Welfare and Creative Regionalism" of July 15, 1967 (pp. 28-29). The District Service Centers described in this report bear much resemblance to the Neighborhood Family Life Centers recommended by the Committee.

Almost from the outset of its investigations the Committee became aware of the necessity of working with the family in order to help the child, and of the necessity of intervening as early as possible in the lives of those families who need help. For, as Claire Hancock pointed out in her valuable study of neglected children in New Jersey, "A social service program designed for the protection of children needs to be focussed primarily on the task of preserving family homes."²⁷

The Department of Institutions and Agencies, through its widespread activities that reach into every corner of the State, can do much in providing the external supports that many families need. It cannot, however, provide all the help and guidance these families must have. It must work closely with other branches of the State government in a concerted, planned effort to combat the problems that trouble and perplex our society and to help those who help themselves.

A recent news dispatch²⁸ told of a pilot project of the Federal Poverty Program conducted at Madera, California, under the auspices of the U.S. Bureau of Indian Affairs. It involves seventeen Indian families. The program includes intensive instruction in family life, vocational training and consumer education. The object of the program, said the news account "is to reach the entire Indian family by offering a way station between the reservation and the sometimes bewildering aspects of urban life." Why cannot the State of New Jersey, aided by Federal funds and with generous expenditures of its own funds, mount such a program on a far greater scale to help release thousands of families from distress and disintegration, to rescue them from the squalor and frustrations that torment them, and to help meet the responsibility that the rest of us owe these unfortunate and unhappy people?

APPENDIX NO. 3

Excerpt from the Report of the Commission to
Study the Department of Institutions and Agencies, 1959.

CONCLUSIONS AND RECOMMENDATIONS

Up to this point, our survey delineates the marked difference between the operational goals of the assistance and special service welfare programs. The following questions arise:

1. Will we have more humane, efficient and economical administration of our welfare programs by (a) handling all persons who are indigent or old or disabled through one agency, or by (b) handling the various forms of relief needed by a person with one disability, blindness, through a specialized agency dealing, as at present, only with that particular disability?

We believe there should be a change. One agency should, whenever possible, handle the various welfare programs and the individual cases. Money assistance is not a problem unique to any group but only involves a standard determination of eligibility based upon need. Special services are not always necessary but can be met by referral to the appropriate special agency, to medical clinics, rehabilitation or employment agencies, and so forth.

APPENDIX NO. 4

Definition of Juvenile Delinquency in N.J. Statutes

2A:4-14. Juvenile delinquency; definition; exclusive jurisdiction

Except as stated in section 2A:4-15 of this Title, the juvenile and domestic relations court shall have exclusive jurisdiction to hear and determine all cases of juvenile delinquency.

Juvenile delinquency is hereby defined as the commission by a child under 18 years of age

(1) of any act which when committed by a person of the age of 18 years or over would constitute:

- a. A felony, high misdemeanor, misdemeanor, or other offense, or
- b. The violation of any penal law or municipal ordinance, or
- c. Any act or offense for which he could be prosecuted in the method partaking of the nature of a criminal action or proceeding, or
- d. Being a disorderly person,

or (2) of the following acts:

- e. Habitual vagrancy, or
- f. Incurability, or
- g. Immorality, or
- h. Knowingly associating with thieves or vicious or immoral persons, or
- i. Growing up in idleness or delinquency, or
- j. Knowingly visiting gambling places, or patronizing other places or establishments, his admission to which constitutes a violation of law, or
- k. Idly roaming the streets at night, or
- l. Habitual truancy from school, or
- m. Deportment endangering the morals, health or general welfare of said child.

But the commission of an act which constitutes a violation of the provisions of chapters 3 or 4 of Title 39, Motor Vehicles, of the Revised Statutes, or of any amendment or supplement thereof, by any child who is the holder of a valid license to operate a motor vehicle under the laws of this or any other State, shall not constitute juvenile delinquency as defined in this section. As amended L.1959, c. 73, p. 188, § 1.

APPENDIX NO. 5

Excerpt from Article 10 of the Family Court Act
of New York

Section 1024. Emergency removal without court order. (a) A peace officer, or an agent of a duly incorporated society for the prevention of cruelty to children or a designated employee of a city or county department of social services may remove a child from the place where he is residing or any such person or any physician treating such child may keep a child in his custody without an order under section one thousand twenty-two and without the consent of the parent or other person legally responsible for the child's care, regardless of whether the parent or other person legally responsible for the child's care is absent, if (i) the child is in such condition that his continuing in said place of residence or in the care and custody of the parent or person legally responsible for the child's care present an imminent danger to the child's life or health; and

(ii) there is not time enough to apply for an order under section one thousand twenty-two.

(b) If a person authorized by this section removes or keeps custody of a child, he shall (i) bring the child immediately to a place designated by the rules of court for this purpose, unless the person is a physician treating the child and the child is or will be presently admitted to a hospital; and

(ii) make every reasonable effort to inform the parent or other person legally responsible for the child's care of the facility to which he has brought the child, and

(iii) inform the probation service and make a report pursuant to section three hundred eighty-three-a of the social services law, as soon as possible.

(c) Any person or institution acting in good faith in the removal or keeping of a child pursuant to this section shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed as a result of such removal or keeping.