

No EXIT

JUVENILE JUSTICE IN WASHINGTON



BY JAMES M. THRESHER—THE WASHINGTON POST

A youth in custody waiting to be taken to the D.C. juvenile court.

Boy in Trouble Enters Grip of Hidden System

Baffling Case Reveals Court's Dilemma

First of five articles

By Benjamin Weiser
Washington Post Staff Writer

The court clerk hailed Deborah Trevino as she walked into the large, modern courtroom on Jan. 28, 1985. Gesturing toward the cell block, the clerk said, "Counsel, you have another case. 'Scarface' is back there."

Trevino, a lawyer who defends juveniles in the D.C. Superior Court, quickly scanned the single-page police report. She stopped at the line, "Nickname or alias: Scarface" and then looked at the charge: indecent acts on a minor. As she headed to the cell block, she braced herself. "Scarface," she remembers thinking. "This must be a tough one."

Reaching the holding area, she peered through the thick metal bars and was startled to see a child, barely five feet tall and weighing just 90 pounds. Scarface was 10 years old.

He looked up at her, grinning widely. In a system that last year prosecuted 2,803 youths under the age of 18, he was one of the youngest Trevino had seen. She looked at him closely and noticed a number of cuts and scars on his face. As she learned more about his case—the boy was accused of fondling a 10-year-old girl on school property while one of his friends held her down—she wondered why it had ended up in court. Couldn't this be better handled by a counselor or teacher, who could explain to the boys why such behavior was unacceptable?

"My first reaction was, 'This little boy?' It seemed ridiculous," Trevino said.

Over the next 10 weeks, however, Scarface was arrested five more times. The charges were just as serious: holding up and robbing two men, threatening a woman with an iron pipe, participating in a brawl, illegally entering a car, roughing up a woman and snatching her purse. No other juvenile in Washington was arrested that many times in all of 1985.

After each of the first four arrests, judges decided to send Scarface home to his parents pending trial. When he appeared in Judge Steffen Graae's courtroom on April 9 after his fifth arrest, Graae was torn about what to do next. As he looked at the boy—who was sitting quietly in a gray T-shirt and shorts, his spindly legs barely reaching the floor—Graae remembers thinking, "What's going on? . . . What's happened to this poor little boy?"

Graae, in his third year as a judge, knew that releasing the child was risky. The parents had stopped coming to court and seemed to have no control over him. But Graae feared the alternative, which was to hold him in an overcrowded detention facility until trial. Either way, the judge had no assurance of helping the boy, who had just turned 11. To Graae, this dilemma revealed the fundamental failure of the juvenile court system: It was incapable of meeting its historic mission to rehabilitate young offenders.

See JUSTICE, A22, Col. 1



BY LUCIAN PERKINS—THE WASHINGTON POST

Dario at St. Elizabeths Hospital with Diane Hanek and Dr. William Stage, two of the many professionals who became involved in his case.

Difficulties Deepen for Boy, Court

JUSTICE, From A1

Graae understood the mission well enough. It was developed in the late 1800s by legal reformers who said society had an obligation to save young offenders from "a downward career." They demanded that juveniles be removed from adult courts and jails and treated instead as victims of mental or social disorders.

"The idea of crime and punishment was to be abandoned," the Supreme Court explained in the 1967 landmark *Gault* case on the rights of juveniles. "The child was to be 'treated' and 'rehabilitated,' and the procedures, from apprehension through institutionalization, were to be 'clinical' rather than punitive."

The Supreme Court reaffirmed those goals but concluded that children's rights were being systematically abused. The reformers' vision of a paternalistic and caring system had not been fulfilled, the justices said. Instead, judges acted arbitrarily and children ended up in dilapidated institutions where rehabilitation rarely took place. To protect accused delinquents, the court gave them certain adult rights, including the right to a lawyer.

Nearly 20 years after the Supreme Court's ruling, Graae saw little change. Sitting in arraignment court, where his job was to decide whether to hold juveniles before trial, he saw the failures of the system every day. He often felt like an overseer of an assembly line that seemed to lead inevitably to adult crimes and adult prisons.

The trappings were there—\$21 million a year to run the District's institutions and rehabilitation programs, a court with lawyers to present and defend cases, psychiatric specialists to analyze the toughest cases—but they had little effect.

"I think the likelihood of someone making it through the system and surviving and coming out a better person is a function of luck," Graae said. "It's illusory to think that the system is accomplishing what it is supposed to accomplish."

I learned about the case of Scarface during my second week as an observer in the D.C. juvenile court, which, under D.C. law, is normally closed to the public. The court granted me access on the condition that this series not reveal the names of juveniles; Scarface will be referred to as Dario, a name suggested by his mother to protect his identity.

The secrecy is designed to remove the stigma of a public, criminal proceeding, but some D.C. judges say it obscures the system's failures more than it protects the children. Judge Gladys Kessler, who headed the juvenile court from 1981 to 1985, said she would favor allowing the public more access. "I've become convinced that what those [secrecy] provisions have done is put a cloak around juvenile court proceedings, and around all the services and facilities that are supposed to be provided to youngsters so that nobody knows what's going on," she said.

The judges traced the system's failure to competing forces that tend to frustrate the court's rehabilitative mission: Lawyers and prosecutors are bent on winning their cases; child neglect investigators, in searching for evidence of abuse in the home, often miss subtler reasons for wayward behavior; the District's institutions lack meaningful programs and are, in Judge Graae's words, "little more than a warehouse."

Despite Graae's misgivings about detaining Dario, he could not risk the possibility that the boy would commit another crime. He had to detain him and give the system a chance to help him. As Trevino later said: "If the juvenile justice system can't do anything for an 11-year-old, who can it help?"

The First Arrest

The incident that propelled Dario into the system took place Jan. 23, 1985. It was a sunny and brisk Wednesday, with temperatures in the low 30s, cold enough that the children coming out of school that afternoon were dressed in winter overcoats. A school crossing guard in Northeast Washington had just taken her customary post about 2:30 p.m. when she noticed a young boy acting strangely. It was Dario.

He was walking along the center line of the street, talking loudly and cursing at no one in particular. The next thing the crossing guard knew, Dario and another boy were near the school building, partly hidden from her view by a pillar. Curious, she moved closer and saw the rose-colored coat of a 10-year-old girl, who moments earlier had been waiting for the school bus. The girl broke away from the boys and ran to the guard, sobbing. Dario began punching the guard as she took the girl into the school.

In the principal's office, the girl told her grandmother that Dario had fondled her while the other boy held her legs down. The grandmother demanded that the police be called and the boys be arrested. After two days of investigation, Detective Patrick Shine agreed. The following Monday, at Shine's request, Dario's parents took the boy to police headquarters.

Dario seemed almost proud of his arrest, boasting to the mother of the boy arrested with him about the incident. As the boys were handcuffed and led away to a cell, Dario broke away and tried to run; he got only a few feet before an officer grabbed him. As a precaution, Dario was told to hand over his sneakers.

Several hours later, when he met with Trevino for the first time, he was warm and friendly. Trevino, a 29-year-old lawyer in her first year with the Public Defender Service, became convinced that the police and the prosecutors were overreacting and trying to turn a schoolyard prank into a sex case.

Dario's hearing that day in Courtroom 3 was brief. As soon as it began, Trevino told Judge Geoffrey Alprin that Dario's parents

were in court, which Trevino knew would be important to the judge. A few other details about the boy emerged—he was having problems in school and his parents thought he might be hyperactive—but nothing that indicated he had to be detained.

Trevino remembers having a strong, positive impression of Dario's parents. "The father seemed just like this sweet, hard-working man who had taken care of the mother, who didn't speak any English," Trevino recalled. "He was holding two jobs and had still found time to come to court to be with Dario."

Over the next few weeks, she learned the family's history. Dario's parents had both grown up poor. His father, 56, had worked for most of his life as a laborer in the Central American country where he was born. Dario's mother, 36, had worked as a maid and seamstress. They had been married for 14 years.

In 1978, Dario's father came to the United States by himself, settling in the District. Working mostly as a painter, he earned enough money for his wife and family to follow in 1981. They obtained permission from U.S. immigration officials to stay and received the green cards that classified them as legal immigrants.

The couple and their five children moved into an apartment in a federally subsidized housing project near one of the city's worst drug-dealing corridors. "I remember being impressed at how difficult it was for an immigrant family," said Trevino, whose fluency in Spanish helped her to communicate with them.

When I first met Dario's parents, I had the same impression. Dario's father said his son's troubles had him "worried sick." He

said Dario had been a model child before coming to the United States but was now under the influence of older, tougher teenagers. "Me and the mother, we tried our best," he said.

A Psychologist's Warning

To prepare her defense of Dario, Trevino needed to know more about him—his record in school, his relationship with his parents, his personality. As a first step, she hired psychologist Sarah Jane Elpern, who met with Dario on March 12, 1985, at the Public Defender Service building. Immediately afterward, Elpern headed into Trevino's office.

"Isn't he cute?" Trevino asked her. "Yes," Elpern replied, "but he's got real problems." Elpern said she saw considerable anger in Dario, particularly toward his father. When Elpern asked Dario whether his parents showed any affection toward him, he told her, "I'm too big to get hugs." Instead of feeling sorry about misbehaving, he seemed proud; he freely talked about how "acting bad" in school had led to a suspension.

Elpern warned Trevino that Dario was headed for more serious trouble if he did not receive psychiatric treatment. Trevino wondered, however, if Elpern was exaggerating; Dario was so well behaved in her presence.

At 5:15 p.m. on March 21, 1985, police were called to a carryout restaurant on K Street NW, where Dario allegedly was threatening a woman with a piece of iron pipe. Dario was charged with assault with a dangerous weapon and released again.

On April 1, Dario was arrested a third time. He and two other boys were accused of holding up two men at gunpoint, robbing them

of credit cards and \$122 in cash and then fleeing on bicycles.

When police officers spotted the boys several blocks away, they discovered that the guns were toys. That made no difference to the prosecutors, who charged the boys with armed robbery, as the law permits. The victims, Jonathan First and James Derstine, said they had believed that the weapons were real. First, 23, a law student at Georgetown University, said later, "I didn't want to take any chance. He talked really tough for a little kid: 'Give me your money. You better [expletive] give me your money.'"

In court the next day, before Judge Graae for the first time, Dario appeared without his mother or father, who were at work. Kenneth Rosenau, the lawyer assigned to Dario for the latest charge, sensed that Graae might be reluctant to release the boy. So Rosenau made an offer: "I recognize it's unusual, but given that he is barely 11 years old—his birthday was last week—if the court will release him at least for today into my custody, I'll see that he gets home this afternoon." Graae agreed.

At 5:30 p.m., Rosenau drove Dario to the family's apartment building. There, it was clear that news of Dario's arrest had already spread. As they entered the elevator, Rosenau remembers, a woman said to them, "Oh, you're with that little thug, are you?"

Dario's father greeted Rosenau warmly and invited him in for coffee. Rosenau left believing that Dario was fortunate to have parents who seemed so concerned.

Less than 24 hours later, Dario was arrested a fourth time—for allegedly knocking a woman down near 14th and K streets NW and stealing her purse.

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'The Ringleader'

Two days later, Dario was back in Graae's court. The tenor of the hearing was different from that of the earlier ones, when the prosecutor's office had raised no objection to Dario's release. But Paul Quander, the lead prosecutor in the case, changed his mind after interviewing police officers and witnesses. An officer said Dario had been "the ringleader" in the armed robbery and had threatened one of his victims after his arrest, saying, "Go ahead and identify me so I can kick your [expletive]." He seemed brazen rather than contrite, telling another officer, "You can't do anything to me. Whatever you do doesn't bother me at all."

Dario's defense lawyers, however, clung to the belief that Dario was better off at home than in a facility filled with older, tougher offenders. The charges just did not square with the boy they saw. "I noticed how deferential he was and how respectful he was," said Alexis Pearce, a public defender appointed to represent Dario on the fourth charge. "The first question that went through my mind was: How could a young man as small and cute as he have committed such a crime as this?"

After listening to the two sides, Graae decided to send Dario home again but ordered that a court social worker check on him periodically. Four days later, before the worker could even make a first visit, Dario was arrested a fifth time—for allegedly taking part in a brawl outside a Dupont Circle video arcade.

When Dario appeared in court the next day, Graae finally decided that Dario had to be sent temporarily to the D.C. Receiving Home, a run-down brick facility in Northeast Washington. Graae disliked the place—he thought it was decrepit and dangerous—but he felt he had no choice. "I was honestly trying to do everything I could to keep him from feeling the full weight of the system," Graae said later.

That night, Dario himself became a victim. He was asleep in his room at the Receiving Home when a 15-year-old youth came to his bed and put his hands inside Dario's pants. Dario awoke and found the youth fondling him. The youth later pleaded guilty to assault.

The next morning, a distressed and angry Graae ordered Dario transferred to a private shelter on Capitol Hill, Community Advocates for Youth, run by the Sasha Bruce Foundation. But its staff could not control him either.

"He became animalistic," recalled Floyd Jackson, a counselor at the shelter. "He would physically try to hurt you when you asked him not to do certain things. Biting. He pulled a knife upstairs. A lot of threatening behavior . . . Rewards didn't work with him. A lot of pressure didn't work with him. The discipline didn't work with him."

On April 15, Dario escaped from Jackson's custody. They were visiting Dario's school to meet with Dario's principal and discuss whether he could return to school. Several hours later, he was arrested a sixth time, near 12th and S streets NW, as he and another youth were found in a parked 1985 Nissan Maxima. They were charged with unauthorized use of a vehicle.

As Dario was being booked, he told officers he had a new nickname: Brains.

Judge Graae's Decision

Two days later, in the custody of a guard, Dario sat handcuffed to a plastic chair outside Graae's courtroom. "After all the chances he give me, I don't know if he'll let me go home today," Dario said.

Inside the courtroom, Graae was exasperated. Although prosecutors had decided not to press charges in the car incident, believing that the evidence was weak, Graae rejected Dario's request to be allowed to go home.

"We need to know a lot more about why he is doing what he is doing so that we can help him properly," Graae said. A court psychiatrist had examined Dario in his cell and recommended a fuller assessment at St. Elizabeths Hospital. Graae ordered Dario sent there for 21 days to be evaluated by government psychiatrists.

Attorneys Pearce and Trevino visited Dario's apartment and picked up his clothes and sneakers. His father handed them a bulging shopping bag with Dario's belongings, saying, "Tell him we love him . . . Tell him I say to behave himself—to keep his chin up."

On May 10, Dario was taken to court for a review of his status. Rosenau visited him in a holding cell behind the courtroom, where he found him slouched against the bars. He was groggy and disoriented, and his face was puffy. Rosenau realized that Dario had been sedated in the hospital, and he asked how Dario was doing.

"Okay," Dario said dully.

"Good okay, or bad okay?"

"Bad okay."

"They want to look at you for a while longer."

Dario yawned and leaned forward. His eyes were half closed, and he cocked his elbow against one of the crossbars of the cell.

"I don't want to go back."

"Where do you want to go?"

"Home."

When the case was called, Dario was led into the courtroom. His parents were at his side. Rosenau told Graae, "Your honor, my client still desires to return home. His parents are here today. I believe that they could, in fact, supervise him at home."

Graae was skeptical. Did Rosenau really believe that Dario was better off at home than in the hospital?

"Your honor, my client has asked me to represent to the court his desires . . . Rosenau said.

"Well, I think the record pretty much shows that he cannot be supervised at home," Graae said tartly, ordering Dario back to St. Elizabeths. As the hearing ended, there was audible grumbling in the well of the courtroom. Dario had come out of his stupor and was muttering loudly. Rosenau leaned over to quiet him. Dario started to shift back and forth on his feet, and a marshal moved closer. Dario angrily stomped out of the courtroom toward the cell block, shouting at Graae, "I hope I die!"

NEXT: The attorneys' dilemma



Questioning Ability Of Court to Help



BY LUCIAN PERKINS—THE WASHINGTON POST

Lawyers Deborah Trevino, Kenneth Rosenau, center, and Alexis Pearce wanted to keep Dario out of an institution.

Attorneys Try to Rescue Boy From Criminality — and System

Second of five articles

By Benjamin Weiser
Washington Post Staff Writer

On May 24, 1985, a rainy Friday afternoon, a group of psychiatrists, psychologists, social workers and nurses at St. Elizabeths Hospital met to consider the troubling case of Dario, an 11-year-old boy facing five serious charges in juvenile court. After an extensive six-week examination, ordered by a judge, none of the 10 people in the room had any doubt that Dario's behavior was abnormal.

"He sees the world as hostile and-out to get him. He responds in kind," said psychologist Susan Van Ost.

"I think that what we're seeing is a sociopath in the making," said Dr. George Chornesky, a psychiatrist, suggesting that the young boy was already developing a criminal personality.

Dario had been violent in school, was charged with armed robbery and other offenses, and now

was terrorizing the children's ward—fighting with patients, biting one nurse on both arms, threatening another with a butter knife. By the end of their hourlong discussion, the specialists all agreed: Dario needed at least a year of psychiatric treatment in a residential institution, away from his family and school, away from the negative influences in his life. They felt that Dario was young enough to be helped—if they could find out the cause of his problem.

"We have about two years in which effective treatment can be carried out," Chornesky said. "This is such a critical period of his development."

Suddenly, Alexis Pearce broke in. Pearce, one of Dario's defense lawyers, had been listening quietly and could no longer contain himself.

"Nothing can happen until Dario's cases go back to court," Pearce said. Dario could be sent for treatment only if he were convicted. And, Pearce said pointedly, "We hope he won't be."

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Defense Finds A Pattern, but Puzzle Remains

JUSTICE, From A1

There was a sense of disbelief in the room. Finally, Van Ost asked, "Why would you *not* want him adjudicated [guilty]?"

Because, Pearce replied, he wanted to keep Dario out of the juvenile system.

"I think he should be convicted of *something*," Van Ost persisted. "Once he's in the court system, he will do better."

"That's where we differ," Pearce said.

Pearce did not take this position cavalierly. He realized that his role as a defense attorney brought him into conflict with the juvenile court's stated mission to treat and rehabilitate youthful offenders. But that raised moral questions: By fighting to win Dario's acquittal, was he blocking Dario from getting services the youth might truly need? Was a conviction the only way to ensure that Dario would receive help?

After a year of practicing in juvenile court, though, Pearce had decided the system was not working. It was failing to deliver on its promise of rehabilitation. It did not seem to matter whether children were sent to the large District institutions, to small group homes or to expensive private facilities. Usually, Pearce thought, delinquents were warehoused, much like inmates in adult prisons. To him, St. Elizabeths was just another holding facility.

Pearce had no qualms: His goal was to protect Dario from what he believed to be an oppressive and failing system.

Allies in an Uphill Fight

The role of protector fit Pearce well. He was 27, muscular and, at 6 feet 4 inches tall towered over Dario, who was 5 feet tall and weighed 90 pounds. During their conversations in the courtroom and the hospital, Pearce often kept a hand on Dario's shoulder, sometimes playfully punching him or chiding him softly in a North Carolina drawl.

"Look at me," Pearce said one day. "You've got a beautiful face."

"I can't look at nobody in the eye straight like that," Dario said, his face averted.

"You know, when you're in court, you've got to look up at the judge," Pearce reminded him firmly.

One of Pearce's partners in defending Dario was Deborah Trevino, 29. She had been the first attorney assigned to Dario, shortly after his initial arrest Jan. 28, 1985, for an alleged sexual assault of a schoolmate. Dark-haired and full of energy, she had grown up in a Spanish-speaking area near Los Angeles and empathized with Dario's family, who were immigrants from Central America.

Trevino and Pearce worked for the Public Defender Service, which provides legal help to those who cannot afford it. They were proud of their agency's record of fighting for children's rights, demonstrated by 15 years of lawsuits against the juvenile system for alleged abuses. In Dario's case, they found an ally in Kenneth Rosenau, a private lawyer assigned by the court to Dario's defense as the arrests piled up.

Rosenau, 29, had more experience in juvenile court than the other two. In four years, he had represented more than 1,000 delinquents and children who had been neglected or abused. An intense man with a scraggly beard, Rosenau saw himself as a fierce advocate for his young clients and thought other lawyers should be, too. He once informed a judge about a lawyer who was having all his clients plead guilty, even when the evidence against them was weak.

Pearce, Trevino and Rosenau believed in the adversarial system, and they were trained to resist any temptation to act as social workers rather than lawyers. The D.C. Bar, in a guide to juvenile court, even warned them not to be "co-opted" by "the traditional child-saving ethic of the juvenile court."

There was no "child-saving" going on, the lawyers felt, and that is why Dario deserved the best defense they could muster, bolstered by legal maneuvers and strategies common in adult court.

The attorneys knew they faced an uphill fight in court. The evidence was strong in each case. The charges—indecent acts on a minor, armed robbery, two assaults with dangerous weapons and purse snatching—were grave enough that convictions would almost certainly lead to placement in an institution. Moreover, in private conversations with his lawyers, Dario did not deny his involvement in some of the incidents, although he minimized his role in most of them.

For example, when Trevino asked whether he had participated in the sexual assault—Dario was accused of fondling a young girl while another boy held her down—he said, "I was . . . I ain't going to lie." When Pearce asked him about the purse snatching, Dario said he and a friend had evenly divided the money they found in the woman's pocketbook: "He got \$21, I got \$21."

The lawyers decided to pursue two strategies: First, find a way to cast doubt on the evidence wherever possible, and second, search for the reasons for Dario's behavior. They still had a hard time accepting that Dario was a criminal at age 11. Were his arrests an indication of deeper problems? Although Dario's parents seemed to be concerned and caring, the lawyers were worried about unexplained scars on the boy's face, arms and legs. They wondered if Dario might be a victim of neglect, or even abuse.

Studies had clearly shown the link be-

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tween delinquency and neglect. If Dario was being neglected or abused, they could portray him as a victim, not a perpetrator. Rosenau said he hoped to be able to tell the judge, "He's not a criminal. He's responding to his environment. He is responding to the problems in the home." They could then ask the judge to remove Dario from his family and place him with foster parents, sparing him from the juvenile institutions they saw as detrimental.

Searching for an Explanation

As Rosenau and his colleagues looked back over their file on Dario, including psychological reports and notes from their investigators, a pattern emerged.

Sarah Jane Elpern, a psychologist hired by Trevino to examine Dario, wrote on March 12, 1985, "From the sound of things, Dario does not have a comfortable relationship with his parents. He reports that he does not get along with his father and that he never has."

Martin Booth, a court psychiatrist who examined Dario, wrote on April 10: "He spoke of having periods of great sadness but would not elaborate . . . His responses to questions about family seemed vague and unrevealing."

Anna Mejia, a Spanish-speaking assistant in Trevino's office who interviewed Dario's parents, came back confused. Dario's father, who had recently lost his job as a janitor, seemed to be hard-working and caring. Dario's mother supported that view. But Mejia learned that the father sometimes disciplined the children by hitting them, and she noticed a large bruise on the mother's left cheek.

Trevino, Pearce and Rosenau tried to square these impressions with their own observations. To Pearce, Dario seemed to have a close relationship with his parents, who visited the hospital almost daily. On one such visit, which Pearce observed, Dario's father handed his son a bag of food and admonished him to improve his behavior. "Here are your fries . . . and your McNuggets," Dario's father said. "Everyone is pushing to help you, so you have to help yourself and behave."

In a discussion with Rosenau in the courthouse, Dario's father offered plausible explanations for his son's behavior: Dario was being influenced by teen-age delinquents who hung out near their apartment building; Dario would not go to school; Dario would not listen. "I promised him a new bike if he behaves himself . . . and be disciplined, you know, respect his mother and everything, and keep away from that crowd that he been with . . .," the father told Rosenau.

"Some say he was the leader," Rosenau said.

"You gotta look at it this way," Dario's father said, groping for the English words. "He's not born here in this country, and these kids are more familiar with different laws here and what they can do and get by with . . . Eventually, they will use him in certain things."

When Rosenau asked about the scars on Dario's face and arms, the father said only, "I know once he had a fall . . . and he got a nasty scar over his knee. And regularly riding his bicycle, he had bruises and so forth."

Rosenau did not know what to believe. In mid-April, he and the other lawyers asked for a neglect investigation of the family to resolve the conflicting impressions. They quickly learned that they were not the first to suggest such an investigation.

The school system, concerned about Dario's aggressive behavior in class and his frequent absences, had already asked for one. The court was also planning to do so, a routine practice in cases involving defendants younger than 13.

The investigation took three weeks. Jonnetta Bumgardner, a child neglect worker from the city Department of Human Services, interviewed eight people and gathered evidence that led her to believe that Dario's parents were trying desperately to help him.

At Dario's school, the principal displayed a log of 72 calls that she had made to Dario's father about the boy's behavior problems, and she said the father was always cooperative.

Bumgardner got the same story when she visited Andromeda, a counseling agency in Adams-Morgan where Dario's family had gone for help. She was told the counseling sessions ceased because Dario refused to

go, despite his parents' best efforts to have him there.

She visited the family's apartment but met only Dario's 17-year-old brother, who said his parents were at work. She left a message for Dario's father, but he never called her. She decided, though, that there was no evidence of neglect and there was no need to interview the parents. Rather, her report said, Dario was "beyond the control" of his parents and needed to be placed in an institution.

"To me, there was just simply no way you could blame this on the parents," Bumgardner said later. "They had put forth every effort, not some minimal amount of effort."

Her report arrived April 23 on the desk of Anne Lowe, a court intake worker who had originally referred the case. As Lowe read the three-page document, she noticed that it said nothing about the scars and that Bumgardner had never interviewed Dario's parents.

"What kind of nonsense is this?" Lowe said to Christopher Xenos, another intake worker. "Those people over there are not doing their job."

Xenos agreed. "How can you say that a home is or is not neglectful if you haven't even spoken to the operator of that home?" he wondered.

Lowe and Xenos called Rosenau. He was furious. He wrote an angry summary of the incident for his files. "There are problems in this family that we do not know about . . . We have dozens of scars, up and down the arms and legs, and this report doesn't even speak to the parents, let alone try and secure an explanation," Rosenau wrote.

Lowe and Xenos went to their boss, Tim Carroll, to complain. Carroll agreed that the investigation had been inadequate and told them to ask for another one. Carroll reasoned, "There's no question that he's a delinquent. Our question is why? How does an 11-year-old get to this point? . . . Eleven-year-olds just don't act out like that."

The Department of Human Services reopened the case. A new investigator, Gabriella Curtis, retraced Bumgardner's steps and interviewed the parents. Her conclusion supported Bumgardner. "From this investigation, it appears that the parents have attempted to provide a good home for their children but were unable to control outside factors influencing their behavior," Curtis wrote.

At this point, Dario's attorneys thought that they had to accept the agency's findings. They had to abandon their strategy. Instead, they had to find a way to attack the prosecutors' evidence against Dario.

Motions and Confrontation

Rosenau, representing Dario on the armed robbery charge, decided that his best hope was to prove that the police had illegally questioned Dario after his arrest.

Rosenau discovered this possibility while combing through the police reports and other legal documents he had received from the prosecutor's office in mid-April. On the

ABOUT THIS SERIES



Nineteen months ago, the D.C. Superior Court granted The Washington Post access to closed proceedings of the juvenile court on the condition that the identities of juveniles and their families be kept confidential. After selecting Dario's case to follow through the system, Post reporter Benjamin Weiser made similar arrangements with Dario's parents, his lawyers, prosecutors and the staff at St. Elizabeths Hospital so that he could attend otherwise private meetings.

Dario is a substitute name suggested by his mother and adopted by The Post to ensure that his and his family's identities remain confidential. This name is used throughout the series, including where it appears in quotations.

form used by police to show that a suspect had been advised of his rights, Dario had written "No" where it asked if he wanted to answer questions without an attorney present. The police officers had interrogated Dario anyway.

Rosenau asked Dario why he had answered the officer's questions. "He kept bugging me, kept telling me I'd get locked up," Dario said.

"I think the police broke some rules," Rosenau said. "You didn't know what you were doing. You were scared."

"Yeah," Dario said.

Hoping to get this evidence thrown out, Rosenau filed a motion with the court, criticizing the police procedures and suggesting that his young client had been intimidated. The prosecutors responded with a motion saying that they had a strong case against Dario and did not need to use the challenged statements. The court scheduled a hearing at which Rosenau planned to have Dario testify.

Meanwhile, Trevino thought she had found a way to get Dario acquitted in the sexual assault case, in which Dario and a 10-year-old friend were charged with indecent acts on a minor. Researching the law, Trevino found that the government needed to prove that Dario acted to "gratify his . . . lust, passion and sexual desires." Trevino intended to argue that children so young were incapable of such feelings.

Before Dario's case came to trial, however, Trevino ran into an unexpected obstacle. Dario's friend was going on trial first, and his lawyer, Ruth Harthoorn, was ambivalent about trying to win his case. "I don't want to win. My client is so much in need of services," she said the morning of trial. "Winning is not in my client's best interest."

Trevino was astounded. "You want to get him *acquitted*," she said.

"How can I get his needs served?" Harthoorn said, pointing out that her client came from a broken home and had serious emotional problems.

"I think you could win this," Trevino insisted. She felt Harthoorn was forgetting her role, her responsibility. She was getting caught up in the "child saving" ethic. Trevino kept pressing her. Finally, Harthoorn decided to put on the best case she could.

Trevino went to observe the trial. To her delight, Judge Frederick Weisberg independently came to the same conclusion that she had: A boy that young could not be convicted of sexual molestation. Weisberg acquitted Dario's friend on the indecent acts charge, found him guilty of a lesser charge of simple assault and placed him in a program where he would be supervised at home. The ruling satisfied Harthoorn and gave Trevino hope.

On June 11, three days before the court hearing to resolve Rosenau's contention that the police had illegally questioned Dario, there was a crisis at St. Elizabeths.

Diane Hanek, a social worker on the children's ward, was leaving for the night when she glanced down the long corridor leading to Dario's room. She saw Dario standing by his bedroom door with one end of a sheet tied around his neck. The other end was lodged between the door and the frame. Hanek saw Dario go limp, collapsing to his knees. The sheet jerked tightly around his neck.

Hanek raced down the hallway. Dario was gasping and choking. For an instant, Hanek thought he was dying.

She lifted him up quickly, reducing the pressure on his neck. She saw that he was still conscious. Doctors examined him and found no injuries other than slight bruises on his neck.

When Hanek wrote about the incident on Dario's medical chart, she tried to explain his thinking. "Dario stated he wants to die. He doesn't want to be here. If he dies, he'll be somewhere else."

The next day, Rosenau came to the ward to go over Dario's testimony for the hearing. Dario did not mention his suicide attempt, and Rosenau was unaware of it until he bumped into Hanek in a hallway. She described Dario's attempt to hang himself and then said, "Are you going to try to get him off all these charges like Mr. Pearce is? Then he won't get any services."

"I know," Rosenau said uncomfortably. "Tell me something else that rips my gut out."

Hanek pressed the point. "We don't really know this kid yet. We just see this bizarre grin. There's a lot going on, and we don't really understand it."

Rosenau was beginning to wonder how a drawn-out legal battle would affect Dario. He turned to Dr. William Stage, a psychiatrist on the ward, who had joined the conversation. "Can I put him on the witness stand?" Rosenau asked. "I'm worried about him coming back here and hanging himself."

Stage was not sure. Shaken, Rosenau decided to go ahead with the hearing. But when Rosenau met Dario in court two days later, the boy seemed jittery and upset. After talking with Dario for several minutes, Rosenau changed his mind. "He's not in any condition to testify," Rosenau told Judge Shellie Bowers, who agreed to postpone the hearing.

Outside the courtroom, as Dario was being taken back to St. Elizabeths, Rosenau approached Dario's mother. She had come to the hearing with a friend who was acting as her translator.

Rosenau asked the friend to convey a message. "I'd like it if she would talk to Dario about what it means to plead guilty."

Rosenau left unsaid the implications of this change in strategy. Pleading guilty, even as part of a plea bargain, meant surrendering Dario to a system in which the attorneys had little faith.

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BY LUCIAN PERAINO—THE WASHINGTON POST

Known as a tough plea bargainer, Dario's prosecutor Paul Quander was confident he knew the difference between a budding criminal and a child who needed a scolding.



Tough Bargaining Over Boy's Fate

11-Year-Old's Ignorance of Rights Stymies Lawyers' Efforts

Third of five articles

By Benjamin Weiser
Washington Post Staff Writer

Ordinarily, defense lawyer Kenneth Rosenau didn't have much trouble explaining the concept of plea bargaining to his juvenile clients. But this time his client was 11 years old.

"We're going to do some bargaining with the government," Rosenau announced to Dario on June 12, 1985, at St. Elizabeths Hospital, where Dario was undergoing a psychiatric evaluation before trial on five serious charges. "You know how bargaining goes? Ever bargain for baseball cards?"

Dario, wearing blue gym shorts and a green sweatshirt that hung loosely on his slight frame, snatched a package of cheese crackers offered by Rosenau, tore open the wrapper and wolfed them down.

"You have an absolute right to a trial. Do you know what absolute is?"

"No," Dario said, cracker crumbs tumbling down his sweatshirt.

Rosenau said, "I'm going to go through with you a

couple of rights, a couple of things you probably don't know about. The judge might say, 'Mr. Rosenau, you didn't advise Dario of his constitutional rights.' You know what the Constitution is?"

"No"

"Ever see a trial on TV?"

"No."

Rosenau tried again. "There is a 'presumption of innocence.' Do you know what that is?"

"No."

Rosenau began to explain. "They've got to present testimony. Do you know what that is?"

"No."

Rosenau sighed. After five years of defending juveniles, plea bargaining on their behalf still made him uncomfortable. Even if he thought his young clients understood the legal jargon, could he ever be certain their judgment was mature enough to understand the consequences? Was plea bargaining acceptable in a court where children were, by legal definition, too young to be held responsible for their actions?

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Dario's case was particularly difficult because of his extreme youth, the severity of his crimes and a precarious mental state: Dario had recently tried to commit suicide in the hospital by hanging himself with a bed sheet, causing a change in legal strategy. Rosenau and two other defense attorneys had been prepared to go to trial on all five charges; now, they worried that Dario was too fragile to withstand a process likely to drag on through the summer and fall. Plea bargaining seemed the best way to resolve the case quickly and get Dario the help he needed.

As the lawyers' strategy shifted, so did their goals. They could no longer keep Dario out of the juvenile system, which they saw as failing and ineffective. Now their only hope was to negotiate for his placement in a residential treatment facility, with high-quality educational and psychiatric programs—something better than the places where the District usually sent delinquent children.

Rosenau expected the prosecutors to demand that Dario plead guilty to one of his two most serious charges—armed robbery and sexual assault. He hoped to get a better deal, perhaps a guilty plea to a reduced charge in one case and dismissals of the others. At St. Elizabeths that day, he ran through each case with Dario, exploring the strengths and weaknesses of the evidence, trying to determine how much room he had to bargain.

He started with Dario's first arrest, for allegedly fondling a 10-year-old girl outside his elementary school while a friend held the girl down. They were charged with indecent acts on a minor.

"I'm guilty of that one," Dario said, slouching in his chair. "I touched her in her privacy."

How about the second charge? Had Dario threatened a woman with a piece of iron pipe in a downtown carryout restaurant?

"Yeah, I'm guilty of that one, too."

"Did you shoot Abraham Lincoln?" Rosenau said. "You're saying you were guilty of everything? . . . I don't want you pleading guilty to something you're not guilty of."

He saved his own case for last. He was representing Dario in the armed robbery of two men on 15th and O streets NW. The police said Dario had led a gang of four boys, all on bicycles, who had held up and stolen \$122 from the victims. Each boy had allegedly waved a gun at the men. The police had discovered the guns were toys, but because the victims had thought they were real and feared for their lives, the prosecutors had decided to charge the boys with armed robbery.

"How many of you had guns?" Rosenau asked.

"All four of us got guns. I had got mine from Peoples."

"What kind of gun?"

"Cap gun."

"Did you fire it?"

"No."

"How far were you?"

"Ten feet . . . I thought we were playing cap guns on our bikes. When they told me they were going to do it, I didn't believe it."

"What did they say?"

"There are two men we can rob."

Rosenau felt there was room to bargain, but it had to be Dario's decision. "You can say, 'I want to go to trial,'" Rosenau said. "It's yours, like your right arm. Can I bargain away your right arm?"

"It'll hurt."

Near the end of the two-hour session, Rosenau made clear that nothing was final, that Dario could always back out, that no one could take away his right to fight the charges.

"Now, whose choice is it?" Rosenau said.

"Mine."

"How do you feel about a bargain?"

"It's okay with me. You can try."

Exploring the Options

The next morning, in the hallway of the courthouse, Rosenau and Alexis Pearce, another of Dario's defense lawyers, caught up with Paul Quander, the lead prosecutor in the case and a man known as a tough plea bargainer.

"I think that kid needs help fast," Rosenau said.

"I don't doubt that," Quander said.

As usual, Quander was nattily dressed in a dark suit and bow tie, holding a yellow legal pad under his arm. He twitted Pearce, who had come to the courthouse that day in running shoes. "Tell me, how often have you seen Pro Keds on a PDS [Public Defender Service] lawyer?" he asked.

In the juvenile court, which is seen as a training ground for newly hired prosecutors and public defenders, Quander was a veteran after only three years of experience. At 30, he was a supervisor in the corporation counsel's juvenile division, which handles all delinquency and child neglect cases in the District. On a typical morning, he and his colleagues reviewed about two dozen arrests that had occurred overnight, deciding which should be prosecuted. He felt confident that he knew the difference between a child who needed a scolding and a budding criminal.

Quander saw himself as a realist working within an imperfect system. He wasn't worried about any stigma from a juvenile court conviction: What stigma could exist in a system where hearings were closed and documents were sealed? He was more con-

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cerned about the stalling tactics used by defense lawyers, which he thought thwarted the system's mission to treat and rehabilitate youthful offenders. They also delayed punishment, which sometimes came so late that delinquents could see no consequences of their actions.

The juvenile court Quander envisioned would be run like his household. "If you're going to teach a child, you have to be quick and you have to be consistent," said Quander, who has two young daughters and is married to a teacher. "When the principal calls and says, for example, that our daughter has something in her locker that she's not supposed to have, I don't care if the principal doesn't have a search warrant. I just want to know, Candace or Katherine, did you have it? And why?"

Quander was convinced that Dario needed help quickly. "My first impression was I had an 11-year-old running around pointing guns at people . . . a young man who is completely out of control. He was sending up flags all over the place that something was wrong, that we had to do something—if nothing else, remove him from the community."

Quander felt he could convict Dario in each case. The witnesses were cooperative; the evidence seemed strong. He was willing to bargain with Rosenau and Pearce, but not if the results would make Dario feel he was getting away with something. Dario's record had to reflect the reality of his behavior. So, when Rosenau broached the possibility of a bargain, Quander said: "If he would plead to the most serious offense."

"Which is?" Rosenau asked.

"The armed robbery."

Rosenau shook his head, remembering Dario's explanation that the other boys had initiated the robbery. "I don't think he knows what was happening."

"No?"

"Everyone was loaded with a cap pistol, not guns," Rosenau said. "I don't think there is a factual basis for [a plea of guilty to] armed robbery."

"He was there," Quander said.

"He didn't know what they were going to be doing," Rosenau said. "If you insist on armed robbery, I don't know if we can."

"Let me see what I can work up," Quander said, suggesting a formal negotiating session. If Pearce and Rosenau would bring the doughnuts, Quander said, "I'll provide the coffee."

"All we want you to provide is dismissals," Pearce said.

A Final Offer

The plea bargaining began in earnest at 9 a.m. on June 18, five days later. Three of Dario's lawyers squeezed into Quander's office.

"Let me tell you what I need," Quander said. He had thought it over and his view was the same. Dario had to plead guilty to armed robbery, not to one of the lesser charges. If he did, Quander would recommend that Dario be sent to a private residential facility rather than to Oak Hill or Cedar Knoll, District-run institutions that the defense attorneys saw as nothing more than juvenile prisons.

Quander knew he wasn't giving up much. A D.C. Department of Human Services committee had to review the case and make a recommendation, and Quander would have to support that recommendation regardless of his personal views. Beyond that, the judge would make the final decision on where Dario would go. "He might get residential placement. But you might find a judge who says, 'He's the biggest thug I've seen. He's going to Oak Hill for two years.'" Quander said. "I can't make any promises."

Quander did make one offer: If the judge's placement decision displeased Dario's attorneys, Quander would let the boy plead guilty to another charge and go through the process all over again, hoping to get another judge.

Rosenau took the lead. He didn't have much leverage. He was encouraged to hear that Quander was willing to recommend treatment for Dario, but he wasn't ready to concede Dario's guilt in the armed robbery case. "I got to tell you a couple of things about Dario's version of the armed robbery," he began.

Quander stopped him. "Let's be realistic . . . He was one of the gunmen."

"That's not exactly what he is saying," Rosenau said. "What would you take other than the armed robbery?"

"I want the armed robbery," Quander said.

"I'm not sure we can do it," Rosenau said. "I'm not sure."

Quander persisted. "I see a young man who has managed to pick up five serious charges. He's been running amok. He told a six-foot police officer he would kick his [ex-

pletive] and get him . . . I have a young man who, if we don't do something positive with, is—"

Rosenau finished Quander's sentence: "He's going to Lorton—I have no doubt about that. At 21." It wasn't hard for him to imagine Dario, 10 years down the road, ending up in the District's adult prison. "It's a now-or-never situation," Rosenau said.

Rosenau realized Quander was not budging, so he tried quickly to close the deal. He outlined a final offer: Dario would plead guilty to the armed robbery if the conviction record clearly stated that Dario used a toy gun.

Quander mulled it over. It might be acceptable. He would raise it with his superiors.

"We need to talk with [Dario]," Rosenau said. "This is something I can live with."

Another of Dario's attorneys, Deborah Trevino, spoke for the first time. "The question is: Can Dario live with it?"

Dario's Decision

On June 24, Trevino went to St. Elizabeths to talk with Dario about the possible bargain. Usually he greeted her when she arrived on the ward; this time, she had to wait in a conference room while Dario was brought to see her.

The previous day had been one of Dario's worst since he had tried to hang himself June 11, a staff member told her. It began when Dario fought with another boy in the shower and then refused to go to his room. When staff members tried to control him, he began screaming. He threatened to hang himself and then dove on the bed, trying to smother his face in a pillow. Finally, he was immobilized in a four-point restraint, his arms and legs bound to his bed, and then injected with two milligrams of Haldol, a potent tranquilizer.

Dario entered the room and sat at a table with Trevino. He was wearing a blue T-shirt covered with food stains. Trevino handed him a package of M&M candy.

"I don't want to stay here any more," Dario said. He appeared groggy and could barely open his eyes.

"They really scared me when I heard you tried to kill yourself," Trevino said.

"This place is too boring for me."

"You think if you kill yourself it won't be so boring?"

"I don't want to be here no more."

Trevino tried to reassure him. Over the

next hour, she gave him a detailed explanation of what plea bargaining meant—the procedures, the terms and the consequences. "What we think would be a good thing to happen would be to try and dispose of the cases. Do you understand dispose?"

"No."

"It's to try to put your cases together so we can get you on the road, the road to straightening yourself out. Out of here. Out of limbo. They have offered you a deal and the deal is this: You plead guilty to armed robbery in Mr. Rosenau's case, and they will drop all your other cases."

Dario dropped an M&M on the floor and went under his chair to search for it.

"In order to plead guilty, you need to know what guilty means," Trevino said, trying to keep Dario's attention focused. "You can't be forced to say something that would convict you. Know what 'convict' is?"

"No," Dario said, back in his chair again. He leaned on his right elbow and almost nodded off.

"If you decide you want to do this," Trevino said, "the judge will say, 'Dario, are you pleading guilty because you know you are guilty or for some other reason?' If you say, 'For some other reason,' he'll say, 'Forget it.'"

"I'll tell him I'm pleading guilty because I done the thing," Dario said.

"You have to believe it," Trevino said. "You can't plead guilty to something if you're not guilty. What I'm concerned about is that you don't understand what you're guilty of. Armed robbery—do you understand?"

"Yeah."

"I want you to make doubly sure in your mind that you want to do it."

"I want to do it," Dario said, yawning and massaging the back of his neck with his hands. "My neck hurts from yesterday. I was tied down to the bed."

"Dario," Trevino said firmly, "you're only 11 years old. You are too young, and too smart, and you're too little, to be in this much trouble . . . You're not a bad person, and no one thinks badly of you because you need help . . . In court the judge will say, 'Are you pleading guilty for someone else, or pleading guilty for the truth?'"

"For the truth," Dario said. "I got it now."

He leaned his head back, his eyes glassy. He complained of being tired. As Trevino discussed the kinds of places the judge might send him, she realized how little she knew about this immigrant boy. Her voice gentler now, Trevino asked Dario whether he remembered anything about the Central American country of his birth.

"No . . ."

"Nothing at all? How old were you when you came here?"

"Six."

"How do you feel about being here?"

Dario looked upset. His voice quickened. "Why did my mother come to the United States? . . . If she had stayed in [Central America] we'd never be in this kind of trouble . . ."

"Who decided to come here?"

"My father," Dario said. "I thought it was going to be a good place. But it's not . . . When you're in this much trouble, you don't like it."

On July 3, Dario pleaded guilty to the armed robbery. During the hour-long hearing, Judge Ricardo Urbina carefully tried to make sure Dario understood what was happening. He asked Dario 39 questions about his understanding of his rights and the charges against him, and he quizzed the boy's lawyers about the effect of the drugs on Dario's mental state. Satisfied, Urbina accepted the plea and asked the defense attorneys and the prosecution to submit recommendations on where Dario should go for treatment.

In the meantime, Dario went back to St. Elizabeths. The next day, according to his medical chart, he was again placed in point restraints. "Dario continues to have major problems, including biting staff and refusing to obey limits," wrote Dr. William Stage, a psychiatrist.

Lingering Doubts

A week later, Dario's family appeared at the courthouse for a status hearing on his case. Cheryl Kornegay, a prosecutor who worked with Quander and had some knowledge of Dario's case, met Dario's 9-year-old sister and noticed something that troubled her: a severe burn on the girl's arm near the elbow. Kornegay talked to her and Dario, and came away with more questions.

The girl said she had accidentally burned herself while ironing. Dario told Kornegay that it had happened seven times. Kornegay sent a memorandum to a supervisor expressing concern over whether the burn was evidence of abuse or neglect.

"The burn looked 2nd-3rd degree," Kornegay wrote. "I also was not sure that the place of the burn was consistent with a self burn . . . Please have someone look into this."

Twice before, at the request of Dario's lawyers and the court, D.C. child neglect workers had investigated the family and concluded that there was no abuse or neglect. Dario had many scars on his face, arms and legs, but he and his family attributed them to falls and to fights with other children.

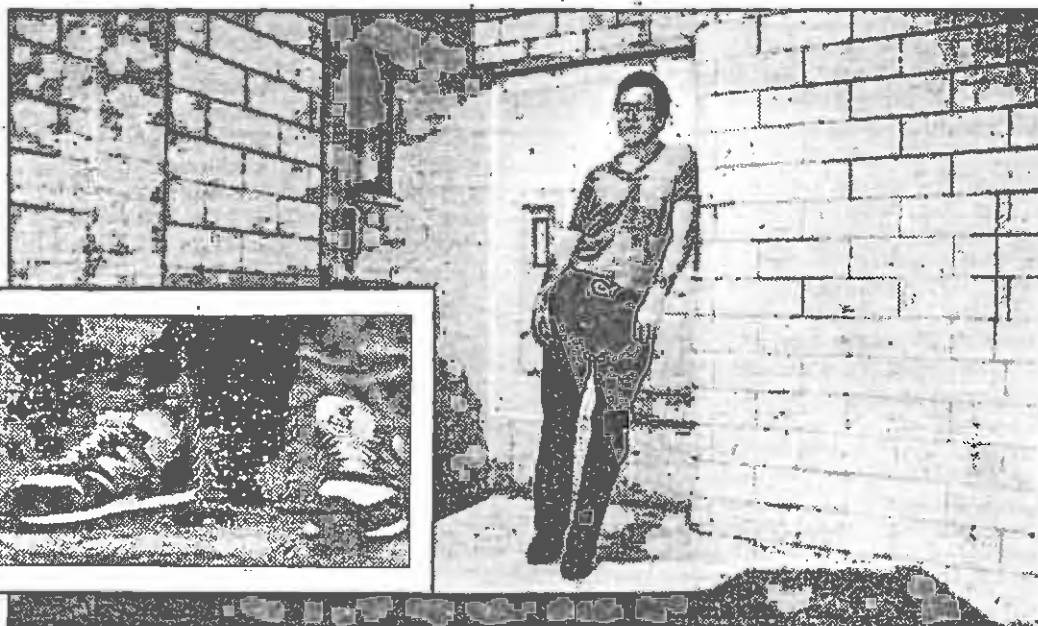
Kornegay's memo led to a new investigation, this time by Detective Aaron Davis of the D.C. police department's child abuse unit. Davis made a surprise visit to Dario's apartment. Davis photographed the 9-year-old girl's arm from five different angles. The mother and the girl insisted the burns were accidental. Davis, finding no evidence of abuse, recommended that no further action be taken.

Kornegay was satisfied. But at St. Elizabeths, another psychologist's report was raising new questions. Focusing on Dario's evasive answers about his parents, it suggested he was concealing "important family secrets." The secrets had to come out, the report said, before effective treatment could begin.

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No EXIT

JUVENILE JUSTICE IN WASHINGTON



BY LUCIAN PERONS—THE WASHINGTON POST

Dr. William Stage in St. Elizabeths isolation room where Dario was bound and sedated during an outburst.

On 'Edge of Disaster,' Boy Hints of Secrets

Fourth of five articles

By Benjamin Weiser
Washington Post Staff Writer

The screaming started as the meeting got under way at St. Elizabeths Hospital on July 11, 1985. The shrieks emanated from just outside the room, making it impossible for anyone to focus on the issue at hand—a final diagnosis of 11-year-old Dario, who was undergoing a court-ordered psychiatric evaluation after arrests for serious charges.

"What's that?" Deborah Trevino, a lawyer representing the boy in juvenile court, asked nervously. "Dario," said Dr. William Stage, the boy's psychiatrist, appearing unworried.

Stage got up, closed the door and returned to his seat. No one asked him to elaborate. Ignoring the screams, which grew louder and more insistent, Stage began giving a detailed account of Dario's three-month history of violence and self-destruction at the hospital. As Stage talked, there were

thunderous crashes, apparently the sound of furniture being thrown against a wall.

Trevino fidgeted in her chair. Several more minutes passed. The screams continued. Finally, Stage explained them: Dario was having a temper tantrum. He had been caught trying to watch the meeting through a one-way mirror in an adjacent room and was now refusing to leave. "That's what precipitated this little crisis," Stage said.

Although Stage and his colleagues had been observing Dario on the locked children's ward, they still felt they did not fully understand the reasons for his bizarre behavior—his string of arrests, his recent suicide attempt, his repeated fights with other patients and staff members. Time was running out, though. Dario had recently pleaded guilty to armed robbery, and Judge Ricardo Urbina was about to decide where to send Dario for treatment and rehabilitation, the central mission of the juvenile court. In a system that treats

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delinquency as a symptom and not a crime, the hospital's final evaluation was critical to the judge's decision.

Hospital staff members felt certain that the explanation of Dario's behavior was buried in his relationship with his parents. The boy kept repeating that he wanted to go home, but his behavior suggested otherwise. Dario had recently confided to a nurse that his father sometimes hit him, adding, "I want to go home and live with my mother but I cannot because of my father." Acting disruptively seemed to be Dario's way of ensuring that he wouldn't be sent back to his father—even the screams were part of this, Stage said. "I'm convinced that what he's doing is for us."

Stage wanted to ask Urbina for another two months to evaluate Dario before making a final recommendation to the court. He would try to stabilize Dario with drugs, calming him down enough to explore further the source of his fears.

By the end of the meeting, the screaming had stopped. Trevino immediately asked to see her client. She was taken to a small isolation room where Dario had been carried by several staff members. He was bound to a metal table, a mesh sheet wrapped around his tiny torso and several heavy canvas straps crisscrossing his 90-pound body. Leather bonds held his wrists and ankles. His head was cocked oddly to one side. He had been sedated with two milligrams of Haldol, a potent tranquilizer used to control psychotic patients. Trevino stood at the door, watching silently. Dario did not stir.

Trevino realized that Dario's case, despite his guilty plea, was nowhere near its end. She expected the court to routinely approve Stage's request for an extension of Dario's stay in the hospital, allowing the probe into Dario's behavior and mind to continue.

Sorting the Evidence

As soon as Dario awoke three hours later, he began screaming again, demanding to leave the hospital. Stage sat with him and made a deal: If Dario calmed down, Stage would remove the restraints in 30-minute intervals, first freeing one leg and one arm. The next day, Stage accompanied Dario to court, where Urbina approved 60 more days of evaluation.

Stage had been Dario's psychiatrist for only a month. He had recently taken over as the primary psychiatrist for the children's ward, arriving to find a serious backlog of patients, many of whom weren't stable enough to go on to treatment facilities. On his first day, June 10, there were 24 children assigned to the 16-bed ward. Children were sleeping on couches or on mattresses on the floor. Seven children had recently

attempted suicide, including Dario, who had tried to hang himself with a bed sheet. "The unit was a zoo," Stage said. "People were trying, but they weren't recognizing depression and they weren't treating it."

With a constant stream of new referrals, Stage feared the overcrowding would only get worse. He decided to increase radically the use of medication on the ward, hoping to stabilize enough children to move them out. He switched Dario from a tranquilizer, Haldol, to a strong antidepressant, desipramine, beginning with 25 milligrams a day and gradually increasing the dosage to 150 milligrams a day—the highest recommended for adolescents of his weight.

Such widespread use of drugs was not the practice of Stage's predecessor, Dr. George Chornesky, 63. As a psychoanalyst, Chornesky preferred to study aggressive behavior and interpret its meaning. Because drugs could mask such behavior, he said he used them in much lower dosages, except for suicidal or psychotic patients.

Chornesky's approach, however, often took a long time. Stage, 37, ardently believed in a more activist approach; by using drugs, he could intervene quickly, halt explosive behavior and start the process of winning the patient's trust and cooperation. "You can really buy yourself some major improvements in a short time," Stage said.

Stage was a relative newcomer to child psychiatry, having previously worked in the adult division at St. Elizabeths, a sprawling, 1,500-bed facility in Southeast Washington. When he was transferred to the children's ward in late 1982, he arranged for a two-year residency at Harvard, where he developed his ideas about how to treat delinquent children.

His style was part of his strategy. On the ward, he typically wore boilers, dark corduroy slacks and a polo shirt, hoping to relate to his patients as a friend. He knew it would be particularly difficult with Dario, who was hostile to the St. Elizabeths staff. On the other hand, those involved in the case had gained valuable insights into Dario's behavior.

For example, Chornesky, in one of his earliest sessions with Dario, asked him to complete a story, a common technique to determine a child's fears.

He told Dario that a baby bird had left its nest and was lost. A well-adjusted child, in a normal stage of development, usually provides a reassuring ending—such as the parents finding the bird and taking it back to the nest.

"What happened to the baby bird?" Chornesky asked.

"The cat ate him," Dario said.

Chornesky concluded that Dario was preoccupied with violence and death: "He was behaving as if the world is a dangerous place. He was skating right on the edge of disaster."

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Dario's lawyers pointed out to the hospital staff that Dario had been taunted and beaten up at school several years earlier, soon after immigrating to the United States from a Central American country. The incident had left a scar: "Dario is afraid of people knowing he is bilingual," attorney Alexis Pearce said at one meeting, adding that Dario now refused to speak Spanish.

Michael Shaffran, a family therapist, gave Dario a pen and asked him to draw a series of circles representing his relationships with members of his family. Dario drew a circle for himself, and others close by for his mother, a sister and a brother.

The circle he drew for his father was farther away. Shaffran wasn't surprised; he knew Dario and his father had a strained relationship.

Nurse Calvin Green, Dario's closest friend on the ward, heard firsthand how much Dario feared his father. He repeated one conversation to the staff, and noted it in Dario's medical record: As they were scrubbing plates in the kitchen, Dario said, "When you see me smile a lot, I'm very sad." He began crying. Green gently asked him what was wrong. "You all don't know the way he treats me," Dario said. "My father will kill me or I will kill him."

As Stage sorted through the case, he ruled out any brain dysfunction. The neurology tests showed no evidence of brain damage or retardation, and Dario scored well on innate intelligence tests. Stage wondered whether Dario was a victim of child abuse. He fit a classic pattern: scars on various parts of his body, aggressive behavior, a lack of concern about the consequences of his actions, indifference about living or dying. Yet, when Stage raised the question, he learned that the D.C. Department of Human Services had conducted two child neglect investigations of Dario's family in recent months and found no evidence of either abuse or neglect.

All this left Stage without an answer. Determined to try every avenue, he and his colleagues asked Sara Nieves-Grafals, a Puerto Rican-born psychologist, to conduct a battery of tests in Spanish. Within a few days, she sat down with Dario in a therapy room. At first, he seemed enthused by her visit, asking excitedly, "Are we going to do the puzzles?" But as she tried to coax him into speaking Spanish, he refused.

She asked about his father. He became fidgety, broke his pencil point, asked to go to the bathroom. She then showed him the series of ink blots that make up the Rorschach test. The blot intended to evoke feelings about one's father drew an instant reaction. "It's a monster," Dario said.

She asked him to sketch his family. Dario drew himself, his mother and his younger sister, each concealing their right arms behind their backs. It seemed clear that Dario was hiding something, but Nieves-Grafals wasn't sure what. She again tried to question him about his father, but got nowhere.

She reported back to the hospital staff that Dario had great fears of being hurt, especially by his father: "There is true terror associated with him . . . There are strong indications that there are important family secrets that cannot be revealed to outsiders."

Yet Another Investigator

Judge Urbina was relying on Stage for only part of the information he needed about Dario. The other part would come from the juvenile court's social services division, which would recommend a treatment program for Dario after interviewing his parents, school officials and St. Elizabeths staff. Called a "social study," it was perhaps the broadest report that Urbina would receive. It was assigned to Nava Mitchell, who was fluent in Spanish.

Mitchell, 46, was a veteran. In 10 years with the juvenile court, she had counseled families, assisted battered wives and written more than 200 social studies. She had strong views about the system and the family's role in dealing with troubled children. When the court removed children from their homes, it often let parents off the hook. "I keep saying the same thing [to parents]: The government didn't produce your children. The family should have the responsibility of taking care of them. What the juvenile system in D.C. does is just the opposite. It takes everything out of the parents' hands. It says, 'Okay, you are not a good parent. Ergo, we are going to take care of your kids.'"

She believed this approach was self-defeating. The court had to find a way to help parents, for most delinquents eventually returned to their homes. It was almost as if the system—with its repeated inves-

tigations, its psychiatric examinations, its intrusiveness—was designed to rip families apart.

On July 13, 1985, the day after Dario was sent back to St. Elizabeths for another 60 days of evaluation, Mitchell knocked on the door of the family apartment. Aware that the family had been investigated several times, she was careful about her approach. She talked with Dario's mother, finding her timid and subdued, almost an outcast in her own household. Dario's father seemed to make all major decisions, often without consulting her.

She also learned something else about Dario's family; His two teen-age brothers had juvenile court records. One, who had been convicted of assault and a purse snatching, was temporarily at a shelter home. The other, who had been convicted of shoplifting and robbery, lived at home but met regularly with city social workers.

Three days later, Mitchell accompanied Dario's parents and one of his brothers to St. Elizabeths. As they drove in the family's car, Dario's brother told Mitchell the family had been cursed before immigrating to the United States in 1981.

Mitchell turned to Dario's mother: Did she believe a curse was the source of the family's problems?

The mother, clearly uncomfortable, said she did.

Dario's father disagreed.

"What curse?" he said. "My brother is a schoolteacher. Do you think I would believe in something like this?"

The incident left a strong impression on Mitchell. Dario's mother clearly saw herself as powerless.

At the hospital, Mitchell first met with Dario in private, but Dario's attention was elsewhere. Looking around for his mother, he kept asking, "When's she coming? When's she coming?" Later, as Mitchell watched the two embrace, she saw a different side to Dario's mother: No longer subdued, she seemed to bask in Dario's affection.

As Mitchell got to know the family better, she found herself sympathizing with them, an immigrant family striving to fit into a strange culture, trying to build a new life in a large American city. Mitchell identified with their struggle: Born in Yugoslavia and raised in Israel, she had come to the

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United States at age 21, and she knew how isolated an immigrant's life could be.

Over the next several weeks, she expanded her investigation, talking to one of Dario's attorneys, to Stage, to Shaffran. When she learned one day from Dario's mother that Dario's father was out of town—he had flown to their native country because a close relative had died—she took the opportunity to meet with the mother alone.

Mitchell decided to be blunt. She remembers saying, "Look, my opinion is that the kids are mirroring something that is happening in the family, and not in the community . . . Who are they mirroring? Whose pain?"

Dario's mother started crying. "Mine."

Mitchell did not press further. She did not think it was necessary. She was beginning to break through, to win the mother's trust, to understand the source of her pain.

The Family Creed

Every Tuesday morning, in a converted schoolhouse in Southwest Washington, a little-known committee of the Department of Human Services meets to discuss where to send convicted juveniles who must be institutionalized. On July 30, a larger-than-usual group waited for the meeting to begin; Dario's case was first on the agenda.

The eight-member committee's job was to formulate the District government's position on Dario's placement, to determine whether he qualified for the kind of expensive residential treatment facility that his attorneys wanted for him. The District has no such facility, and it costs the city as much as \$100,000 a year for each child it sends elsewhere in the country.

Dario's attorneys knew the committee's recommendation could carry great weight and wanted to have as much influence as they could. Ultimately, it would go to Elizabetha, who would make a final decision after considering the diagnosis from St. Elizabeths, Mitchell's report and the proposals of Dario's lawyers.

Around the conference table that morning sat almost everyone involved in Dario's case, including Mitchell, Stage and Kenneth Rosenau, another of Dario's lawyers. In front of them was Dario's thick file, including records from his school, the court and the hospital. Of all the documents, though, the one that stood out to Karl Banks, the committee's head and a psychologist, was the report from Nieves-Grafala.

"[She] came right out and . . . referred to some family secrets," Banks said.

For the rest of the meeting, they talked about little else. Could a recommendation be made without knowing the secrets? Was it necessary to order yet another child neglect investigation of the family?

Banks went around the table, asking for opinions. A social worker at Dario's school recalled that Dario's father had said he hit Dario as a way of disciplining him—and that

asked him to. At that point, the social worker said, the father felt he had no way to control Dario and that he would leave his son's discipline "up to the proper authorities."

Nava Mitchell jumped in. "I want to point out some cultural factors. In this culture, it is okay to hit children . . . If you tell them not to hit children, they don't know what to do." She defended the parents. "They want to do everything that is good. They don't know how . . . I don't find the family abusive . . . Let's not minimize that they are in a different country with different morals."

As Stage listened, he worried that the group was missing the significance of Dario's case. "He's got marks all over him. He's been exposed to violence. When kids are expressing violent things, they have been exposed to violence in their family life."

Stage didn't want to know the secrets as much as he wanted to know why Dario was so afraid to reveal them. Was the family's hold on him that strong? "The family has a creed," Stage said. "You don't tell . . . You just don't tell."

As long as Dario clung to his family—and to the secrets, whatever they were—the hospital couldn't help him. "He hasn't invested in the treatment," Stage said. "He sees his only choices in life as being a criminal or being crazy. He sees it better as being a criminal than being crazy. Being crazy means a stigma all your life. Being a criminal means doing your time and getting out."

He concluded: "I think the clinical picture describes a kid in a life-or-death struggle. I think this kid is really afraid of killing or being killed. He is tied to his family . . . but deathly afraid."

Mitchell spoke again. It seemed to her that Stage, too, was blaming the family. "I am of the feeling at this point that trying to get into the family secrets is an exercise in futility. What's important is, where do we go from here?" She pleaded with the committee to find help for the family as well as for Dario.

The committee members postponed making a decision, however, agreeing that St. Elizabeths needed to finish evaluating Dario before they could act. After the meeting broke up, several committee members said they were concerned about Mitchell's strong defense of Dario's parents. "She seemed protective of the family," said Joyce Young, a social worker.

Mitchell, though, had no doubt about her views. Pointing fingers, blaming and pulling the family apart were not the answers. Dario would be returning to them someday. "How do you save the children by destroying the family?" Mitchell felt.

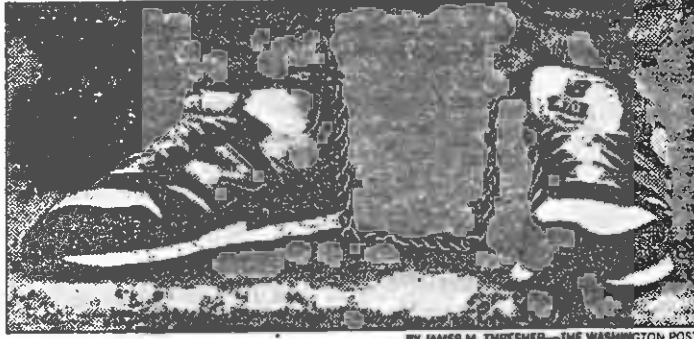
A few evenings later, Mitchell's phone rang. It was Dario's mother. There was something she had to tell Mitchell, she said calmly, something she had never told anyone before, something very important. Could she see her the next day?

NEXT: The family's secret

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No EXIT

JUVENILE JUSTICE IN WASHINGTON



BY JAMES M. THRESHER—THE WASHINGTON POST

A Family Shattered**Help Elusive After Boy's Secret Revealed***Last of five articles*By Benjamin Weiser
Washington Post Staff Writer

When the secret finally came out, it was something no one had suspected. For seven months, dozens of people in the juvenile justice system had been striving to understand the violent behavior of 11-year-old Dario, but they still had no definitive explanation for the boy's string of arrests and repeated self-destructive acts. Almost everyone had concluded that Dario was hiding something—"family secrets," one psychologist said. They had to break through before they could begin to treat him, which was the central mission of the juvenile court.

The secret emerged on August 21, 1985, in the sparsely furnished office of Nava Mitchell, a court probation officer. Mitchell, who was doing a comprehensive study of Dario and his family, was one of the few who had stopped trying to discover the secret. To her, the search was futile, the family too closed, time too short. Prolonging the search only meant delaying treatment. The court had to act now if it wanted to pull this troubled 11-year-old boy out of delinquency.

Dario's mother arrived in Mitchell's office clutching a sheaf of official-looking papers. Clearly frightened, she thrust them at Mitchell, speaking rapidly in Spanish. The mother was afraid that the family, legal immigrants from a Central American country, was about to be deported.

Why? Mitchell asked. What had gone wrong?

Crying now, the mother unburdened herself: Dario's father was in jail, awaiting sentencing on drug charges. He and another man had offered to sell an undercover police officer a kilogram of cocaine for \$42,000. After his arrest in late 1984, he had ordered the family to tell no one. For months, they had kept up the pretense, but they no longer could—his conviction in the summer of 1985 had been reported to U.S. immigration authorities, and the family was now in jeopardy.

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Wasn't Dario's father visiting relatives in Central America, as the mother had told her? Mitchell asked. No, said the mother, still crying. He was locked up in a Maryland jail.

For the first time, Mitchell began to understand Dario's behavior. A boy, told to carry the secret of his father's arrest, begins to commit crimes of his own. She was enraged. Dario *was* a victim—not of physical abuse, but of loyalty and repression.

Dario's mother was still crying, asking, "What will become of me?" Mitchell was hardly listening. What would become of Dario? she wondered.

The Secret Links

Looking back over his school and hospital records, Dario's behavior in the previous year appears closely tied to his father's actions.

The records showed that Dario had never been a model student. He had often been disruptive in his elementary school classes, and his teachers had identified him as a boy with emotional problems. But within 10 days of his father's arrest in late 1984, his fifth-grade teacher saw his conduct become markedly worse. She recalls that he was sullen, upset, even depressed at times. The school contacted the family and was told that Dario's father had been involved in a car accident and was in the hospital; in fact, the father was still in jail trying to make bail.

During this period, a teacher confronted Dario after he bragged to some fifth grade classmates that he had several "weeds"—slang for marijuana cigarettes—in his pocket. When the teacher asked about them, Dario became violent. He struggled with a security guard who tried to restrain him, slapped the principal in the head and hit the school's psychologist. Breaking free, Dario smashed a double-paned window reinforced with internal wire, ran into a bathroom and flushed one of the cigarettes down the toilet. He was finally restrained by police, who discovered the other cigarettes contained only cloves. No charges were filed.

In the ensuing weeks, Dario's behavior deteriorated more. A school memorandum, dated Jan. 10, 1985, says:

"He walks in and out of classrooms on his own volition, uses abusive and profane language on a daily basis, strikes out at adults and students . . . jumps out of classroom windows, undresses and exposes himself to classmates and teacher's aide, climbs on top of bannisters and walks on ledges, tears up his school work or any other pictures in the classroom, and often walks on top of desks and tables."

Dario's first arrest came 13 days later. Within 10 weeks, he was arrested five more times. After his sixth arrest April 15, a judge sent him to St. Elizabeths Hospital for psychiatric evaluation. He was there in the summer when his father was tried and convicted.

On the day the father was finally sent to prison, Dario's mother came to the hospital, had a private conversation with her son and then told social worker Diane Hanek that the father had to leave town suddenly. Hanek later jotted down on the medical chart: "Mother reported that father has gone [to Central America] . . . Death in the family."

As his father sat in jail, Dario grew increasingly unmanageable on the children's ward. Several times, he was placed in isolation after violent outbursts and suicidal gestures. On Aug. 2, for example, Dr. William Stage, the ward's primary psychiatrist, ordered him sedated and placed in the isolation room without clothes or a mattress. "Dario has been quite threatening the past few days," Stage wrote in the chart. "He has threatened to kill a [patient] and to kill staff . . . He has also threatened to kill himself and has attempted to bang his head on the floor."

Stage stepped up the use of the isolation room, saying that "seclusion needs to be sufficiently long to impress him with the seriousness of his behavior." In the first week of August, Dario was put in isolation five times, including three daylong periods.

After the secret came out, Dario was clearly relieved. He talked to nurse Calvin Green, who noted their conversation on Dario's medical chart. There were tears on his face as he told Green, "I wish my father would come home because I miss him."

The Father's Case

In late August, Dario's father appeared for sentencing in Prince George's County. In attendance were Mitchell and Kenneth Rosenau, one of Dario's lawyers, who had learned from Mitchell about the father's imprisonment. Rosenau wanted to tell the judge how the father's arrest had affected Dario.

Dario's father stood quietly, rubbing his wrists where the handcuffs had left marks. His shoulders sagged, and he looked withered and forlorn as his lawyer tried to paint a sympathetic portrait.

"He describes his family relationships as beautiful," lawyer John K. Lally told Judge Audrey Melbourne. "He has got a good marriage going, a terrific work record, everything going for him except this one thing, and if the court could find in its heart to . . . give him probation without verdict [a special finding that removes a conviction from the record after a year of good behavior], which would keep him out of the hands of immigration—"

Melbourne interrupted him. "Why should I do that? I mean, why do I want to keep criminals in this country? . . . The fact remains there was a kilo of cocaine. Cocaine is illegal . . . and it is killing people."

Rosenau asked to be heard. Dario, he said, would suffer most if the family were deported.

"He is in desperate need of psychiatric treatment, treatment that is probably unavailable to him [in his native country]," Rosenau said, explaining that Dario had tried to hang himself at St. Elizabeths. "Frankly, your

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honor, if Dario is deported it is quite probable that he will be dead within a year. This is a child who is actively suicidal"

"How did he get into St. Elizabeths in the first place?" Melbourne asked.

Rosenau described Dario's arrests. "There is no doubt in my mind that the reason why Dario erupted the way he did in January, February and March . . . was because of this case with his father," Rosenau said.

Bond Rhue, a prosecutor, rose. "I think that it is absolutely outrageous to come forward to ask for probation before judgment," said Rhue, his voice rising as he argued that the father did not deserve leniency because Dario was in the hospital. He told Melbourne: "It is his father's drug dealings that put him in the hospital."

Melbourne sided with Rhue. Dario's father was going to prison. She asked him if he had anything to say before she sentenced him. Speaking haltingly in English, he maintained his innocence and said his involvement was a mistake. The drug deal wasn't his idea. "I was just there as an interpreter, just doing a favor [for a friend] That's all. I wasn't getting nothing. I was never involved in drugs [in Central America]. Nor here. I am not guilty."

Melbourne sentenced him to 8 years in prison. It was a stiff sentence, she told him, but she explained the reason: "There is just too much cocaine and PCP in Prince George's County."

A few days later, during an interview in the county jail, Dario's father claimed he had been a "fall guy" and a victim of the system. "I think the system is just not fair," he said. "I don't know if it's because I'm a foreigner or what."

Why had he ordered Dario and the rest of his family to keep his arrest a secret?

"I was just ashamed," he said.

He said, however, that there was no relationship between his arrest and Dario's subsequent behavior. Dario was being influenced by teen-age delinquents in their neighborhood. "He's being led, you know, led."

At the end of the interview, he had a message for his son. "Tell him I say hello . . . and tell him that I love him always. I love him always."

Searching for the Right Place

In early September, the final reports on

Dario arrived in the chambers of Judge Ricardo Urbina, who would be making the ultimate decision on where to send Dario for treatment and rehabilitation. Now, everyone thought, they had a complete picture. It was time to place Dario in a long-term residential treatment facility.

Mitchell's report was the strongest. She had traced the family's complex relationships. Dario's father had been violent toward Dario's mother in the past. But more recently, things had improved somewhat, according to the mother.

Still, the effect of the violence was clear, Mitchell wrote. Dario dealt with the anxiety in the family by mirroring his parents' personalities. The suicidal Dario was acting out his mother's helplessness; the aggressive Dario was reflecting his father's violent tendencies.

As for Dario and the secret, Mitchell wrote, "He was told to talk to no one about it, and he kept his promise. The price that he paid, with this aspect of family loyalty, has affected his behavior, [caused] his out-of-control rages and made him feel impotent to help himself or his family."

Mitchell's report did not give an explanation for the scars on Dario's face, arms and legs that had troubled so many people involved with his case. The family had previously attributed them to falls and to fights with other children.

Mitchell still felt the family could be rebuilt. The first step, however, was treatment for everyone—not just Dario. "It is quite clear that children who grow up in a family that espouses a value orientation such as this will, to say the least, be ambivalent about their own value system," she wrote. "It is the family that needs consistent counseling [and] a basic change of moral values."

Reading Mitchell's report and the one from the staff at St. Elizabeths, Urbina decided D.C.'s overcrowded juvenile facilities could not provide Dario with the specialized therapy he would require. Nor was St. Elizabeths appropriate; it was only a diagnostic center and did not offer long-term treatment for children.

Urbina ordered a search for the best place. Over the next two months, Dario's lawyers and the D.C. Department of Human Services contacted more than 30 institutions across the United States. All rejected

him. Some said he was too violent or too young, or that his problems were too severe; others said they did not take suicidal youngsters; still others gave no reasons.

Meanwhile, Dario waited at St. Elizabeths. At first, his behavior seemed better. One day, when he and some other children were picking blackberries on the hospital grounds, a girl dropped her basket full of berries. Dario was the only child who stopped to help her pick them up.

He learned to sew and made pottery for Urbina. He painted pictures of colorful rainbows and of birds returning to their nests. "It means the tree's going to grow again," he told his art therapist. The staff was encouraged enough to allow him to spend an occasional weekend at home with his mother.

Several times, Dario went back to Urbina's courtroom for reviews of his case. Urbina, 39, the District's first Hispanic judge, tried patiently to win the boy's trust. He frequently called Dario to the bench for a chat, occasionally speaking Spanish with him, touching his shoulder in a fatherly way. "Keep up the good work," he told Dario at a Sept. 24 hearing.

As the weeks passed without resolution of his future, however, Dario became increasingly self-destructive at St. Elizabeths. He tied a curtain cord around his neck, punctured his arms with pencils, rubbed his hand raw with an eraser. On one of his weekends at home, he and one of his older brothers got into a knife fight with another boy; police arrested his brother and escorted Dario back to the hospital.

On his 210th day at the hospital, Nov. 12, he escaped. He broke free as he was being escorted to a seclusion room, dashed down four flights to an outside door and ran onto Martin Luther King Boulevard. Stage, the psychiatrist, caught him as he boarded a bus. Dario said, "Don't touch me. Get away from me."

Urbina was frustrated by the failure to find a treatment facility. "Long delays hurt kids," he said. Dario had already demanded that Urbina take him out of St. Elizabeths, telling him, "The longer I stay there, the worse I get."

In late November, a treatment center in Pennsylvania accepted Dario. On his last night at St. Elizabeths, he talked into the early hours of the morning with nurse Calvin Green, who had become his closest

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friend on the ward. As they talked, they heard loud screams—recent referrals from the juvenile court, Green said.

"That's your replacements," Green told him. "The system goes on."

Dario left the next morning. Five months later, he was back at St. Elizabeths. He was too difficult to control, the Pennsylvania facility told Urbina.

More Options Vanish

Throughout March, new applications went out and more rejections came back. Urbina was worried. Since September, 40 institutions in a dozen states had turned Dario down, and the judge wondered whether there was any place in America that was willing to take the boy.

On March 30, Easter Sunday, Dario escaped again from the hospital. During an Easter egg hunt on the hospital grounds, he bolted through a gate and hopped on a bus for home. His mother brought him back. He spent the next five days in seclusion, permitted to leave only at bedtime.

His mother visited during one of those days and was shocked to find her son, his hospital gown torn, standing next to a pool of urine.

Still confined to the seclusion room, Dario got into a fight with Stage. He took a swing at him, missed and hit a door. One of his fingers swelled badly. Dario was taken to another part of the hospital for an X-ray, which showed that the finger was broken. While there, he escaped again.

Everyone at the hospital assumed he had gone home. But they decided to let the police handle it. A warrant was issued for Dario's arrest.

Five days later, on April 7, Dario's mother telephoned me at The Washington Post. She knew the police were looking for Dario. She did not want him to get into trouble with the juvenile court, but she insisted that she did not want him to go back to St. Elizabeths. I called Deborah Trevino, one of Dario's attorneys, and we went to the family apartment.

Dario was sitting quietly on the floor, his finger still swollen. Trevino explained to him that he had to return to St. Elizabeths. If he refused, he could be arrested again—and that would only make matters worse.

Dario was upset. "All they want to do is play with me some more," he said. He offered to go anywhere but St. Elizabeth's, even suggesting the D.C. Receiving Home in Northeast Washington. Trevino promised to tell Urbina what Dario wanted, and the boy agreed to turn himself in.

At an emergency hearing that afternoon, a St. Elizabeths social worker urged Urbina to return Dario to the hospital. Urbina, though, was angry.

"[Being at] the hospital seems to be aggravating his state of mind, not stabilizing his state of mind," he said.

But he realized he had no option, no other place to send Dario. The receiving home wasn't the answer. It was overcrowded; 10 children had tried to commit suicide in recent months, and two girls had allegedly been sexually assaulted by guards. Dario

held there for a night after his sixth arrest.

Urbina tried to explain to Dario's mother why he was sending Dario back to St. Elizabeths.

"I understand that his being in the hospital breaks your heart, but we have to think about his future, tomorrow and next year, not just today," Urbina said, assuring her that he would monitor the hospital to make sure that it was doing its job properly.

He then addressed Dario. "You're going back to the hospital today, and I expect you to do what you're supposed to do. Do you understand?"

Dario replied, "But I don't want no visitors. I don't want nobody to come and see me. Nobody come visit me. That's the way I want it to be for the rest of my life."

Epilogue

Several weeks later, however, Urbina relented. He felt that St. Elizabeths had exhausted its capacity to help Dario. On April 29, 1986, Dario was transferred to the receiving home to await a final placement.

He was there for more than two months. Finally, an Ohio facility agreed to accept him—the first time that it had taken a D.C. delinquent. Dario flew there on July 7.

It had been 18 months since Dario's first arrest. Almost a year had passed since his plea of guilty to armed robbery. Altogether, 153 people in the system had become involved in his case at one time or another. The 10-year-old boy who once told police that his alias was Scarface was now 12.

Dario is still at the Ohio facility. He has been less violent there and seems to be getting along with the other children. The long-term prognosis, however, is unclear.

Dario's father remains in prison and faces the possibility of deportation hearings upon his release. No action appears likely, however, against the rest of the family.

Dario's two older brothers, who also had juvenile convictions, no longer live at home. One is in an institution in Pennsylvania. The other has been sent to live with an uncle in Virginia.

Whenever Dario emerges from the system, he will return to a family that has fallen apart. To Michael Shaffran, the St. Elizabeths therapist who counseled the family for many months, this is the juvenile justice system's greatest failure.

"The children are institutionalized, play out their time in the various institutions," said Shaffran. "Their ties with their families are ruined or weakened."

It was easy to blame the family, Shaffran said, but that wasn't the point. "When [children of such families] go on to create their own families, they have all these unresolved issues, and the pattern repeats itself."

At St. Elizabeths, Dario's artwork still hangs on the walls of the children's ward, and nurse Calvin Green sometimes thinks about Dario as he drives home late at night. He sees children on the street, many of them no older than Dario, carrying drugs for older pushers or just hanging out. "There's thousands of Darios. They're all over the city."

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