police work with children

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POLICE WORK WITH CHILDREN

perspectives and principles

RICHARD A. MYREN, B.S., LL.B.
Consultant on Law Enforcement Programs for Children and Youth

LYNN D. SWANSON, B.A., M.A.
Consultant on Specialized Police Services for Children

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Foreword

Traditionally the primary function of the police officer has been to preserve law and order—to protect the person and property of the citizen in the community he serves. Whether dealing with adult criminals or youth in conflict with the law, this has been and still is his first duty. No other group of civil servants has any greater impact on the day-to-day activities of our citizens—the young and the old, the law breaking and the law abiding alike.

As society has become more complex, so have the problems facing the law enforcement officer. Not the least of these has been an increase in the number of young people committing acts bringing them within the jurisdiction of the juvenile courts. It is the police officer who has the first contact with three-fourths of these young people, as he does with several times as many others who commit offenses but do not reach the courts. The importance of the police officer's role cannot be overemphasized because his contact is, in effect, the first step in the community's corrective program which, for many of these children, will eventually involve a number of other agencies and professions. This publication deals with the role of the police as it relates to these young people.

In discharging his duty to the community, the police officer is expected, as are the courts, to establish and follow fair procedures and practices. In this process, public policy and the law both demand that the immaturity of youth be considered. These are areas which present complex problems and issues concerning which there are diverse opinions and in which traditional legal guides are either obscure or lacking. They also involve the behavioral sciences within which there is much diversity of thought concerning the etiology and treatment of deviant behavior. For these as well as other reasons, this publication cannot be considered as a police manual covering detailed day-to-day operations—nor is this intended. Instead it discusses a number of issues and problems which will have to be faced and resolved by the police and possibly ultimately by the courts. It also discusses and recommends principles and practices which are considered desirable on the basis of the existing law, public policy, and present knowledge of human behavior. Many of these principles

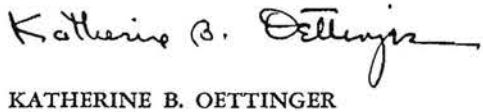
and practices are accepted by and are standard operating procedure in many police departments throughout the country.

Since 1944 the Children's Bureau has joined with national police organizations in the development of publications. This one has been developed by the Children's Bureau in cooperation with the International Juvenile Officers' Association, the International Association of Women Police, the National Council on Crime and Delinquency, the National Sheriffs' Association, and the National Police Officers' Association of America. Based upon several years of observation, research, and consultation, a first review draft of the material was developed. This draft was distributed to about 150 specialists throughout the country including top police administrators, juvenile officers, professors of law and police science, judges, attorneys, probation officers, and a variety of professionals in the behavioral sciences. Based on the comments and suggestions of this group, another review draft was developed. This draft was submitted to a group composed of the official representatives of the participating agencies for review and discussion at a meeting in Washington, D.C., on March 15–16, 1962. It likewise was submitted to a limited number of other specialists throughout the country. On the basis of the comments received from this meeting and from others, still another review draft was developed. This was again submitted to the representatives of the officially participating agencies. A final draft was developed based on the comments received. During this process, other Federal agencies and departments and national organizations were also asked for review and comments. Although some individuals and even organizations may find themselves in disagreement with certain points in this material, it does reflect the thinking and experience of many persons and represents a consentient point of view on major concepts.

Not only is this material for use by police, but it is believed that it will be helpful to a variety of other persons concerned with youth in conflict with the law, such as judges, probation officers, attorneys, citizen groups, and all persons interested in improving police practices in their communities. It is hoped that this material will help these groups understand the many problems faced by the police. Through such understanding, the police gain greater public support—so greatly needed in order to discharge their duties to the community effectively.

We wish to acknowledge the wholehearted support and assistance received from many sources, especially from the official representatives of the cooperating agencies, the staffs of the Division of Juvenile Delinquency Service of the Children's Bureau and of the Office of General Counsel of the Department of Health, Education,

and Welfare, and representatives of other Federal Government agencies and departments, as well as the many individuals from the police and related fields who made thoughtful and helpful suggestions to strengthen this publication.



KATHERINE B. OETTINGER
Chief, Children's Bureau

ROBERT M. CARNES
President, International Juvenile Officers' Association

LOIS HIGGINS
President, International Association of Women Police

MILTON G. RECTOR
Director, National Council on Crime and Delinquency

CHARLES A. GRIFFON, JR.
President, National Sheriffs' Association

EDWARD M. RICHARD
President, National Police Officers' Association of America

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POLICE ORGANIZATION FOR DEALING WITH JUVENILES

IN ITS EARLY HISTORY, the Anglo-American legal system developed more by trial and error than by plan. The successes as well as the failures among these experiments are recorded in the governmental records of the centuries, foremost among which are the records of court decisions. These records tell us that some of the police powers of this legal system were lodged at an early date in the constable and the sheriff, the former being an officer who preserved order in local communities while the latter performed the same function for the entire area ruled over by an earl. The powers and duties of these officials went through an evolutionary process which continued up to the very day when the settlers left England to establish what is now the United States.

The offices of sheriff and constable were created in the North American colonies without spelling out what the duties should be, by people who had become familiar with the nature of these offices in England. As a result, the office of sheriff still carries with it all of the powers and duties which had evolved about it at the time of the settlements. The same is true of that of constable. When an early American court wanted to know if a constable or sheriff possessed a certain power, that court would look to the old records in England pertaining to that office, the most helpful of which were the decisions of the courts of law. This is still true today in many of our States except as those powers have been modified by statute. This is the significance of the statement that the offices of constable and sheriff are common law offices. In some jurisdictions, this common law heritage has been wiped away and the legislatures have spelled out in detail the powers and duties of these officials as well as those of the police agencies created in more recent times.

Municipal police departments as well as other county, State, and Federal police agencies have been created by statute. This means that these agencies have the powers and duties which have been conferred upon them by the creating statutes. These statutes are the source of their authority. That much of the substance of the statutes

came from the common law does not change this fact.

Statutory provisions creating municipal police agencies and establishing their powers and duties may take two different forms. In some States, each municipality is created by a special act of the legislature which applies to that municipality alone. This special statute is called the city charter. These charters can be changed only by another special act of the legislature. This means that every city in the State can conceivably have a different charter, including different provisions dealing with the police department of that city. In practice, many of these charters are identical. The fact that differentiation is possible, however, requires that the particular city charter be checked when the powers and duties of the police department of that city are in question. The same may also be true of county police agencies.

In other States the creation of municipalities and their nature after creation is governed by general State statutes. This means that all cities in a given class will have the same powers and duties inherent in all departments, including the police department. These powers and duties can be changed by a simple legislative act which changes the basic law. This automatically changes the law for each city in that class. There is, in effect, a master charter for all cities in a given class.

Very few city charters and very few general statutory provisions establishing the powers and duties of city government departments have any reference in them to the police handling of juveniles, in spite of the fact that noncriminal court procedures have been in existence for this age group for over 60 years in this country. In the various jurisdictions, this topic has been dealt with in juvenile court acts, in the Interstate Compact on Juveniles, in the general law of arrest, in the general law on search and seizure, in the school law, in the welfare law, and in the laws governing State institutions. Reference to police procedures with juveniles in these laws is generally not on any systematic basis. Most of the provisions are fragmentary and leave unanswered important questions of police responsibility and authority.[1]

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1. THE NATIONAL COUNCIL ON CRIME AND DELINQUENCY, STANDARD JUVENILE COURT ACT (6th ed. 1959) covers some of these problems well. Among State laws, that of Oregon, whose revised juvenile code went into effect on 1 January 1960, seems to have faced more of these questions squarely than any other jurisdiction, although there is some criticism of the answers arrived at. See particularly ORE. REV. STAT. ch. 419, §§ 419.488, 419.569–419.579, 419.585, 419.730 (1961). Even the Oregon Code, however, is not comprehensive. A complete code of procedure for police in cases of young persons of juvenile court age might cover the following topics:

In the absence of a comprehensive code for the police handling of juveniles, police administrators have established their own practices by the evolution of custom. These practices vary considerably from jurisdiction to jurisdiction. This publication is an attempt to extract from these practices, from legislation and court decisions in the various jurisdictions, and from general considerations of police operation principles which can be recommended to all police administrators in considering the work of their departments with juveniles. The establishment of clearcut policies and procedures for the guidance of the entire force in contact with juveniles is a command responsibility which every progressive police administrator must face.

Organization of policing for discharge of function has become fairly well standardized, at least in broad outline. Basic responsibility is placed on the policeman on the beat, whether on foot or in a motor vehicle. He is primarily responsible for maintaining law and order in the area which he patrols, but he needs help in carrying this load. He is given the necessary assistance by various specialists within the police department.

Some specialists devote their time to keeping him informed about policies and conditions affecting his work, to providing for his equipment needs, to handling his payroll, sick leave, and other personnel records, and to reporting on his performance to the city governing body. These are the specialists in administration. If a major crime is committed in his area that warrants the kind of painstaking and time consuming investigation that pays off in modern scientific crime detection, men from the detective bureau will move in, making

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it possible for him to resume his regular patrol duties. Similar help is provided him in coping with the flow of motor vehicles which move in and through his area by specialists from the traffic division.

These services to the policeman on his beat are commonplace in police organization today. Most of the rest of this publication will discuss the police officer's work with juveniles and particularly the role of the juvenile specialist unit in helping him to meet his responsibility.

In what follows, the words "juveniles, youngsters, children, and young persons" will be used to mean persons who are of juvenile court age under the law of the jurisdiction of the individual readers.

Need for Top Administrative Interest and Attention

Police agencies have long recognized that cases involving children require special attention. Specialization by an officer or unit of officers in a police organization on the problems of children and youth is almost as old as the juvenile court movement. Although there is little disagreement among police administrators on the need for specialization, there is disagreement on the role of the specialist and on his relationship to other units of the department. Some of this disagreement may be attributable to lack of attention on the part

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of some top police administrators to this specialist program within their departments.

There has been a tendency on the part of some police administrators to designate a juvenile specialist or commander of a specialist unit and then to refer all matters relating to juveniles to that unit, with little or no continuing interest and supervision from the office of the administrator. This tendency is probably due to the fact that the juvenile unit is not often a source of difficulty for him. The traffic, patrol and detective divisions handle the problems that affect the greatest number of citizens in their everyday lives, the kind of problems that most frequently result in public criticism of his office, and that present the spectacular and glamorous in which the press is so much interested. There has been little community awareness of the importance of the regular police role in cases involving children and their families, which has such an important long-range impact on the life of the community. For these reasons, the careful, year-after-year study of comparable figures based on comparable definitions and comparable practices, which characterizes other areas of police management, has sometimes not been given to the operation of the juvenile unit. The result is that police juvenile units occasionally appear to be autonomous units getting little attention from top administration.

Police administrators should give close attention to the functioning of their juvenile units and to the general handling of problems involving children, for a number of reasons. Among these are the following:

1. Some police cases involving young persons can be handled in the best interest of the community by officers with special aptitudes, training, and experience. Reevaluation of police operations with juveniles is making it clear, however that problems with children

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Sec. 26. Fingerprint and Photograph Files.
Sec. 27. Records to Be Kept Separate and Private.
Sec. 28. Statistical Reports.
Sec. 29. Periodic Purging of Records.

Article Five. Miscellaneous Provisions.
Sec. 30. Cooperation.
Sec. 31. Penalty for Violation of Act.
Sec. 32. Laws Repealed.
Sec. 33. Constitutionality.
Sec. 34. Citation of Act.
Sec. 35. Time of Taking Effect.

The cooperative drafting of such an act by leaders from all of the interested groups would be a great undertaking but would also result in a tremendous contribution.

and youth must be met with the entire force of a department, ably assisted and supported by an effective juvenile specialist unit.

2. Failure to integrate the approach of the department to juvenile problems results in poor relationships between the specialist unit and other units of the department, with loss of efficiency and a general lowering of morale.

3. Pressure for special handling of children's cases sometimes leads to hurried decisions which are administratively unwise in view of overall departmental problems.

4. Management studies may reveal that problems analogous to those with children exist with the aged, with the mentally disabled, and with segments of our population suffering from other handicaps which might also require specialized knowledge and skills on the part of police officers. This may reflect the need to establish a special multipurpose unit including these specialists as well as the juvenile specialist unit.

At least one juvenile officers' association has recognized the need for top administrative interest to assure sound growth by providing for an advisory council of top police administrators as an integral part of their organizational structure.

In considering how his department should be organized for the effective handling of special police problems with children, the administrator must decide whether his department has become so large that some of the responsibility can be carried more efficiently by a juvenile specialist unit than by the general line divisions, such as patrol, detective, and traffic. If he does decide that a specialized unit is desirable, he must next decide which of the departmental activities with juveniles should be concentrated in the unit and which left with the line divisions. When the nature of the unit has been thus defined, he must then fit it into the department organizational structure. With this planning complete, the plans must still be implemented. This means designating those persons who will become juvenile specialists and deciding what special training is needed for them on an initial and continuing basis.

Police services for children present specialized problems which are both legal and tactical in nature. (See page 20 ff.) These special problems make specialized attention mandatory. The question is no longer whether to specialize, but what the nature and extent of that specialization should be. Police organizational structure hinges on the size of the community, but the need for special aptitudes, training, and experience in the handling of some juvenile cases does not. In even the smallest departments, one officer should be assigned the responsibility of making a special effort to qualify himself for work on juvenile cases in addition to his continuing attempts to improve his

general ability to discharge his regular duties. In such a department, other officers will have similar special assignments in the areas of patrol, detective and traffic. Each will share his special knowledge with his fellow officers. As the department grows, these men may be relieved of general duties and be allowed to devote full time to their special areas. With still further growth, they may become the heads of specialized units. The point at which these successive steps are taken will depend upon the judgment of the administrator as to how his department can best meet the needs of his community.

There is no magic formula for deciding what percentage of the manpower of a given department should be devoted to specialist work on juvenile cases. This is because the need for a given community will be determined by a complex set of interrelated variables. Important among these variables are the following:

1. The sociological structure of the community. Although the cause of juvenile delinquency is complex, it is known that certain types of communities breed more delinquency than others. Whether a given community has large areas of the type which seem to spawn delinquency or practically no such areas will obviously affect the police workload with juveniles.

2. The organization of the community to meet its juvenile delinquency problem. There is general agreement that a number of social service and welfare agencies, both private and public, offer services which can minimize the amount of delinquency in a community. Whether the police department is operating in a community which supports a wealth of such agencies or whether it is practically alone in facing the delinquency problem will also affect the workload of that department.

3. The total size and efficiency of a police department. A too small and inefficiently operated force will allow crime and delinquency to breed in a community where a larger and more efficient department would minimize those conditions which encourage delinquency. The same juvenile specialist unit in two such differently policed cities would have different impacts.

4. Youth orientation of the entire police department. A department with police officers who are better qualified for work with juveniles because of preservice education and experience and in-service training will be able to handle a larger percentage of its contacts with juveniles without detailed involvement of the specialist unit, leaving that unit free to concentrate on the more difficult cases and on its other functions.

5. Assignment of function to a juvenile specialist unit. In a considerable number of departments, activities with children and youth which are actually of a public relations or safety education nature have been assigned to the unit. Although this is work with children it is not directly related to control of delinquency.

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Other assignments have similarly been given to the juvenile unit on occasion for which primary responsibility can better be lodged in another division of the department. These units also, in some instances, have taken on nonpolice functions in the related areas of recreation and character building, probation, hearing cases, and social casework treatment.

These variables account for the wide variation in the suggestions of those who have recommended generally applicable manpower allocations for juvenile specialist work.[2] Police administrators should establish a specialist unit large enough to carry out all of the functions described in the following section. No other guide can now be given. With the passage of time, minimum manpower figures for police juvenile specialization, with agreed upon functions, can probably be established for carefully defined types of cities within the different population categories, but this kind of information is not currently available. Until it is, each police administrator must determine his own needs after a careful study of his own department in the light of the above variables. Such a study will enable him to support his budget with realistic arguments. The outstanding writers on police administration today have come to the same conclusion when studying the general problems of police manpower allocation.[3]

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2. These recommendations vary from 2.5% to 7.5%. These studies are listed in GREENBLATT, STAFF AND TRAINING FOR JUVENILE LAW ENFORCEMENT IN URBAN POLICE DEPARTMENTS 12, (U.S. Children's Bureau, Department of Health, Education, and Welfare, Juvenile Delinquency: Facts and Facets Series No. 13, 1960). The National Council on Crime and Delinquency uses the figure of 5% in its surveys. [3 National Probation and Parole Association, Mahoning County (Youngstown), Ohio, Juvenile Court and Probation, Detention, Law Enforcement and Related Services: Law Enforcement 9 (June 22, 1960); 2 National Council on Crime and Delinquency, The Prevention and Control of Delinquency in Duval County (Jacksonville), Florida, Facilities and Services for Troubled Children and Youth: Law Enforcement and Juvenile Court 73 (November 11, 1960)]. A recent Children's Bureau study shows that the actual average figures for those departments which do have such specialization is 3.26% for cities in the 100,000 or more population bracket, 3.30% in the 50,000 to 100,000 bracket, 3.65% in the 25,000 to 50,000 bracket, and 4.69% in the 10,000 to 25,000 bracket. The overall average is 3.73%. That these figures are not good guides to actual need is indicated by the fact that, of the reporting departments which expressed an opinion about the size of their juvenile specialist unit, 58.8% thought that theirs was not large enough. (GREENBLATT, *supra* at 14.) Research on this problem is sorely needed.

3. INTERNATIONAL CITY MANAGERS' ASSOCIATION, MUNICIPAL POLICE ADMINISTRATION 50 (5th ed. 1961).

Recommended Functions of a Juvenile Specialist Unit

There is a growing belief among police administrators that some problems with children can be handled by any well trained police officer. Many police agencies across the country are attracting better and better personnel. Entrance educational levels are continuously rising. Once employed, officers are being given better and better basic training for their careers. The result is a more effective police officer, on the average, than we have had in police departments in the past. There are exceptions to these generalizations, but on the whole this picture is valid across the nation. With better qualified police officers across the board, there can be more discriminating use of the juvenile specialist unit.

Recommended functions

Regardless of the caliber of the line officer, however, there comes a point when full-time specialization is desirable. The specialist can best be justified as one who takes part of the load of each of the line officers—a part which can better be concentrated in one person. The following activities seem to fall into this category:

1. Assistance to the chief administrator in the formulation and implementation of overall departmental policy for dealing with juveniles. This will require the devising of techniques to assure that adequate information is available for the presentation of an accurate picture of the current situation to the administrator, a knowledge of the most advanced thinking in the field of juvenile control so that this information can be interpreted with meaning, and close cooperation with those responsible for training and supervision of personnel to assure that all members of the department have a good understanding of recommended procedures.
2. Investigation of some nonaction complaints and followup on action situations after the line officer has taken initial steps. Much of this work would take the line officer too far from his beat, would require the special aptitude, training, and experience of the juvenile officer, and may also require the use of plain clothes and unmarked cars. In a department in which all personnel are youth oriented, some of this work can be done by other departmental specialists, particularly with a strong juvenile unit available for consultation.
3. Review of all reports dealing with police contacts with juveniles. This will assure that policy decisions are being implemented consistently and will keep administration informed of the changing

nature of the problems being faced by the men in the field which might require new policy decisions. Where sheer numbers make it impossible to review all reports, random samples should be studied.

4. Liaison with other agencies in the community dealing with the children who are contacted by the police. This would include liaison with community welfare councils, with the juvenile court (with its probation and detention staffs), with public and voluntary social and welfare agencies, and with institutions for the care and treatment of children who cannot be left with their families. This role would involve studying and improving procedures, identifying and working out problems, and serving generally as a two-way communication channel for information moving from the police to these agencies and from the agencies to the police.

Very few juvenile units today discharge all of these functions. To do so, many may need an increase in personnel. Such increases would be well justified by the better results that the department would obtain from its overall effort at control of juvenile delinquency and youth crime.

Staff assistance to the chief administrator

All of the four functions of a police juvenile specialist unit mentioned above are extremely important. Unfortunately the first one—that of staff assistance to the chief administrator—is often neglected. For a juvenile unit to be effective, this function must be included. In this role, the unit acts as the research arm and information reservoir of the administrator on juvenile control. The administrator must have such assistance available in order to establish and implement departmental policies on dealing with juveniles. It should not be necessary for the administrator to call on the head of the juvenile bureau whenever a matter involving a juvenile is raised. This is abdication of responsibility. His juvenile unit should, on a routine basis, channel such information to him as is necessary to keep him aware of advancements in the field at large and should also keep him informed about the problems with juveniles being faced by his own department.

The central policy of any top police administrator on juvenile matters ought to be that his entire department should have some special training in handling youth, with an effective juvenile specialist unit available for assistance and support. The juvenile unit alone cannot cope with the situation. The intelligent attention of the entire force is needed. This means that the administrator has a command responsibility to specify very clearly the functions of the juvenile specialist unit and the relationship of that unit to the other units of the depart-

ment, particularly to the patrol, detective and traffic units. The head of the juvenile unit should assist the administrator in formulating these essential written policies.

Implementation of the policies requires that they be communicated to the members of the force through a system of directives which are available for ready reference. These directives should be discussed in roll call training sessions and carefully explained in recruit and advanced inservice training. Here too, the head of the juvenile unit can be of great assistance to the administrator. He can make sure that the training curricula adequately assist the chief in making his force a youth oriented force. This cannot be accomplished simply by having someone from the juvenile unit lecture from 2 to 4 hours in each training program. This is a start, but every instructor in every course in the program should be assisted in reworking his materials so that special problems with juveniles are considered as an integral part of his teaching. Juvenile unit representatives should work with all instructors toward this end.

Line operations of the juvenile unit

Although the traditional dichotomy of staff-line functions has been modified considerably in public administration theory, the terms can still be used with meaning. A specialized police juvenile unit will have both staff and line functions. Although the staff operations discussed in the previous section are extremely important, the unit will also perform important line functions—functions in which they have direct contact with juveniles. It has been emphasized above that the line officer will and should have contacts with the juveniles he meets regularly. This is a necessary part of the overall police patrol function. Just as surely, the detective and the traffic specialist will also have contacts with juveniles during the normal course of their duties. Once this contact has been made, these officers, as youth oriented officers, will be able in some cases to complete whatever action is necessary at the time, later filing a report which will alert the juvenile unit to the fact that the contact has been made.

But there will also be an appreciable number of situations in which juvenile officers will take direct responsibility for individual juvenile cases. Complaints originating in nonpolice sources that do not require emergency handling and which may require the special aptitude, training and experience of a juvenile officer should be referred directly to the juvenile unit. Some minor cases can be handled by the line officer by simple warning and dismissal. Others can be taken directly to the juvenile court because it is apparent that they should go to court. More complicated cases, in which the proper disposition is in doubt or in which extensive followup is needed, should

be referred to the juvenile unit. What is advocated here is that juvenile officers should not automatically handle all cases involving juveniles. There are some cases in which a second contact by the juvenile officer after the case has already been considered by an officer in the field would be a wasteful duplication.

In addition to having primary responsibility for some juvenile cases, the specialists should also serve as consultants to other officers in the field as to the proper disposition of particular cases which have come to their attention. In many situations a telephone or, in emergency, a radio conversation can give the other field officer sufficient information to allow him to dispose of the case. One of the measures of success of a department in its handling of these challenging cases involving juveniles is the extent to which the average line officer is able to operate effectively without the immediate help of a specialist.

Control function of the juvenile unit

In addition to serving in a staff capacity to the administrator in the formulation and dissemination of policy for the department in cases involving juveniles, and in addition to the direct line operations of the unit, the specialized juvenile unit should also perform a control and evaluation function. This will involve a review of all reports of police activity with juveniles to assure that policy decisions are being implemented consistently and to keep in touch with the changing nature of the problems being faced by the men in the field, which may require new policy decisions.

In reviewing reports, the unit should keep a running inventory on the activity with juveniles of every officer on the force. If both the number of such contacts and their quality are recorded, corrective training can be planned in cooperation with the training division with great effectiveness. Steps in this direction will be implemented through directives signed by the administrator. This will aid immeasurably in the efforts of the administrator to establish a sound training program for all of his officers as well as for the juvenile specialist unit. In larger departments it may be possible to have this review made on at least a preliminary basis by a specialist at the precinct level.

In addition to serving as a measurement device, this review will also keep the members of the juvenile unit better informed about juvenile problems in the city. They may be able to spot trends which require shifts in emphasis on the part of the patrol force in its regular contacts with juveniles or that should be made known to other child serving agencies. These are positive aspects of the review over and above the essentially negative function of review for compliance with established policy in specific situations.

Liaison function of the juvenile unit

Another important function of the police juvenile specialist unit is liaison with other agencies in the community dealing with children who are contacted by the police. This would include community welfare councils, the juvenile court (with its probation and detention staffs), public and voluntary social service and welfare agencies, and institutions for the care and treatment of children who cannot be left with their families.

This role would involve developing materials describing the services of each agency in a brief, ready reference form, with emphasis on the types of help that they can give to problem cases that come to the attention of the police. This information could then be distributed to all members of the force. In obvious cases, this would make it possible for the men making original contact with the case on the street to inform the families about services available from these agencies. It would also give the specialists the knowledge needed to consult with the field officer on more complicated cases, some of which would be taken over by the specialist for determination as to the proper referral.

This role would also involve studying and improving procedures, identifying and working out problems, and serving generally as a two-way communication channel for information moving from the police to these agencies and from the agencies to the police. In this role, representatives from the juvenile specialist unit should meet with representatives of each cooperating agency at regular intervals to assess their working arrangements. By this technique, changing situations which might present future problems can be anticipated and dealt with in advance, thus eliminating friction before it occurs. Small problems can be identified and worked out before they become big problems, and major upheavals which work to the detriment of all can be avoided. It is not only the police personnel who will benefit from such a system, but the agency personnel as well.

Activities not recommended

A word of caution about activities that should not be assumed to be appropriate for police agencies merely because they may be part of some recent or current practice seems necessary. Police agencies should not take on recreation and character building activities even if an adequate job is not being done by the recreation and other character building agencies;[4] police should not take on probation or other treat-

4. This was the position taken by the International Association of Chiefs of Police and the National Sheriffs' Association in a 1944 publication and by the police panel of the 1954 National Conference on Juvenile Delinquency. [NATIONAL

ment activities even if the probation department or other agency is not providing adequate service; and police should not take on judicial functions even if the court is not able to carry the full load. Such situations require action, but the answer is not for the police agency to attempt to do the job. To do so results in a dilution of well defined traditional police activity without any lasting solution of the basic problems. Furthermore, attempting to meet the problem of inadequate service on the part of another agency by taking over its activity merely postpones the day when truly adequate provision will be made. Just as in criminal cases, police activity with juveniles is only one step in a long procedure involving other agencies. The police must do their job as well as they can. Where other services are inadequate or nonexistent, the police should take vigorous action in bringing these problems to the attention of the agencies involved, to community planning bodies, to fiscal officials, and to the community at large.

These cautions are concerned with nonpolice functions which have, on occasion, been assumed by police juvenile units. There are also three legitimate police functions sometimes assumed as a primary responsibility by the juvenile unit which can be performed more efficiently as a primary responsibility by other police divisions. One of these is routine preventive patrol of places frequented by juveniles, such as drive-ins, ice cream parlors, dance halls, bus stations and other transportation centers, parks, and playgrounds. Another is interviews with persons who wish to make complaints about juvenile wrongdoings, such as a storekeeper who wishes to lodge a complaint about a theft which he believes to be the work of juveniles. Both of these types of situations can frequently be handled more efficiently by another well trained police officer in his regular duties. In other situations the use of a juvenile officer might be warranted, but primary

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ADVISORY POLICE COMMITTEE ON SOCIAL PROTECTION, FEDERAL SECURITY AGENCY, TECHNIQUES OF LAW ENFORCEMENT IN THE TREATMENT OF JUVENILES AND THE PREVENTION OF JUVENILE DELINQUENCY 38 (1944); U.S. CHILDREN'S BUREAU, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, REPORT ON THE NATIONAL CONFERENCE ON JUVENILE DELINQUENCY 27–28 (1954).] The current position of the National Sheriffs' Association is that it does not oppose recreation and character building activities for police agencies. Its Junior Deputy Sheriffs' Program is designed primarily to build character and prevent crime among juveniles. For the most part, the Junior Deputy Sheriffs' Leagues are organized in rural communities where youth activities are almost nonexistent. For further information about this program, which the Association reports has been widely praised, write directly to the Association.

Police agencies should, of course, maintain close liaison with recreation and character building agencies and individual police officers, as private citizens, should not only be allowed but encouraged to do volunteer work with such agencies. See generally Paul, *Crime Prevention—Where Do We Stand?*, in THE POLICE YEARBOOK 102 (International Association of Chiefs of Police, 1959).

responsibility for these functions should be placed elsewhere than in the juvenile specialist unit. The third activity sometimes assigned to the juvenile unit for which primary responsibilty should be lodged elsewhere in the department is public relations.

Those who advocate preventive patrol of juvenile hangouts by juvenile officers are correct in asserting that this work must be done. It is essential to any good juvenile control program to have these locations spotted and carefully watched. There does not, however, seem to be any good reason why the officer on the beat, who is already in that area, cannot handle this duty. His presence there on a continuing basis makes it possible for him to keep a closer watch than could a juvenile officer making an occasional check. Juvenile officers who check a number of these places throughout a large area of the city or even through the entire city spend most of their time driving from one to the other. Giving this assignment to the beat patrolman also emphasizes the fact that control of juvenile delinquency is a department-wide responsibility and adds to the interest and challenge of the beat assignment. Modern police management is moving more and more in the direction of making the man on the beat answerable to his superiors for knowing and doing something about all kinds of wrongdoing in his assigned area. Every juvenile officer should, however, keep this activity in mind when moving about the city on other business. He should make enough visits to neighborhood hangouts and gathering places to acquaint him with the young people, their environment, and their habits.

Essentially the same arguments can be made for requiring the officer on the beat to take the facts in an initial complaint from sources on his beat, even though the case may eventually be referred to the juvenile unit. Placing this duty on the juvenile unit would require an officer to travel greater distances to take the facts. There may be exceptional cases in which local experience indicates that the initial assignment should go to the juvenile specialist if one is available. In the usual situation, however, the man on the beat can take the facts and refer the case to the juvenile bureau where an assignment can be made on a planned basis. Even if a juvenile officer did take the complaint, the case might actually be handled by another juvenile officer who happened to have a lighter workload at the moment.

A similar situation exists in regard to the public relations function. Primary responsibility for this should be placed in a staff in the office of the chief administrator. This staff should be free to, and should, call on the personnel of the juvenile bureau whenever their services are needed, but the same is true with all other divisions and officers. The particular goal to be achieved should dictate the officer to be consulted or assigned.

Juvenile Specialization in the Organizational Structure

Because the extent of the need for juvenile specialization will vary with local conditions both within and without the police department, there can be no rigid place for it in an organizational structure. Of primary importance is the relationship of the officer or unit to the top administrator. To assure overall departmental competence in dealing with juveniles, there must be top administrative interest. This can be achieved through direct supervision by the administrator, which is probably justified in most departments. In very large departments, the unit commander may report to a deputy administrator for operations or services who also supervises other like divisions. In either case, the juvenile unit commander should be on a par with other division commanders and report to the same administrator. Where such groupings exist, the placing of the juvenile division should emphasize the responsibility of the unit commander to assure that the entire department has a sound approach in the handling of children. Some writers have said that the juvenile unit should be autonomous because its philosophy about dealing with children is different from that of other divisions of the department. To the extent that this is true, the unit commander and the top administrator have failed in their obligation to bring the entire force to grips with juvenile problems in a satisfactory manner. There should be one philosophy for dealing with juveniles throughout the entire department.

One anomaly which has crept into the operation of many juvenile specialist units is that they operate only during the daylight shift. This is bad practice. A full complement should also be on duty during the evening shift when most juvenile offenses occur and when parents are more generally available for discussion of the conduct of their children. Consultation to the line divisions should also be available during the early morning shift, at least on a call basis.

An alternative to a separate juvenile unit might be the establishment of a larger division which would include a variety of special services dealing generally with health and welfare problems of the community as they come to the attention of the police department. In addition to handling some of the problems with juveniles discussed above, such a unit might concern itself with the problems of the mentally disturbed, the senile, alcoholics, persons reported missing, and any other groups which present problems that are not criminal in the traditional sense, but who frequently get involved in emergency situations requiring police action. The nature and variety of services offered to these various groups would be similar to some of those for

juveniles which have been discussed in some detail above. Some of the problems would also be similar.

Whatever the organization chosen, it should be regarded as flexible. This is a rapidly moving field. Changes in community services outside the police department, as well as changes in the nature of the community, may require adjustment of the police structure.

Selecting and Training Personnel for Juvenile Specialization

To say that police officers chosen for work with juveniles should have special qualifications is not to say that those qualifications are either higher or lower than those of the general officer who works with crime in the traditional sense. They are simply different. There is no unit in a police department that cannot use the best men that it can recruit. The present practice of making a juvenile officer different from officers doing similar work with adults, usually by giving the juvenile officer higher or lower rank or pay than other officers doing analogous work, has two serious drawbacks. The most important is that it tends to discourage or attract officers on these bases alone. In the one case, an otherwise interested and qualified officer will fail to apply, and in the other, one who has no genuine interest in or qualification for the position may seek it. A second adverse effect is that this discrimination results in bad feeling between officers doing similar work and makes it that much more difficult to assure that recommended procedures for the handling of children and youth are accepted and implemented. The remedy here is to raise the rank or pay of all those doing similar work whether with adults or children to the highest level currently in existence for that work in the department.

There should be special qualifications for working with juveniles. Where possible, officers should be chosen who have an aptitude for and an interest in this work for the sake of the work itself. Officers chosen should have some education or experience which would enable them to work with juveniles with particular effectiveness. Beyond these general criteria, the same rule should apply as in all police personnel selection, getting the best officer possible to fill the position.

There is much to be said for the direct assignment of new officers who have special educational backgrounds in the social sciences and education to the juvenile unit, both men and women. Advantages include acquisition of specialized knowledge by the unit without cost to the department, potentiality for more mature judgment with experience, greater ease in liaison with other agencies employing persons

with similar backgrounds, and the beneficial effect that such persons can have on the rest of the staff through sharing technical knowledge. This direct assignment should not be made without an initial orientation period spent in the other divisions of the department.

One criticism of this practice is that an appreciable number of such persons will probably leave the department sooner or later for higher pay than they could ever get with the police agency. Some administrators and some management specialists who have made surveys of police operations point to this turnover as a waste of departmental training funds. To the extent that equally qualified officers can be obtained who will stay with the department for their entire professional careers, this is true. But to the extent that better educated and more intelligent officers who have more potential for mature judgment can be obtained by such a process, it is not true. As a matter of fact, it will be the less expensive method of obtaining results in the long run.

This problem becomes particularly acute when recruiting young women for juvenile work. Many departments will testify that a relatively young woman who has been sophisticated by college training can do a remarkably able job, not only with boys and girls, but also with young men and women, yet these young women are subject to enticement to other types of employment and to marriage. This has led to recommendations that college-trained women should not be recruited. This is definitely a short-sighted position. As a matter of fact, college-trained women are likely to be career oriented.

Whether the officer chosen for the juvenile unit is from the force or is recruited from outside, he should be exposed to the regular recruit training, which should include field work with the line divisions. This training should also include a thorough grounding in the problems to be encountered in dealing with children. This base is needed to make the entire program of the department effective. Added to this should be advanced training for the specialty. With an already established unit, it may be possible to give this training on the job within the local department. If not, it is readily available from a number of university-connected short courses across the country. Eventually the local department should have established channels through which the latest and best thinking would be available to the specialist unit and which, in turn, could be made a part of the subject matter for a continuing training effort.

On training programs, again, local resources and problems will require local variation. Despite this fact, courses of varying length and intensity could be built around a basic orientation. Almost any such course would probably cover the following topics: legal aspects, sociological aspects, growth and development of children, techniques of interviewing, the role of the juvenile court (including probation

and detention) and other community agencies. Further discussion of training programs is beyond the scope of this publication.

Summary

There is no substitute for the personal interest of the top administrator of a police agency in the work of his department with children and youth. Without this interest, an effective juvenile specialist unit capable of helping him to achieve the ideal of every officer a youth-oriented officer will never emerge. All members of the entire department should have some training to make their work with young persons effective. There should be a special officer or group of officers concerned with the problems involving children and youth in every police department. This specialization is needed to assist the chief in formulating and implementing overall departmental policy for dealing with juveniles. It is also needed for more efficient handling of those activities with children and youth which are beyond the knowledge, skill, and scope of the line officer. In addition, it allows more effective liaison with other agencies serving young persons. Local conditions within and without the department will determine both the size of the specialist unit and its position in the organizational structure.

Personnel for the juvenile specialist unit should be carefully chosen and well trained. They should have a particular interest in children and aptitude for working with them. Rank, pay, and working conditions should be the same as for similar work in other divisions in the department to assure the close cooperation between all divisions of the department so necessary for an effective department-wide program with children and youth.

LAW GOVERNING POLICE OPERATIONS WITH JUVENILES

LAW AND LEGAL PROCEEDINGS come into play in controlling the conduct of members of society when less formal methods of social control have failed. There are many of these less formal methods. Of primary importance is the control exercised by family. Most families in the United States today are still strong social units which do have definite control over their members, although this is less true now than it has been in the past and less true here than in other cultures of the world. Families in some economic and cultural segments of American life are stronger on the whole than in others, but the overall picture of the family is still one of strength. Schools are another source of social control essentially nonlegal in nature, as are the church, the neighborhood, the private club and the work setting. The combined effect of all of these institutions on life in the U.S.A. is extremely strong. Their influence is enough to persuade and allow most of us to live in a way that prevents all but occasional conflict with the rest of society.

When these influences fail to bring about the minimum amount of conformity which society requires as necessary for all of us to have a maximum of freedom, it is necessary to bring legal controls into action. When one of us asks our legal structure to come to his personal aid to settle conflict with another individual or group, it is the civil or private law part of the structure to which he addresses his appeal. When the wrong which has been done is one which is as much a threat to all of society as it is to him as an individual, he appeals to the public law, usually the criminal law. The criminal law then proceeds against the alleged violator in a dual manner, acting in a capacity representative of all society against the defendant not only as a person but also as a representative of all who would destroy our way of life by refusing to abide by the necessary rules. These rules are created by the legislatures, administered by the executive branch of government including police agencies, and enforced by the courts. This is the traditional role of the criminal law. The institution of probation and parole and the use of treatment and training techniques as incorporated into our modern prison systems are an attempt to weave rehabilitation into the punishment process. However, basic

emphasis in criminal procedure remains on deterrence through punishment.

Through a slow evolutionary process, a realization has developed, not only among professional correction personnel but also among lay persons, that children who engage in antisocial conduct present a different problem to society than do adults similarly engaged. After several centuries of trial, it was evident that the criminal law approach was not doing the job with children. Government first reacted to this growing public conviction by providing separate institutions for child offenders. A house of refuge for children was established in New York City in 1825. Massachusetts opened the first such State institution in 1847. By 1875 most of the other States had followed suit.[1] Since the actual chronology in an individual case of adjudicated juvenile delinquency goes from police to court to institution, this first showing of governmental concern was with the last step in the processing of a case. It did nothing to make apprehension and trial consistent with efforts toward rehabilitation.

Awareness that imprisonment, even enlightened imprisonment, could not do much to make better citizens of young persons who ran afoul of the law led to the establishment in Illinois in 1899 of the first juvenile court. The Cook County Juvenile Court was not actually a new court but a branch of the trial court of general jurisdiction, the Cook County Circuit Court. This court was a source of governmental help for juveniles, not merely an arena for public punishment and revenge in the hope of some measure of general deterrence.

In recognition of the immaturity and the potential of young people, a philosophy has developed which, for the most part, labels the antisocial acts of children as behavior problems rather than as criminal behavior. But despite the fact that the machinery for dealing with juvenile delinquency is basically protective in nature and aimed at rehabilitation, the fact remains that it is sometimes necessary to deprive children of their liberty and parents of the companionship of their children at home. Because these are important rights, many of the safeguards afforded the adult person charged with crime must be observed for the protection of the child, of his family, and of the community. The machinery for deciding when these rights shall be abrogated is centered largely in the juvenile court or, where separate juvenile courts do not exist as such, in their counterparts.

Experience with the court soon made it apparent that special aptitude, training, and experience on the part of the police was also

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1. Dep't of Health, Education, and Welfare, Report to the Congress on Juvenile Delinquency 7 (1960).

necessary for maximum effectiveness in many of their contacts with juveniles. Records show assignment of a woman police operative to cases involving children in Portland, Ore., in 1905, and that a special unit was established in the Los Angeles, Calif., Police Department in 1909.[2] A recent study estimates that there are today 552 police departments in cities with a population over 10,000 which have specialized juvenile officers or units.[3] These police specialist units serve not only as one source of referrals to the juvenile court, but also to a limited extent as an agency which can advise children and their parents of community resources that may prevent serious involvement with the law on the part of a child. In addition, this specialized police group assists the administrator in developing a sound, effective, and cohesive departmental approach in handling young persons in conflict with the law.

Recognition of the fact that young people in conflict with society present special problems has resulted in changes in our legal system. The impact of these changes on police operations is discussed in this chapter. A survey of the literature indicates that there has been no thorough exploration of this topic. As a result, much of what follows is merely the raising of questions that should be more thoroughly studied.

Police Authority in Juvenile Cases

Even prior to the advent of juvenile court statutes, children of tender age were given special consideration under the doctrines of the criminal law. In our legal system, children under the age of seven have been freed from criminal liability for acts which would be criminal if committed by older persons. A few States made this floor on criminal liability a year or two higher. This policy is based on the belief that children of these ages are not sufficiently mature to be able to understand the organization of society and the seriousness of their antisocial acts. This has meant that police agencies could not initiate proceedings against such children when they transgressed, but were required to leave them with their families for education and control.

Special protection was also given to children who had reached their 7th but not their 14th birthdays. These children were prosecuted just as were adults except that the state was required to prove,

2. Swanson, *Police and Children,* 25 THE POLICE CHIEF 18 (1958).

3. GREENBLATT, STAFF AND TRAINING FOR LAW ENFORCEMENT IN URBAN POLICE DEPARTMENTS 4 (U.S. Children's Bureau, Dep't of Health, Education, and Welfare, Juvenile Delinquency: Facts and Facets Series No. 13, 1960).

in every case, that the child was sufficiently mature to have understood the social disruption which his conduct was capable of creating. In cases in which the child had reached his 14th birthday, capacity rather than incapacity for mature judgment was presumed and the children were prosecuted just as were adults.

Whether modern juvenile court laws have altered the exemption from criminal liability that was extended to children under 7, or the presumption against capacity to commit crimes extended to those from 7 to 14, by the common law is not clear. Most State juvenile court laws are similar to the provision of the Standard Juvenile Court Act which gives the court jurisdiction over ". . . any child who is alleged to have violated any Federal, State, or local law or municipal ordinance."[4] When such an allegation is made the basis for juvenile court jurisdiction, it has been held that evidence must be offered tending to show the existence of every element of the offense, including "criminal" intent.[5] In view of these decisions, it is certainly possible that there must also be a showing of sufficient legal maturity to establish responsibility for violation of law. As one publication has put it:

> **If violation of the criminal law, as distinguished from the child or parent's general course of conduct, is used as the determinant of the court's jurisdiction, should the criminal law standard be observed accurately?**
>
> **The answer should be in the affirmative. Certainly the criminal law may not be the best determinant of the child's need for treatment; but if this short-cut criterion is adopted, there is no logic in half applying it.**[6]

Adoption of this view would eliminate the necessity of a juvenile court judge having to face the ludicrous decision of whether to commit a 4-, 5-, or 6-year-old "delinquent" to an institution. Extreme cases involving children of this age would almost always involve dependency or neglect and could be handled on that basis. It is just as difficult to envisage 4-year-old delinquents as it is 4-year-old criminals.

Changes in the law of criminal responsibility of children which have been made by the juvenile court laws of the United States are generally of the five following types:

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4. National Probation and Parole Association, Standard Juvenile Court Act § 8(1) (6th ed. 1959).

5. People v. Lang, 402 Ill. 170, 83 N.E. 2d 688 (1949); *In re* Smith, 326 P. 2d 835 (Okla. Crim. 1958); State v. Ferrell, 209 S.W. 2d 642 (Tex. Civ. App. 1948).

6. Advisory Council of Judges, National Council on Crime and Delinquency, Guides to Judges on Evidence and Procedure in Juvenile Courts 16 (Second draft for discussion at annual meeting, May 1961).

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1. Absolute substitution of jurisdiction of the juvenile court for criminal liability for children up to a specific age, usually 16, with possible exceptions for certain types of crime, usually (a) felonies which are punishable by death or life imprisonment, or (b) some other larger, defined group of felonies, and (c) traffic offenses (which are crimes in most but not all jurisdictions);

2. Primary substitution of juvenile court jurisdiction for criminal liability for an additional narrow age group, usually 16 and 17 year olds but sometimes including 15 year olds, but with a provision that the juvenile court may transfer the cases of these children to the regular criminal court if defined felony type offenses are involved and if it appears that the child cannot benefit from the services available to the juvenile court;

3. Primary substitution of juvenile court jurisdiction for that of criminal courts for youths 18, 19 and 20 who are alleged to have committed offenses while under 18, with the same transfer prerogative in the juvenile court as outlined in 2 above;

4. Establishment of juvenile court jurisdiction over acts of children defined as acts of delinquency which would not be violations of the criminal law if committed by adults; and

5. Substitution of juvenile court jurisdiction for exclusive parental control over children up to a certain age, usually 18, whose parents do not make minimal provision for their welfare either because of neglect or inability to do so.

One result of these laws is that the juvenile courts have jurisdiction over juveniles in situations where the criminal courts would not have jurisdiction over adults. Most juvenile court laws also contain statements to the effect that juvenile court actions are not criminal.[7] The purpose of these provisions is to assure that the juveniles who come before them will not suffer from the stigma of criminal conviction. Although these statutes do not specifically so state, they have been interpreted by the appellate courts as making the juvenile court actions civil actions.[8] These cases have usually involved a question of whether criminal or civil procedure should apply in the juvenile court in an

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7. Typical of these is NATIONAL PROBATION AND PAROLE ASSOCIATION, STANDARD JUVENILE COURT ACT § 25 (6th ed. 1959).

8. "It is not necessary to repeat the extended summary of the act before made, or to refer specifically to any of its particular provisions, to demonstrate that the act was intended to constitute a court which should conduct a civil inquiry, to determine whether, in a greater or less degree, some child should be taken under the direct care of the state and its officials to safeguard or foster his or her adolescent life, and not to conduct a criminal prosecution, not to attach to the enforcement of the provisions of the act any sanction of a criminal nature . . .". Cinque v. Boyd, 99 Conn. 70, 75, 121 A. 678, 682 (1923).

instance where the law establishing the court did not specify a procedure to be followed, for example, on appeal.[9]

Unlike the usual civil case, the rights involved in these cases are not ordinarily property rights. They are personal rights—rights and freedoms which are deemed fundamental under our system of law—the right of a child to live with his family in a community of their choice, the right of the parents to the unrestricted care, custody, and control of their child.

In the past the courts have pointed out that the state should not be able to intervene merely because it disagrees with the parent as to the best method of child rearing. Nor should it be permitted to take children from their parents merely because a public official believes that the child can be better cared for and trained as a ward of the state. Both social policy and the law require that the primary responsibility for child rearing be left to parents and only when conditions in the family seriously affect the health and welfare of the child or his conduct is dangerous to the community or to himself should authoritative action be taken by the state.

Doing something for a child and family also entails doing something to a child or family which they may have the right to reject. This does not mean that help should be denied. All appropriate procedures should be used to provide help to children and handicapped families experiencing problems. Nor does it mean that offenses by young persons should be excused or condoned. Society should be protected and young people should be held responsible commensurate with their degree of maturity. It does mean that fair practices which meet the requirements of due process must be devised to determine when, how, and under what conditions the state can authoritatively enter a family situation. These apply no less to the police than they do to the courts.

Because they are a new kind of court designed for a special purpose, juvenile courts need not be either civil or criminal. It has been pointed out that they possess some of the characteristics of both.[10] The fact that these courts are unique, however, means that they must also be given a unique law of procedure. Some of this procedure might be analogous to criminal procedure in establishing safeguards for those within its jurisdiction and other procedures might be analogous to civil procedure. Much of the difficulty arising from this ambiguity as to the procedure to be followed in juvenile courts stems from attempts to measure the procedure used in a particular

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9. Doster v. State, 195 Tenn. 535, 260 S.W. 2d 279 (1953).
10. Pirsig, *Juvenile Delinquency and Crime: Achievements of the 1959 Minnesota Legislature*, 44 MINN. L. REV. 363, 384 (1960).

court by constitutional standards. Decisions in these cases are pointing out that there are constitutional rights in both criminal and civil proceedings, although these rights may differ. The problem appears to be to define what procedures are required for fundamental fairness to juveniles in juvenile court proceedings.

The changes which juvenile court laws have made in application of the law of criminal procedure do raise questions regarding police authority in some cases involving juveniles. Police agencies have as their basic function the protection of lives and property. They deal with actions against persons and property which are made criminal by statute. These statutes speak in terms of all persons who violate them. As a result, they apply to juveniles as well as to adults. Once it has been established that a juvenile is the violator, an alternate procedure may be required, but, up to that point, the legal structure for police operation is the same as with an adult, although the special aptitude, training and experience of a juvenile officer will make for more effective handling of some cases.

But juvenile court laws also envisage action by the police in situations where it would not be authorized in the case of similar conduct by an adult. These are cases which do not involve violation of law. The Standard Juvenile Court Act and some actual juvenile court laws contain grants of authority to the police to act in such cases, but many do not.[11] In such States, the authority of the police must be inferred from general provisions. This is frequently referred to as the doctrine of protective custody. The legal basis for a police officer taking a child, or any other person who has not violated the law, into custody against that person's will without making an arrest is nebulous, however. Most of the writers merely say that this power "of course" exists, without any discussion or citation of authority. The authority is clear where the person agrees to cooperate, or at least may easily be made clear by statute. It is not so clear where the person, child or otherwise, does not agree that he needs the benevolent assistance of the state. To meet this situation, statutory authority is definitely required. Section 16(c) of the Standard Juvenile

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11. In the following 17 of the 55 State and Federal jurisdictions in the United States, there are no special statutes authorizing police agencies to take action in circumstances that bring young persons within the jurisdiction of the juvenile court: Arkansas, Delaware, Illinois, Kansas, Maine, Massachusetts, Mississippi, Nebraska, New Mexico, North Carolina, North Dakota, Pennsylvania, South Dakota, Tennessee, Vermont, Virgin Islands, and West Virginia. In all of these jurisdictions except Mississippi, Pennsylvania, and West Virginia, there is implied recognition of the applicability of the general law of arrest to juveniles who commit acts that would be criminal if committed by adults. Iowa has no general provision but does have one dealing with any apparently truant child.

Court Act accomplishes this purpose. Every juvenile court act should have such a section.

Another question of police authority under juvenile court laws arises in connection with service of the process of the court. Although the wisdom of so doing has been challenged, appellate courts have almost uniformly characterized juvenile courts as civil courts. This means that their process is civil process. For historical reasons, many municipal police agencies are forbidden to serve civil process. Yet these police agencies are expected to serve juvenile court process. Every State should do as some have done and make special provision for the service of the process of the juvenile court. Section 14 of the Standard Juvenile Court Act so provides.

Police Discretion Not to Exercise Their Authority in Juvenile Cases

Use of police discretion not to invoke the criminal process has been characterized as resulting in low-visibility decisions in the administration of justice.[12] The term low-visibility decision is used to refer to decisions by public officials about which information is not readily available to the public for consideration and criticism. This characterization does not result in an argument that police should exercise no discretion, but in an assertion that police discretion should be guided by written policy statements of the police administrator, the public prosecutor, or the legislature, as recorded in public documents, and that the exercise of discretion should be reported in a systematic way. Only in this manner, it is argued, can the public evaluate the effectiveness of its criminal laws.

This is equally true of the use of police discretion in cases of

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12. Goldstein, *Police Discretion Not to Invoke the Criminal Process: Low-Visibility Decisions in the Administration of Justice*, 69 YALE L. J. 544 (1960); see generally LaFave, *The Police and Nonenforcement of the Law* (pts. 1, 2), 1962 WIS. L. REV. 104, 179. Evolution of the British police practice of screening juvenile cases can be traced through the following articles: Note, *The Police and Child Offenders*, 100 JUST. P. 468 (1936), Note, *Police Cautions for Juveniles*, 109 JUST. P. 374 (1945); Note, *The Policeman's Warning*, 118 JUST. P. 229 (1954); Note, *Liverpool's Juvenile Liaison Officers*, 120 JUST. P. 328 (1956); Elmes, *Police and Liberty*, 122 JUST. P. 480 (1958); and Hargrove, *Police Discretion*, 25 SOL. 337 (1958). For a sociological discussion of this police practice, see Goldman, The Differential Selection of Juvenile Offenders for Court Appearance, December 1950 (unpublished sociology dissertation in University of Chicago Library).

juvenile delinquency. Exercise of such discretion is necessary to effectuate individualized handling based on the principle that, in the usual case, the home is the best place for the rearing of a child. As in the case of criminal law enforcement, guidelines for the police in these cases can be established by the police administrator or by the legislature. Since there is usually no prosecutor because of the nature of juvenile court proceedings, the court intake worker or the judge himself might assist the police command in the formulation of criteria for the decision not to invoke juvenile court jurisdiction even though there is a basis for it.

In addition to the naked legal question of a basis for the exercise of discretion by the police in juvenile cases and the legislative-administrative question of establishing flexible criteria to guide its exercise, there are additional problems raised by this need for police discretion. If the judgment is to be made, there must be a basis for it. This has led to police agencies attempting to take detailed social histories and actually to hold hearings in an attempt to get information on which to base a decision. These are nonpolice functions. It would seem better to limit the exercise of discretion by the police to those cases in which the answer to whether to refer to juvenile court would be apparent from the facts obtained in a normal police investigation. If social history or a hearing proves necessary, the case should go to court. The rule for the police to follow would seem to be: when in doubt, refer the case to court.

Referral to juvenile court

There is no magic formula applicable in all situations that will automatically decide for the police officer whether a given case should go to court. If the police and court workers do not agree on the criteria to be used for deciding whether a given case should go to court, some of the police referrals may be rejected by the court intake workers and the police will also be criticized for withholding other cases which, in the opinion of the intake personnel, should have been referred. When this happens, police-court relationships become tense.

The remedy for this lies in a four point plan of police-court cooperation:

1. Appointment of liaison officers by the police to the juvenile court and by the court to the police;
2. Joint establishment of referral criteria by the police and the court;
3. Training of both police and court workers in the use of these criteria; and
4. Continuous review and evaluation of referred cases by both police and court intake supervisors to assure that:

a. The criteria which have been established are understood and applied, and

b. These criteria will be revised in the light of experience as necessary.

Police review for this purpose should concentrate on those police cases in which there was no referral and the juvenile later again violated the law, and on those in which there was referral and the case was either refused by the court or dismissed without further action. Court intake review for this purpose should concentrate on those court cases which were accepted by intake and later dismissed by the court without further action, and on those cases referred by the police and rejected by court intake in which the juvenile later again violated the law. Joint analysis of these cases by a police-court committee should yield information useful in refining referral criteria, in estimating the extent to which the existing criteria are understood and applied, and in assembling case materials for training which would be useful for both police and court intake workers in developing an ability to assess need for court referral through vicarious rather than through direct experience.

Criteria for court referral will vary from community to community even when the communities are operating under the same juvenile court law. They will depend upon a number of variables, among which are the following:

1. Sociological nature of the community in which the work is being done, for example, whether it is the industrial core city of a metropolitan area or one of its bedroom suburbs;

2. The social, educational, and welfare services available in the community on a voluntary basis as opposed to those in a larger area available through utilization of the authority of the court; and

3. The education, training and experience of the police officers making the referrals.

Because no two communities will be alike in these respects, the criteria must be established for each community through cooperative planning with the particular needs of that community in mind.

It is sometimes suggested that problems arising from differences of opinion about the kinds of cases which should go to the juvenile court can be met by requiring that all police referrals to the court be made by the juvenile specialist unit. This is an unnecessary restriction. The decisions which are necessary in these referrals are no more difficult than many other decisions which must be made by line officers. With the guidance of well written criteria as explained

in well planned training sessions, with the continuing help of their supervisors, and, when needed, with consultation from the police juvenile specialist, police line officers can make and are making meaningful juvenile court referrals. Although liaison with the court should be a juvenile specialist responsibility, requiring all referrals to be made by the specialist will place such a burden on the specialist unit that its other equally important functions cannot be performed satisfactorily. The presence of a well operating specialist unit which has the confidence and cooperation of the court should make it unnecessary for all referrals to be made by that unit.

Alternatives to court referral

In considering whether a case that might be referred to juvenile court should be referred, the police officer must be aware of the available alternatives. There are two. One is to leave the juvenile with or release him to his family. The other is to make a referral to a community social or welfare agency. The first alternative would be used if the officer decided that the family was strong enough, and the problem small enough, so that the family once aware that it had a problem, could handle the matter itself without outside help. The more strength found in the family, the greater the problem that can safely be left with it. This decision by the officer presumes some knowledge of the family. This may exist because of previous contact or may be derived from discussions with the juvenile and his family. This is a final police disposition and should be reported as such.

If the officer believes that there is a local social service or welfare agency, whether public or private, that might help the family meet its problem, and if he further believes that the family would appreciate and accept the help of the agency, he may refer the case to such an agency. This is a process which requires intimate knowledge of the social and welfare agencies of the community. If the officer does not have this knowledge, he should consult with the juvenile specialist in his department or refer the case to him.

There are two primary problems in making referrals to social agencies. One is that an element of coercion might be introduced that would make it difficult for a fruitful family-agency relationship to be established. The other is that some community agencies may refuse to accept referrals from the police. It is true that it is much easier to establish a satisfactory family-agency relationship when the family voluntarily seeks the services of the agency. In many police referrals, the coercive element is plainly stated. The family is told that if it doesn't resort to the agency, the case will be sent to court. If this kind of government authority is needed, the case should go to court initially. Even where this statement is not made, the family

will all too often get the impression that such a condition is implied. Both situations are unfortunate.

This danger can be overcome by training the police officer in referral techniques at intraining sessions. In this training, he should be taught to make it clear that the referral is a final police disposition and that he has faith in the ability of the family to solve its problem with the help of the agency. He should also be taught the other skills and knowledge necessary to make good referrals.

A second danger is that, in the past, many agencies have not followed through on police referrals. Either no action at all would be taken or only a perfunctory effort would be made on the part of the agency to establish contact. One reason for this attitude is the belief that police contact with the family, prior to and as a part of the referral, introduces an authoritative element which makes it necessary for the agency to expend much more time and effort to achieve any recognizable results than is necessary in cases where the relationship does not involve this element of authority.

This is an attitude that progressive social service and welfare agencies have abandoned. Many agencies have found that some of their most gratifying results have come in cases originally referred by police. It is true that these cases present a special challenge, but meeting this challenge has frequently resulted in an agency being able to obtain budget increases from the community united fund on the basis of this increased service. Lack of staff has also been cited by agencies as a reason for failure to follow through on police referrals. If an agency does not have sufficient staff to accept the referral in the first place, the situation should be made clear to the police at that time. Where the police have difficulty in working with community agencies, the problems should be aired through the community body responsible for planning services for children and youth. Referral to a social service or welfare agency is also a final police disposition and should be recorded as such.

In some of the larger cities, new agencies have been established or old ones reoriented to actively seek out police referrals. One direction that this effort has taken has been for local social agencies to provide group work services to street clubs of aggressive youths. The services are provided by young men and women, called youth workers, who associate themselves with these clubs. This effort has resulted in a new awareness of the importance of collaboration between police and social agency personnel and of the interdependence of their functions. The youth workers have found that their qualifications must include a working knowledge of pertinent State laws and city ordinances, such as the crimial law and the juvenile court code. They have also discovered the necessity for developing skill in defining their objectives, the nature of their services, and the need for close cooper-

ation with the police. The police, on their part, have come to recognize the youth workers as a previously untapped resource to which they can refer individuals or groups of youths whose behavior has disturbed community life and demands the kind of attention that they, as police, should not give. Many unresolved problems in this police-youth-worker relationship require continuing attention and mutual effort. But this relatively new approach points to improvement in the ability of some social agencies to accept and carry through on referrals from police and to an increased recognition by the police that social agencies can and will accept referrals from them.[13]

Another incidental problem arises in those cases in which the police decide not to refer the case to court but yet, because of the hour and the place, do not think that they can just turn the juveniles loose. This frequently results in the police transporting the juveniles to their homes. It is not clear just what the status of the juveniles is during such transportation and what the possible liabilities of the police officer and the city might be. A statute authorizing such a procedure and making it clear that the young persons so transported are not "in custody" or "under arrest" might be desirable. Where no such statute existed in analogous cases, civil suits have been brought against the police officers and the city.[14]

Legal Complications in Police Investigation and Taking into Custody in Cases Involving Juveniles

Police officers rely heavily on the cooperation of the citizenry in their work toward the solution of crimes. In many instances, it is possible to proceed in an investigation without obtaining a search warrant or without making an arrest because the citizens involved consent to waive their constitutional right to these procedures. When asked by police to assist in clearing up a reasonable suspicion which has arisen about their possible connection with an offense, most citizens will agree to cooperate. They may even allow the police to search

13. Blake, *Youth Workers and the Police,* 8 CHILDREN 170 (1961).

14. See MacDonald, *The Police and the Mentally Ill,* 1 CRIM. L. Q. 400 (1959); Note, *The Police and Lunatics,* 113 L.T. 137 (1902); Tiedeman, *Police Control of Dangerous Classes Other Than by Criminal Prosecutions,* 19 AM. L.R. 547 (1885); Szasz, *Civil Liberties and the Mentally Ill,* 9 CLEVE.-MAR. L. REV. 399 (1960).

their homes, offices, or automobiles without search warrants and often agree to accompany the police to the station to talk over an apparently incriminating situation. When voluntary consent is thus given, the police do not need court process or other legal authority because these have been waived by the citizen in giving his consent. These informal procedures result in great saving of time for both the police and the citizens involved, and are certainly to be encouraged.

The reason behind the legality of these procedures with adults is that the constitutional safeguards regarding arrest and search and seizure are being waived by a mature person who understands what he is doing. This is also true with some young persons, but probably not with all. In considering whether consent of a young person of juvenile court age in such a situation is truly a voluntary consent, the courts have considered the immaturity of the child as one of the factors to be weighed. For example, in discussing whether statements made by a child are voluntary, the courts have said that the age of the child along with the hour at which he was questioned, the duration of the questioning, whether he was given food and allowed enough rest during the period of questioning, whether he was allowed to seek the advice of his parents or of a lawyer, and the apparent overall attitude of the police toward his rights were all important factors to be considered.[15] In view of the immaturity of many young persons of juvenile court age, serious consideration should be given to allowing the parents to be present during the questioning. The overall test is whether the young person has been treated with fundamental fairness.

This means that police officers must decide in each case whether a child is sufficiently mature and sophisticated to really know what he is doing when he gives consent to be taken to the police station to be questioned, or to be searched without being "taken into custody" or "arrested" on the basis of probable cause. Factors to be considered by the police in making this decision in addition to the age of the child are his apparent intelligence and all around maturity, his experience or lack of experience in such situations involving the police, the seriousness of the violation that he is suspected of having committed, and the extent of the continuing danger to society in the situation. Even when the police decide that the child is mature enough to make these decisions for himself, every effort should be made to notify his parents at the earliest possible moment so that they can furnish their support and advice to him. The basic test of the legality of such procedures with children of juvenile court age is whether the proceeding shows fundamental fairness to the child and due consideration

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15. Haley v. Ohio, 332 U.S. 596 (1948); Perrygo v. United States, 2 F. 2d 181 (1924).

for his rights along with the right of society to be free of violations of law.[16]

Because this concept of fundamental fairness is given somewhat different substance in different jurisdictions, every police administrator should seek the counsel of his legal advisor as to what the law probably is in his jurisdiction before he sets policy as to questioning, searching, and taking juveniles to the police station with or without "taking them into custody" or "arresting" them.

Because of a belief that the problem of a child is also a problem of his family and that a child should have the right to the advice and support of his family when he is in trouble, the Children's Bureau has recommended that children who are going to be questioned about alleged violations of law be approached through their families if at all possible.[17] Restudy during preparation of this publication has led again to the conclusion that this is sound procedure based upon sound principle. This would not affect routine questioning of juveniles in the neighborhood when all persons found there, both adults and juveniles, are being interviewed, not as possible suspects but on the chance that they may have some information that may be helpful to the police. It would not affect unsolicited admissions and confessions made to police officers by juveniles. It would affect the questioning of juveniles suspected of violations of law, whether before or after the

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16. In addition to this basic test of fundamental fairness, the law might someday focus its attention upon the capacity of children to give a voluntary consent in these situations. Public policy might well dictate that such capacity is vested in the parents or other legal guardian of children of tender age rather than in the children themselves. This would mean that the police would have to get the consent of the parents or guardian as well as the consent of the child. (See McBride v. Jacobs, 247 F. 2d 595 (1957).) This would be true when the child is at school or in a detention facility as well as when he is under the nominal control of his parents.

    A concomitant question then would be whether or not that capacity would shift at some time from the parent or guardian to the child. Several answers suggest themselves. For example, it might be reasoned that the capacity vested in the young person when he passed the age at which he would be beyond the jurisdiction of the juvenile court. Or it might be held that it vested in him when he reached the age at which his case could be waived to criminal court, if the juvenile court law of the jurisdiction had a waiver provision. A court might also hold that the capacity shifted from parent or guardian to the child when he reached the age of 14, an age with common law significance in the law of criminal responsibility. Another possibility would be that the time of vesting in the child would be different in each case depending upon a number of factors such as those listed above. Sound legal arguments can be made in favor of each of these possible positions.

17. U.S. CHILDREN'S BUREAU, DEP'T OF HEALTH, EDUCATION, AND WELFARE, STANDARDS FOR SPECIALIZED COURTS DEALING WITH CHILDREN 38 (C.B. Pub. No. 346–1954).

evidence amounted to probable cause, in cases in which the police had not yet decided to refer the case to court. Whenever possible, juveniles should be interviewed in such cases in their homes after a discussion of the case with their parents. If the parents prefer, the questioning could occur at some other suitable place. In any case, the child should have the significance of his statement explained to him, he should be told of his right to remain silent if he so desires, and that he may contact his parents and have counsel. The child and his parent should also be told whether his contact with the police amounts to an arrest or taking into custody.

Admissibility of juvenile admissions and confessions

When investigating the kind of alleged violation of law by a juvenile that may be waived to criminal court if this is allowed by the law of the jurisdiction, police officers should keep in mind that the law as to admissibility of confessions and admissions is stiffer in the criminal courts than it generally is in juvenile courts. A recent case in the United States Court of Appeals for the District of Columbia held that statements made to police by a juvenile during a period when the juvenile court was considering whether to waive jurisdiction could not be admitted in the district court after waiver had in fact occurred.[18] The court held that "It would offend these principles [of fundamental fairness] to allow admissions made by the child in the noncriminal and nonpunitive setting of juvenile court procedures to be used later for the purpose of securing his criminal conviction and punishment." It has also been held that such statements, when later repudiated by the juvenile, will not be considered trustworthy even in the juvenile court.[19] These court decisions emphasize that police should not rely too much on statements of juveniles for establishing jurisdiction of the juvenile court or for conviction after waiver to criminal court.

Taking juveniles into custody

Regardless of the desirability of leaving a juvenile with his parents, there will be occasions in which he must be taken into physi-

18. Harling v. United States, 295 F. 2d 161 (1961).

19. *In re* Four Youths, Nos. 28–776–J, 28–778–J, 28–783–J, 28–859–J, D.C. Juv. Ct., April 7, 1961, as reproduced in 7 CRIME AND DELINQUENCY 280 (1961). However, if the juvenile later takes the stand and testifies in contradiction to his confession, his statement to the police may be introduced on cross examination in order to challenge the credibility and veracity of the juvenile witness.

cal custody. This is another police operation which has been affected in different ways in different jurisdictions by the different statutes passed along with the juvenile court laws. The result in many jurisdictions has been ambiguity in the law, which makes it unclear just what the duties and responsibilities of the police are. There are 29 jurisdictions which apparently seek to avoid the "arrest" of juveniles.[20] Most of these jurisdictions refer to the apprehension process as a "taking into custody." Ten of these jurisdictions expressly state that the process is not an arrest.[21] Despite these provisions, several of the 10 have other statutes which refer to "arrested" children. The real problem is what effect this change in terminology has on the rights and responsibilities of the police officer who makes the apprehension. Because this is not an arrest, the police officer justifiably asks whether the law of arrest applies or whether some new set of rules governs his actions. Only 3 [22] of the 29 jurisdictions which provide that the apprehension shall not be an arrest face this question. All of these three state that the same rights and responsibilities evolve as in a case of arrest. Based on these statutes and on the logical demands of the situation, this should be assumed in all jurisdictions until specific laws are passed to clarify the situation. This would mean that the police would have the same right to secure and search a juvenile taken into custody as they have with an arrested adult. The right to question has been discussed above. It also means that the police have the same responsibilities to inform the juvenile about his legal rights, to allow him to contact friends, relatives or counsel, to ensure that he is allowed to appear before some judicial officer within a specified period of time, and to abide by the general standards of fair treatment. This ambiguity in the law is unfortunate:

> Whatever the difficulties, existing legislation can certainly be made more adequate. Police agencies deserve clearer guidance in the discharge of their law enforcement responsibility than is afforded by law today.[23]

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20. Alaska, District of Columbia, Florida, Georgia, Guam, Idaho, Indiana, Kansas, Kentucky, Maryland, Michigan, Minnesota, Missouri, Montana, Nevada, New Hampshire, New Jersey, New Mexico, Ohio, Oklahoma, Oregon, Puerto Rico, Rhode Island, Texas, Utah, Virgin Islands, Washington, Wisconsin, and Wyoming.

21. Georgia, Guam, Kentucky, Minnesota, Missouri, New Mexico, Oregon, Virgin Islands, Wisconsin, and Wyoming.

22. Georgia, Kentucky, and Oregon.

23. Remington, *The Law Relating to "On the Street" Detention, Questioning and Frisking of Suspected Persons and Police Arrest Privileges in General*, 51 J. CRIM. L., C. & P. S. 386, 394 (1960).

When a police officer has decided that there is a basis for juvenile court jurisdiction over a child, has decided that circumstances indicate that the child is in need of the help of the court, and has decided that the child should immediately be taken into custody for transfer to the court, he then must carry out the procedures necessary to accomplish this result. Since the primary reason for taking the child into custody is to obtain the help of the court for the child, he should then be taken to the court as soon as possible. The term court here is used to include the probation office and the detention facility of the court. The exact place where transfer of control over the child will take place, whether in the court room, at the probation office, or at the detention home, should be established by court policy. This is the duty of every juvenile court judge.

Burden of proof

Another difference, of significance to police, between proceedings against adults and those on behalf of juveniles is the nature of the case that police must be able to prove when they get the juvenile to court. The generally recognized burden of proof beyond a reasonable doubt that must be met in adult criminal cases is not applicable in juvenile court cases. The issues there need generally be proved only by a preponderance of the evidence, the same standard as is usually applied in civil cases.[24] However, if the case is being referred to juvenile court on an allegation that the juvenile has committed an act that would be criminal if committed by an adult, there still must be proof of every element of the offense involved.[25] This is sometimes overlooked. In some cases, there is also the possibility of waiver to criminal court where the adult standard of proof beyond a reasonable doubt does apply. This means that investigation of any case in which there is a possibility of such transfer should continue until proof beyond a reasonable doubt is available.

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24. Advisory Council of Judges, National Council on Crime and Delinquency, Guides to Judges on Evidence and Procedure in Juvenile Courts 78–81 (second draft for discussion at annual meeting, May 1961).

25. For a suggestion that the burden of proof should be the same in establishing juvenile court jurisdiction as it is in criminal trials, see GOLDBERG AND SHERIDAN, FAMILY COURTS—AN URGENT NEED 12 (U.S. Children's Bureau, Dep't of Health, Education, and Welfare, Juvenile Delinquency: Facts and Facets Series No. 6, 1960).

Summary

This chapter has explored some of the questions that have been raised by the impact of juvenile court laws upon police operations. The fact that noncriminal activity of juveniles comes within the jurisdiction of the juvenile courts makes additional grants of authority to the police necessary if they are to bring these kinds of cases to the court, as they are expected to do. Special statutes are also necessary in many jurisdictions to authorize municipal police to serve juvenile court process. These have not always been provided. Police officials are also expected to exercise greater discretion in sending cases to the juvenile court than in their normal operations against crime. Sufficient legislative and administrative guidance has not been given in the establishment of criteria for the exercise of this discretion. There are also special problems for police in regard to investigations of cases involving juveniles, in regard to taking juveniles into custody, and in regard to the burden of proof that must be carried when a case is taken to juvenile court. It is suggested that greater attention be given to these problems and that police agencies be provided with a better legal framework in which to carry out their responsibilities in the overall community reaction to the pressing problems of juvenile delinquency.

POLICE PROCEDURES WITH DELINQUENCY CASES

UNDER EXISTING juvenile court laws, delinquency means anti-social conduct ranging from the most serious of crimes to that which, if committed by adults, would not warrant any action on the part of police or courts. As a basis for exercise of the jurisdiction of a particular juvenile court, delinquency is usually defined by the statute establishing that court. However, a number of States which have recently rewritten their juvenile court laws have abandoned the term entirely.[1] These States define the various situations that will bring a child within the jurisdiction of the juvenile court without defining the term delinquency. The Standard Family and Juvenile Court Acts also take this approach.[2] Another trend has been to limit what has been called delinquency to violations of law that would be crimes if committed by adults. Related sections then limit some court dispositions, such as commitment to training schools, to cases in which the jurisdiction of the court is based upon such violations of law. Sections 8(1) and 24 of the Standard Juvenile Court Act so provide.[3] Delinquency is used in this publication primarily to distinguish anti-social conduct on the part of juveniles which would be criminal if engaged in by adults from neglect or abuse of juveniles by others. It is these two types of problems—delinquency and neglect or abuse—that make up most of the police workload with juveniles.

Statistical evidence reveals that approximately 80 percent of juvenile court cases allege delinquency. This figure has not varied much in recent years. It is estimated that about 75 percent of these delinquency cases are brought to court by police agencies.[4] Informa-

1. See the comment on NATIONAL PROBATION AND PAROLE ASSOCIATION, STANDARD JUVENILE COURT ACT § 8 (6th ed. 1959).
2. NATIONAL PROBATION AND PAROLE ASSOCIATION, STANDARD JUVENILE COURT ACT 24 (6th ed. 1959) and STANDARD FAMILY COURT ACT 20 (1959).
3. Rubin, *Legal Definition of Offenses by Children and Youths,* 1960 ILL. L. F. 512.
4. These figures are based on information in the files of the Juvenile Delinquency Studies Branch, Division of Research, Children's Bureau, Department of Health, Education, and Welfare.

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tion as to alleged delinquency cases that require police investigation comes from many sources. It will frequently come from routine operations of the police department itself. It can also come from the courts, from probation and parole officers, from public and private social and welfare agencies, from schools, from churches, from business and industrial firms, from neighbors, from parents, and from other relatives. When a complaint alleging delinquency based on violation of law that would be a crime if committed by an adult and requiring additional investigation to establish the offense is received by the juvenile court, it should be referred to the police agency.

Police investigation of juvenile delinquency complaints involving alleged violations of law should be made with the following three questions in mind:

1. Is there a basis for the exercise of court jurisdiction?
2. If this basis exists, should the case be referred to the court, referred to a social service or welfare agency, or left with the family?
3. If the case is to be referred to court, is it necessary to take physical custody of the juvenile?

Question No. 2 implies that the police officer may have discretion as to whether to refer a given case to court. Regardless of what that discretion may be in referring cases to the prosecutor, this publication takes the position that police officers have considerable discretion as to whether to refer cases to juvenile court.

This chapter discusses delinquency cases under three general headings: stopping delinquent conduct in progress; investigating serious cases of delinquency not in progress; and investigating minor cases of delinquency not in progress.

Stopping Delinquent Conduct in Progress

Delinquent conduct in progress may vary from the most serious of crimes to relatively minor offenses. The element that these situations have in common is that of action. Action is occurring which must be stopped. This requires counter action by the police department. Since the police action recommended varies with the nature of the case, eight different types of cases will be discussed.

Robbery case

> Police headquarters receives a call from a person who identifies himself as the handyman at a small retail store for which he gives the name and address. He states that two "young boys" armed

with guns are robbing the store. He says that they apparently did not know that he was in the back room, and that he slipped out and is calling from a public phone booth in the parking lot.

Police response to this situation should be the same, regardless of the age of those involved in the robbery. The first duty of the police is to capture the robbers and recover the loot. For this purpose, the officers who can get to the scene first should be utilized, regardless of the division of the force in which they serve. This will usually mean that the call will be answered by those patrolmen cruising in automobiles who are closest to the store, assisted by other officers as soon as they reach the scene.

Assuming that the officers arrive before the robbers flee and are able to capture them, a question may arise as to whether the subjects are juveniles. Only if they are obviously juveniles, or if the identification that they carry shows them to be of juvenile court age, should they be considered as such. If there is doubt, they should be considered as adults, but verification of age should be one of the immediate objectives of the followup after the capture.

A decision that the robbers are juveniles means, in most jurisdictions, that their case will go to juvenile court rather than to the criminal court. It means that the special aptitude, training, and experience of the members of the juvenile specialist unit may be needed for most effective handling of their case. It may mean that special policy directives of the chief administrator in regard to the questioning (see page 33) and fingerprinting (see page 87 ff) of juveniles apply, if the administrator of the department has decided that they are necessary or desirable. It also means that, upon completion of police procedures, the juvenile will be taken to the juvenile court or place of detention designated by that court.

Since, by hypothesis, these robbers were caught in the act, there is no need for immediate questioning to verify the commission of the instant violation. The police may wish to question them about such related matters as accomplices who may not have been captured, money taken but not recovered, the source of the guns or other weapons used, and possible participation in other unsolved crimes. If the administrator has decided that such questioning should occur, it should be with the consent of each juvenile and after he has been told that he does not have to talk and has had explained to him the possible significance of any statements that he might make. He should also be advised of his right to contact his parents or a lawyer. The police themselves should be making every effort to notify his parents of what has occurred.

The extent to which this questioning is prolonged, if allowed at all, will be determined by the decision of the chief administrator of

the department as to the relative weights to be assigned to protection of social order and rehabilitation of the juvenile. The sooner the latter process is begun by delivery of the juvenile to the court, the greater the chance of success. The criteria for making this decision should be established by the administrator and spelled out in written policy directives for the entire force. The presence of a juvenile officer or, in the case of a girl, a policewoman during any questioning is desirable in most cases.

An armed robbery case of this kind will usually be referred to juvenile court with the juveniles being taken into physical custody.

Stolen car case

> **A police officer on patrol in his cruiser spots a car which has been reported stolen, moving in the same direction in which he is going. There are three males in the front seat and three in the back. They appear to be in the 16–20 year age group.**

Initial police response to this situation should also be the same, regardless of the apparent age of the occupants of the car. This is true despite the fact that about two-thirds of these situations do involve juveniles. Stolen car cases do include some hardened criminals ready and willing to kill. Ideally, the officer making the discovery will notify headquarters by radio and have the assistance of additional police cruisers at the time the stop is made. Because there is no way for the officer to know the true situation in advance, he must assume that this a dangerous one until it is clear that it is not.

Once the car has been stopped and the occupants are under the control of the police, there is time to take a closer look at the problems presented. Unless the occupants are obviously juveniles or carry identification that marks them as such, it should be assumed that they are adults. If there is doubt, verification of age should be one of the immediate objectives of the investigation to follow. When juveniles are involved, preliminary questioning at the scene should result in quick identification and in considerable knowledge as to whether this is a genuine case of car theft for profit, a case of taking the car without consent of the owner with an intent to abandon or return it,[5] or a case of misunderstanding between a juvenile and his family or employer about the use of the family or company car. The extent

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5. These are the so-called joyriding cases. Absence of an intent to deprive the owner of the use of the automobile permanently puts this kind of case outside the concept of larceny as it has come to the penal law of the United States from the English common law. Special statutes on unauthorized use now cover these cases.

of complicity of the occupants other than the driver should also be fairly easy to determine.

On the basis of this preliminary questioning at the scene, the officers should decide whether a basis for juvenile court jurisdiction exists for each of the occupants. In either of the first two possible variants of the facts mentioned above, such a basis exists for those occupants who admit being involved in the taking. There is no basis for further action against those who are innocent according to the story taken at this time. They should be released at the scene unless this would place them in some apparent danger because of the hour and place. In that event, they should be furnished with transportation home or to a place where private transportation, such as bus or taxi service, is available, or where their parents can pick them up. If further investigation shows that they were in fact not innocent, the police will know where to find them. Their involvement should be reported to the juvenile unit for explanation of the contact to the parents.

If the case appears to be one of misunderstanding about the use of the family or company car, the juvenile involved and the car should be taken to his home or to the company offices. Discussion there with the juvenile and his parents or employer will give the officers the information which they need for their determination of whether a basis for juvenile court jurisdiction exists. If there is probable cause to believe that the car was taken from someone not a member of the family without his consent, whether with or without an intent to return, a basis for juvenile court jurisdiction does exist.

When the officer decides that a basis for juvenile court jurisdiction does exist, he faces the second decision as to whether to refer the case to court. Central to this decision is the judgment of the officer as to the need for the authority represented by the court to prevent further antisocial conduct on the part of the juvenile involved. If the officer believes that the juvenile and his family can work out the problem, either with or without the assistance of local public or private social service or welfare agencies, he will exercise his discretion not to send the case to court. Protection of both the public and the juvenile must be kept in mind.

In this case, the officer will get indication of the physical dangerousness of the situation from the reaction of the juvenile to being sighted, chased and stopped. If he pulls over to the curb at the first order of the police, this shows a greater sense of responsibility than wild evasive action in an attempt to escape. In the latter situation, referral to court should probably occur. In the former, the officer may decide not to refer the case to court if he knows the family to be a strong one that can probably handle the problem once it is aware that it exists. In such a situation, he may accompany the juvenile to

his home, if convenient, or may request that the parents call the juvenile specialist unit. This is necessary to assure that they do in fact learn about what has happened. If the officer knows nothing about the family, he may decide to accompany the juvenile to the home for a discussion with the parents, or may refer the case to the juvenile specialist unit.

If the police officer has doubts about the case, he should consult with, or refer the case to the juvenile specialist unit for final decision. In making this decision, it is not expected that the police will make a detailed study. They cannot and should not take a formal social history nor follow the other detailed procedures of a full scale social investigation. They can and should keep those elements in mind as they make their investigation to determine whether a basis for juvenile court jurisdiction exists. The fact that their judgment must be preliminary and based on an incomplete picture is one of the reasons why any case about which there is doubt should go to the juvenile court.

Taking into custody

Once the police officer has decided that a basis for juvenile court action does exist and that the authority of the court is needed in handling the situation, he must still decide whether the juvenile should be taken into physical custody for transfer to the court or whether he should be released to or left with his parents, with the understanding that the court will require his appearance at some later specified time and place. In making this decision, the policeman should recognize that the removal of a juvenile from his home and his physical delivery to a court is an emergency measure and should resolve any doubt in favor of leaving the juvenile in his home, pending court consideration of the case.

In this connection, it should be noted that the use of the words "detain" and "detention" by police and juvenile court personnel frequently leads to confusion and failure of communication. For hundreds of years, police officials in Anglo-American legal systems have used the word "detain" to mean the holding of a person against his will by a police officer. This is an arrest—a bringing of the person under the custody and control of the law. To juvenile court personnel, however, the term "detention" means confinement of a child in some facility designated by the court. To these people, the verb "to detain" means to place a child in such a facility. Police and court personnel working with children should be aware of these different connotations to prevent failure of communication.

Juveniles should be taken into custody for detention prior to trial only when necessary for their own protection or that of the com-

munity. This means that the criteria for police taking into custody will be similar to those for detention by the court. These cases have been categorized as follows:[6]

(a) Children who are almost certain to run away during the period the court is studying their case, or between disposition and transfer to an institution or another jurisdiction;

(b) Children who are almost certain to commit an offense dangerous to themselves or to the community before court disposition or between court disposition and transfer to an institution or another jurisdiction;

(c) Children who must be held for another jurisdiction; e.g., parole violators, runaways from institutions to which they were committed by a court, or certain material witnesses.

Although this is a good general statement of criteria, it must still be applied to concrete cases. Those in which police and court workers disagree should be analyzed by their respective supervisors and used for training discussions in the manner discussed above in connection with when a case should be referred to court. (See page 28.)

Use of citations

When it is decided that physical custody is not necessary, and this should be the rule rather than the exception, the citation form of referral should be used. The form itself should be an assembled form containing several copies of the report with carbon paper interleaved. One copy should go to the juvenile or his parents, at least one copy should go to the court, and at least one copy should be retained for the police department files.

This citation will serve as the basis for the transfer of the case from police to court jurisdiction. How it is handled within the court will be dictated by court policy. If properly designed to contain the information essential to a petition,[7] there does not seem to be any

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6. National Council on Crime and Delinquency, Standards and Guides for the Detention of Children and Youth 15 (2d ed. 1961).

7. "The petition and all subsequent court documents shall be entitled 'In the interest of . . . . a child under eighteen years of age.' The petition shall be verified and the statements may be made upon information and belief. It shall set forth plainly (a) the facts which bring the child within the purview of this Act; (b) the name, age and residence of the child; (c) the names and residences of his parents; (d) the name and residence of his legal guardian if there be one, of the person or persons having custody or control of the child, of the nearest known relative, if no parent or guardian can be found. If any of the facts herein required are not known by the petitioner the petition shall so state." National Probation and Parole Association, Standard Juvenile Court Act § 12(3) (6th ed. 1959).

reason why this document cannot also serve as the basis for initiating court action.[8] It should be supplemented by a detailed investigative report of the responsible police officer as soon as that report can be written. Court copies of the citation could be delivered to the court daily by the police liaison officer. The design of this form and the procedures for implementing its use should be worked out jointly by the police and court officials. Instructions for its use should be committed to writing and distributed to all police and court personnel. If a hearing process is necessary, the court will summon and give notice to parties and other interested persons in the usual manner,[9] and may order a social study to be made by the probation department.

In some cases in which the investigating officers decide the physical custody of the juvenile is necessary, it will be possible for the officers taking him into custody to take him directly to the juvenile court, the probation department, or to the detention facility, depending upon the policy established by the court. Upon arrival at the arm of the court designated for intake, facilities should be available for the police officer to make out a "taking into custody" report, which should be similar to the citation in form with the necessary changes in wording. In fact, the same form can be used for both purposes if properly designed. The taking into custody report will necessarily be an abbreviated one that can be supplemented by a full scale investigative report and by the personal testimony of the officer where necessary.

The police officer will turn in the police copy of the taking into custody report to the police department at the close of his tour of duty, along with other reports of activity. However, his department should be notified immediately by call box or other telephone or by radio that the taking into custody has occurred and that the juvenile is being transferred to the court. This is necessary so that the department can answer calls from parents and others with a legitimate interest in the case. Simultaneously, every effort to notify the parents or guardian directly should be made.

What is said above about the use of the citation by the court also applies to court use of the taking into custody report. There seems to be no insurmountable obstacle to the use of this report as a basis for initiating court action in the case.

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8. An analogous practice is authorized under NATIONAL PROBATION AND PAROLE ASSOCIATION, STANDARD JUVENILE COURT ACT § 12(2) (6th ed. 1959) and under CAL. W. & I. CODE § 563.

9. NATIONAL PROBATION AND PAROLE ASSOCIATION, STANDARD JUVENILE COURT ACT § 14 (6th ed. 1959).

Case of mixed drinking party in park

A patrolman walking his beat through a public park shortly after dark on a warm spring evening hears male and female voices and laughter from behind some bushes in a secluded part of the park. On checking, he finds two couples all of whom appear to be juveniles lying on army blankets drinking beer. All appear to be on the road to intoxication and heavy necking is in progress.

This situation presents a number of problems to the policeman. The conduct must be stopped. The juveniles should be taken to their homes with as little public display as possible. The source from which they obtained the beer and the circumstances surrounding its purchase must be determined. All of this must be accomplished by a patrolman on foot.

His problem would be much simplified if he had with him a small two-way radio that kept him in contact with his station. These are just beginning to make their appearance in better equipped police departments. In such a case, he could stop the activity, call for assistance and transportation that could be furnished by the nearest cruisers, and begin checking the identity of the juveniles and the source of their beer. In some of our larger cities, he would be concerned about the possibility that the males were armed. The juveniles might also run when he appeared. In that event, the officer should try to capture at least one male along with as many of the others as he could.

If the foot patrolman did not have radio communication with the station, as would be the case in most departments today, his problem would be much greater. If he had an opportunity to size up the situation without being seen, he might go to the nearest call box or other telephone and call for cruiser assistance. He would then return to the party and proceed as above. This might result in the juveniles having left before he returned and might also result in serious trouble occurring while he was gone. His alternative is to make his presence known, take the names and addresses of the four juveniles, and then order them to collect their belongings and go with him to the nearest telephone. This is probably the procedure that he should follow unless the telephone is quite close by. These kinds of problems are among the factors which have caused many police administrators to make this kind of beat a two-man beat.

Assuming that one or another of these methods has been used and that a cruiser comes to the assistance of the patrolman, he must still decide what to do with the juveniles. In most such cases, it should not be too difficult to get the names and addresses of all of the participants. Assuming that the possession and public consumption of beer by persons of the age of these juveniles is a violation of law,

a basis for juvenile court jurisdiction does exist. The officer must still decide whether the authority of the court is needed in redirecting the activity of these juveniles. In making this decision, the officer will be guided by the considerations discussed in the stolen car case above. Unless there is a history of conduct as bad as or worse than this, these juveniles can probably be handled by their own families, once the families are aware of the problem. In those cases where the personal history of the juveniles has demonstrated that this will not work, the case should be sent to court. It would not appear to be necessary to use physical custody in this kind of case. It would only be in a rare case in which one of the juveniles had already demonstrated that he or she is apt to run away from home when in difficulty that the juvenile would be taken into physical custody and transferred to the court. Regardless of the disposition chosen by the beat officer, he should make a report of the incident.

Vandalism case

> An officer on his beat spots a group of what appear to be juveniles committing acts of vandalism in an old abandoned house. This house is little more than a shell, the doors having long since disappeared and windows been broken out, leaving it exposed to the elements.

This case presents many of the same problems as the one that has just been discussed. There is little probability that hardened criminals are involved. Although the conduct is destructive, there is little danger of personal injury resulting. It should be possible to handle many of these cases at the scene, allowing the juveniles to return to their homes or, if the time and place are a hazard to them, by taking them home or to a bus or taxi stand where they can obtain private transportation home or can be picked up by their parents. These cases can be reported to the juvenile specialist unit which will ensure that the parents are aware of the conduct of the juveniles. The same factors will be considered by the officer in deciding whether to refer the case to juvenile court and whether physical custody is needed. A report will be filed, in any event.

Football game fight case

> An officer assigned to keep order at a stadium where a high school football game is being played suddenly finds himself confronted with a fight. About a dozen males are involved, all apparently of high school age.

Here again, the first duty of the officer is to stop the disorderly con-

duct on the part of the few who would spoil the day for everyone. This accomplished, he should get the names and addresses of those involved for referral to the school authorities and for notification of the parents. Since this is a school activity, discipline of those who are students can best be left with the school and the home. Those who promise to behave can be left at the game. Those who refuse to cooperate can be required to leave or taken into custody, if necessary. A copy of the officer's report to the school can serve as the police department report. Those cases in which dangerous weapons are displayed or in which serious injury occurs should go to court and probably should involve taking into custody. Police officers working such an assignment should, upon arrival at the stadium, contact the school faculty members who are there representing the school administration.

Street disturbance case

> On the eve of a high school football homecoming game, an officer in his cruiser on his beat in the downtown area gets a complaint that juveniles are running wild in one corner of the area—racing automobiles, shouting, and generally disturbing the peace. As he rounds the corner near the source of the complaint, he comes across an auto legally parked at the curb with about 15 juveniles in and about it, singing school songs at the tops of their voices.

In this case there is no injury to person or property involved. In addition, the officer has no way of knowing that this group was involved in the conduct in the complaint. After stopping the disturbance, the officer should check the registration of the car and the driver's license of the juvenile behind the wheel. His name and address should be taken, along with a description of the car. This will be useful in the event of further complaints later that evening. After warning the entire group about further disturbance of the peace of the community in their exuberance and about the dangers of overloading an automobile, the officer should move on.

Speeding case

> An officer observes a motor vehicle going 50 miles per hour in a 35 mile per hour zone. When he stops the vehicle, he discovers that its six occupants appear to be juveniles.

Fortunately the police need not get involved in the question of whether traffic cases involving juveniles should go to the specialized juvenile court or to a specialized traffic court.[10] The outcome of this contro-

10. See Sheridan, *Youth and the Traffic Problem*, 25 The Police Chief 27 (1958).

versy in a given jurisdiction will affect police procedure, but the policy question is one of court theory rather than police practice. Because traffic problems have reached very serious proportions, the driver in this case should probably be cited to court.

The question then arises about what, if anything, should be done about the other juvenile occupants of the car. In one jurisdiction, the patrolman in this kind of case takes the names and addresses of all of the others. A letter is then written to the parents of each informing them that their child was a passenger in an automobile in the circumstances found. The letter ends with a statement that the police thought that this information would be of interest to the parents, but that no action is required by law on their part. This action is not authoritative. Whether such a procedure should be adopted by a given department or not is a question of police management, of whether this educational technique is sufficiently effective to justify the time and expense required. There certainly would be neither justification nor need for keeping copies of such letters. This technique has, in practice, proved popular with parents in several communities and might also be used in other kinds of cases.

If a check of the records indicated that any of these juveniles were already under court supervision, the court should be notified of the details of the incident as an aid to the court in discharging its supervisory responsibility.

Apple stealing case

> A foot patrolman in a medium sized city is walking along the side of a small grocery store in a tenement district when two very young boys come running around the corner of the building right into his arms. Each has an apple. The grocery store owner is just a couple of steps behind them, shouting for them to stop. He tells the policeman that the boys took the apples from his store without paying for them.

Immediate police action here amounts to stopping the boys and calming down the grocer so that the facts can be obtained. The grocer will usually be pacified if he gets his apples back and knows that something will be done about the situation. The officer should first get the names, addresses and ages of the boys. He can then talk to them about why they took the apples when their flight indicated that they knew it was wrong. If they live on the officer's beat, he can walk them home and talk to a parent if one can be found. If this is not possible, the case can be referred to the juvenile specialist unit for discussion with the parents. It is hard to imagine a case of this kind

going to court, even without physical custody, except possibly, upon further investigation, as a neglect case.

Summary

Police reaction to delinquent conduct in progress will vary with the case. Their first job is to stop the conduct, for the protection of the community and the juveniles. In the most serious of cases, it may involve taking the juveniles into immediate custody, fingerprinting them, and transferring them to the juvenile court, perhaps even with a recommendation that juvenile court jurisdiction be waived and the juveniles tried in criminal court. This is most apt to occur with boys 16 or over who have committed crimes of violence against the person and who have previous records of serious antisocial conduct.

Where the situation is less serious but the authority of the court is needed to help the juvenile and his family cope with the situation, the juvenile may be referred to court through use of the citation. Where the policeman finds strength in the family and social or welfare agency resources would be helpful, the case might be referred to such an agency. In some instances, the juvenile may be left with his family in the belief that they can handle the problem without outside help.

Implicit in the processing of action cases by the police officer is the need for three decisions in each case:

1. He must decide that a basis for the exercise of court jurisdiction does exist.
2. If this basis does exist, he must then decide whether to refer the case to court.
3. If he decides that the case should go to court, he must still decide whether physical custody is necessary or whether the citation method should be used.

In many departments police officers, both line and specialist, can make and are making these decisions intelligently. Those situations in which differences of opinion arise between police and court personnel can be handled through effective police-court cooperation. Continued review and evaluation of the cases in which these agencies have joint responsibility will result in the joint establishment of policies which are kept realistic through continual revision and which are actually implemented by workers in both agencies who are trained to understand them.

Investigating Serious Cases of Delinquency Not in Progress

In the previous section, discussion centered on cases in which delinquent conduct in action required immediate reaction from the police. This reaction includes stopping the conduct and doing something with the juveniles involved. These young people automatically come, at least momentarily, under the control of the police during this conduct stopping process. This direct and immediate contact with juveniles stems from the responsibility of the police to preserve the peace in the community.

In this section, discussion shifts to those cases, serious though they may be, in which the action is finished. The damage is already done. There must be police reaction to these cases as well, but the emphasis shifts from stopping antisocial conduct to discovering who is responsible for that conduct—in other words, from suppression to investigation.

Most of the difficult problems in the investigation of cases involving juveniles center around the questioning of suspects. Consider the problems raised by the following cases.

School break-in and burning case

> A relatively new grade school in Mediumville is gutted by fire. The loss to the city is estimated at about $500,000. Investigation indicates that the fire was either purposely or accidentally set by a person or persons who broke into the school. Twenty-four hours after the fire, Officer Smith of the juvenile division is told by a usually reliable informant that two named 15 year olds were seen leaving the locked school just a few minutes before the fire was discovered.

A quiet investigation reveals that these boys were together shortly before and shortly after the fire. Additional witnesses are found who place them near the school at about the time of the fire. It is discovered that one of them has a burn on his hand, serious enough to require bandaging, and that the other has apparently singed hair on his head. Together the two treated several other boys in the neighborhood to a show and a malt-and-burger snack later in the evening of the fire, although neither usually has that kind of pocket money.

At this point, Officer Smith and the detective with whom he is working would like to talk to the boys. If these were adults, there would be no doubt of the right of the officers to question them as to their activities at the time of the school break-in and burning.

Whether juveniles can lawfully be handled in the same way in a given jurisdiction must be determined by the chief adminstrator in conference with his legal advisers, as discussed under Law Governing Police Operations with Juveniles (see page 20 ff.). Assuming that the policy that he establishes is that juveniles and adults are in the same category as far as police questioning is concerned, the officers would have the right to question, but no right to answers.

In this case, it can be assumed that there is already probable cause to believe that these juveniles are responsible for the fire. The following facts make up this probable cause:

1. Witnesses are available who are willing to testify that they saw the boys running from the school shortly before the fire was discovered.
2. Other witnesses are available who will testify that the boys were together in the vicinity of the school both before and after the fire.
3. Both boys have physical marks on their persons which indicate that they have been exposed to fire recently.
4. Both boys have been spending more money than usual since the time of the break-in and fire.

Even without further evidence, the police would be legally justified in taking these boys into custody and referring them to juvenile court. It would be preferable, however, to give the boys an opportunity to explain these incriminating circumstances prior to taking action. It is possible that the boys might be able to prove that the eyewitnesses are mistaken and to explain away all of the other circumstances.

One technique would be for the officers to approach the boys in this case through their parents. The officers could go to their homes, explain the situation to the parents, and ask to talk to the boys either in their presence or in private. If the parents prefer and if proper facilities are available, the interview may occur at the police station. This would probably happen only where there was no privacy possible in the home because the parents were living with relatives or where there was some similar reason motivating the parents. In any event:

> Before being interviewed, the child and his parents should be informed of his right to have legal counsel present and to refuse to answer questions if he should so decide. In cases where waiver is possible, he should also be cautioned that if he answers, his answers may be used not only before the specialized court but possibly in a criminal court.[11]

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11. U.S. CHILDREN'S BUREAU, DEP'T OF HEALTH, EDUCATION, AND WELFARE, STANDARDS FOR SPECIALIZED COURTS DEALING WITH CHILDREN 38 (C.B. Pub. No. 346–1954).

If the parents refused to cooperate, the officers would have no choice but to take the juveniles into physical custody for transfer to the juvenile court. The court would then hold a hearing to determine whether a basis existed for juvenile court jurisdiction. In the meantime, police investigation would continue. At this time, the boys and their parents would risk a determination by the court that jurisdiction did exist and should be exercised if they continued to refuse to explain the circumstances if possible.

An interesting variation of this problem would be presented if, upon a chance encounter with the officers during their preliminary investigation in the neighborhood, the two boys blurted out a complete confession to having broken into the school and unintentionally set the fire. Such an unsolicited confession should certainly be recorded by the officers. The boys should then be taken to their homes and asked to repeat their story in the presence of their parents. In this situation, there would be no doubt about a basis for juvenile court jurisdiction and also little doubt that the case should be referred to court. This would not necessarily mean, however, that the boys should be taken into custody. The basis on which that decision should be made has been discussed above. (See page 35.)

Purse snatching case

> **A patrolman in a cruiser is working a beat in which there have been a number of unsolved purse snatchings in recent weeks. The descriptions of the two boys involved have been vague in every case, but there has been enough similarity to convince the police that the same two juveniles have been involved in all or most of the snatchings. This patrolman has become suspicious of two boys on his beat, whom he has seen in the general area of the snatchings on several occasions and who fit the descriptions in a general way. He sees these same boys standing in front of a busy store in the area, apparently appraising the passersby.**

Here again, the officer is faced with a dilemma. He is sorely tempted to take the boys to the station and hold them for investigation. To do this against their will in this situation is, however, illegal. Investigation sufficient to establish probable cause must come before taking into custody, not after.

The officer seems to have three alternatives here. He could just wait and see what the boys did, but this might tie him up for the rest of the day. He might be able to get relief from a detective or juvenile officer in plainclothes who could take over from him, if the department had enough manpower to devote the time to this kind of case. Second, he might just make note of the facts and his suspicion and forward the information to the detective or juvenile bureau, resolving to be particularly alert for further evidence in his

own patrol. At this point, there is certainly not enough evidence of involvement by the boys to constitute probable cause to believe that they are the purse snatchers. Hence he has no basis on which to take them into custody.

His third alternative is to approach them and ask their names and addresses. To question them beyond this point on the street is not advisable. This contact might be sufficient, however, to change the boys' minds if they were planning to snatch a purse. He might also tell the boys that a detective or member of the juvenile division would be visiting their homes to discuss their street activities with their parents.

These are difficult cases for the police, cases which teach patience. One activity in which police officers can be engaged in an effort to bring such a case to a head is routine questioning of everyone in the neighborhood of each purse snatching in an attempt to get a better description of those who committed the violations. In such a canvass, there is no obstacle to talking to juveniles as well as to adults. This is not a situation in which the juveniles are approached as suspects. (See page 33.)

In a case like this, the investigation may also take another turn. When no physical evidence pointing to the perpetrator is found at the scene, and when canvass of the neighborhood turns up no leads, the police will naturally start to think generally about persons in the community who might be capable of the act. This is just what a man might do who is away on vacation and returns to find that someone has cut his grass and trimmed his hedges for him in his absence so that his home looks much different than he expected to find it. He will begin to think of who among his acquaintances is a nice enough person to have done this for him without even being asked. So, in cases of offenses against society, the police will try to think of persons who might have committed the particular kind of offense. As a matter of fact, in a serious case, they will probably be doing this concurrently with the search for physical evidence and the neighborhood canvass.

Most police agencies will not allow this sifting of the crime potential of the community to occur on a completely haphazard basis. Files are kept of persons who have committed each type of offense in the past. Information is available as to whether the persons whose names appear in these files are currently in the community, whether they are in prison, or whether they are free but have not been seen in the community in some time. Such information may also be available for a group of persons suspected of committing such offenses but concerning whom there has not been sufficient evidence to obtain a conviction or even to take the case to court. From these files, which may be kept as written records or may be kept in the heads of in-

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dividuals performing the detective function in the community, a list of possible suspects can be drawn up. A decision must then be made as to how this list will be used.

One way to use the list is to approach the individuals in a discreet way and ask them to answer some questions about their activity at the time the offense was committed. If the individual refuses to cooperate, other persons who might be expected to be familiar with his whereabouts—members of his family, neighbors, friends and associates, his employer—can be questioned about his activity at about the time of the offense. This should not be done in a manner which would jeopardize the reputation of the suspect with these persons. Plainclothes detectives or juvenile officers working in unmarked cars have no difficulty with this.

Summary

Police investigation of alleged cases of delinquent conduct in which the action has been completed and the damage done is not much different from the investigation of crimes committed by adults except that the special aptitude, training, and experience of juvenile unit officers may be required for most effective handling of the case. As with adults, there must be probable cause to believe that the juvenile is involved before he is taken into custody. When such probable cause does not exist, police action may have to be delayed until such a time as sufficient evidence is available to support a court case.

Investigating Minor Cases of Delinquency Not in Progress

There are no theoretical differences in the handling of serious and minor cases of delinquency not in progress. In both situations, the action is past, the damage has been done. In minor cases, the interest of society is not as great as in the more serious ones. What interest there is lies in whether the juveniles involved will progress to more serious violations of the law. This means that the emphasis in handling these cases shifts from coping with serious antisocial attitudes to the possibility that such attitudes will develop. One of the earmarks of such undesirable attitude development is a growing history of minor violations on the part of a particular juvenile. The impact of the seriousness of the offenses under investigation on police procedure will be one of degree. In minor cases, more situations will

be left with the families and more referrals to social service and welfare agencies will be made. Referrals to juvenile court will be rare and taking into custody almost unheard of.

In these cases of alleged delinquency based upon minor violations of law, the police will be operating more as an agency for early identification of potentially serious delinquents than as an agency for the suppression of existing delinquency. As one of many community agencies with the same concern, the role of the police in early identification is secondary and minor rather than primary and major as it is in suppression of serious offenses. Community institutions which play the major role in early identification are the schools, the churches, social and recreational clubs, social service and welfare agencies, and public health agencies. The fact that these agencies rather than the police have primary responsibility for early identification does not mean that the police role is unimportant. But although important, the police serve only as a backstop to the rest of the community institutions. The police will spot cases of potential serious delinquency which have been missed by all other agencies. For this reason, the police must be thoroughly familiar with community resources so that these cases can be referred to the proper agency for treatment. This is one of the functions of the juvenile specialist unit.

POLICE PROCEDURES IN ABUSE AND NEGLECT CASES AND IN TRUANCY AND UNGOVERNABILITY CASES

IN ADDITION to delinquency cases involving violation of law that would be criminal if committed by an adult, the police have responsibilities to young persons in other situations. Among these are neglect and abuse cases and cases of truancy and ungovernability. These are discussed below.

Police Procedures in Abuse and Neglect Cases

In no other area of police work do procedures vary so greatly from jurisdiction to jurisdiction as they do in cases involving abuse and neglect of children. This wide variation stems largely from differing community concepts of how abused and neglected children can best be helped and from the differing amount and quality of social services available for implementation of these concepts. In view of these variations, it is important to review briefly the two distinctly different kinds of court action that may result from these cases.

1. *An action on behalf of the child.* This type of action, which is noncriminal, seeks to determine whether the child is in danger and, if so, what action is needed to protect him. The parents may be deprived of the custody of the child, required to pay for his support, or ordered to make adjustments in his care, custody, and control. This type of action does not permit any punitive sanction against the parents, however.

2. *An action against the parents.* This is a criminal prosecution of the parents on charges that they have committed a harmful act against the child or failed to discharge their responsibility to him, thus placing him in acute danger. This action does not involve the

status of the child. It is essentially negative rather than positive in nature.

A community program for the protection of children against abuse and neglect[1] involves many agencies providing a variety of services. These include public welfare departments, private social agencies, specialized school services, mental health clinics, hospitals, courts and the police. In addition, public welfare departments and private social agencies in a number of communities have set up special services specifically designed to focus on neglect situations. This special service has been termed "protective service" by some. It is essentially a casework service staffed by trained social workers. As such, it is appropriate to the function of a social agency rather than to that of a police department. This is a basic service that should be available in every community to prevent neglect and family breakdown.

Every community should have a well defined and well known program operating to afford protection to children against abuse and neglect. The focus of this program should be on the welfare of the child and not on the prosecution of the parents.

It is important to consider the role of the police in this program. The police are charged with the overall protection of the community. Because of this responsibility, they must be ready to accept complaints of cases of aggravated abuse and neglect requiring emergency action.[2] In such cases the police department, often the first public agency involved, plays a role similar in many respects to its role in a delinquency situation. For the purpose of this discussion, the police processing of neglect complaints is discussed under the headings of receipt and investigation, and evaluation and disposition. A short section is also devoted to the handling of the adults involved.

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1. NATIONAL PROBATION AND PAROLE ASSOCIATION, STANDARD JUVENILE COURT ACT § 8 (6th ed. 1959) and STANDARD FAMILY COURT ACT § 8 (1959) define a neglected child for jurisdictional purposes as follows:

> . . . any child living or found within the district who is neglected as to proper or necessary support, or education as required by law, or as to medical or other care necessary for his well-being, or who is abandoned by his parent or other custodian. . . .

2. U.S. CHILDREN'S BUREAU, DEP'T OF HEALTH, EDUCATION, AND WELFARE, STANDARDS FOR SPECIALIZED COURTS DEALING WITH CHILDREN 11 (C.B. Pub. No. 346–1954) and CHILD WELFARE SERVICES 11 (C.B. Pub. No. 359–1957); KENNY AND PURSUIT, POLICE WORK WITH JUVENILES 260 (2d ed. 1959); INTERNATIONAL CITY MANAGERS' ASSOCIATION, MUNICIPAL POLICE ADMINISTRATION 1 (5th ed. 1961); Class, *Neglect, Social Deviance, and Community Action,* 6 N.P.P.A.J. 22 (1960).

Receipt and investigation

Situations involving neglect of children are generally brought to the attention of the police and other community agencies by someone other than the parents. Police themselves often observe instances of neglect when responding to other types of complaints, such as domestic disturbances, or when on routine patrol assignments. Because neglect is not confined to an 8-hour day, a police department, as the only agency with investigative responsibility open 24 hours a day throughout the year, receives the initial call in many cases of neglect and abuse. It should not be expected to deal with all such cases, however. The police department is probably in the best position to respond to emergency complaints of neglect where children are in immediate danger, because it does provide continuous service and is able to move without delay.

On the other hand, complaints which appear to be chronic or nonemergency in nature should be referred directly to the community social agency providing service in neglect cases.

Unfortunately, such services are still unavailable in many communities. Where this is true, the police department should take vigorous action to draw this gap in services to the attention of the community agency planning services for children and youth. Meanwhile, the police department should continue to accept all complaints until the proper service can be established. Where such services do exist, neglect complaints of a nonemergency or chronic type which do come to the police should be referred by them directly to the service. Such a working relationship calls for very close cooperation between the police and the casework agency.[3] Procedures for initial response to or referral of complaints by both agencies should be developed jointly. In cases in which complaints are referred from one agency to another, the referring agency should have assurance that the referral will receive prompt attention. This is necessary because initial acceptance of the complaint carries with it responsibility to see that an investigation is made. The police juvenile specialist unit should carry responsibility for working with the agency in developing these procedures.

Police investigation of a neglect complaint is aimed at protection of the lives of the persons involved and, when necessary, at bringing the situation to the attention of the appropriate community agency without delay. Police investigation should be an impartial, objective, and scientific procedure. Facts must be collected, authenticated, and evaluated.

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3. Knapp, *Protective Function of the Police,* in 8 Social Work Papers 22 (U. So. Cal. School of Social Work 1961).

Two initial questions confront the police officer when verifying reported complaints of abuse or neglect of a child: Does neglect or abuse exist? Is there sufficient evidence to support a referral to court? The answers to both of these questions can be established by a proficient police investigation based upon knowledge of the law of neglect and of the rules of evidence and on previous police experience in handling similar complaints. Wherever possible, investigation of neglect complaints should begin with the complainant. Since his testimony would probably be needed to support any possible court case, his availability and willingness to testify should be determined in advance. The interview may indicate that the basis for the complaint is not sufficient to warrant governmental interference. It may also indicate that the complaint is a spite action growing out of neighborhood animosity. Whatever the outcome, it is important to tell the complainant that an investigation is underway. The officer must be well informed as to what constitutes neglect under the law. Methods of gathering evidence useful in this kind of case include taking statements of witnesses and the complainant, interviewing parents and children, and making general observations on family life. Poor or dirty physical conditions, in themselves, do not constitute neglect. They may, however be symptoms of neglect. Obvious cases of abuse or neglect can be verified immediately by observation. Others require the use of additional investigative techniques to obtain more facts. The special aptitude, training and experience of the juvenile officer is particularly important in such cases.

Evaluation and disposition

After observing home conditions and discussing the case with the family, complainant and witnesses, an evaluation of the situation is made by the police officer. The physical condition of the child, the attitudes of parents and child toward each other and toward the situation, and the general conditions of the home are the most significant factors, both legally and socially, in the kinds of cases that require immediate police action. Often the police officer is the first person in an official capacity to enter the home. What he hears and observes can be of considerable help in determining what action he should take. This evaluation is not the taking of a social history, since the process differs in purpose, scope, and degree, but is simply a procedure for arriving at police disposition.

A patrol officer often finds it difficult to make disposition of neglect cases. One reason for this difficulty is the complex of factors involved. Special aptitude, training and experience are necessary to cope with these. In addition, his investigation is generally limited

by scope of assignment, tour of duty and confinement to a specific patrol area. Many neglect cases require facts and social information not immediately available before a sound police disposition can be made. In such a case, he should call on the police unit specializing in children's cases. One of the primary functions of this unit is to provide consultation or conduct followup investigations in these cases after the line officer's initial investigation. Followup may be required because the case would take the patrol officer too far afield from his assigned patrol, because the use of plain clothes and unmarked cars is desirable, or because the patrol officer is uncertain as to the best disposition for the case.

Juvenile units acquire a specialized competence to deal with cases of neglect and abuse and to make referrals of the families involved to the appropriate community resources. Police departments in rural and semirural areas oftentimes do not have a departmental unit or even a single officer specializing in children's cases. In such situations, police officers should seek advice from whatever local resources are available, such as public welfare and probation departments, private social agencies or visiting school teachers. The chief should also designate one of his men to specialize in these cases in addition to his regular duties.

But regardless of who within the police department has final responsibility for the case, a final police disposition must be made. Cases in which the complaint is not substantiated should be closed. Cases in which neglect is found are more difficult. The alternatives are discussed below.

Referral of neglect cases to community social agencies

As pointed out earlier, the police may refer what appear to be nonemergency neglect complaints to social agencies in the community for investigation and disposition. Even where the police investigation shows the complaint to be unsubstantiated, the police may find that the family needs and wants help, either in the nature of counseling or public assistance. Such a case should be referred to the appropriate social agency.

Decision-making by police in children's neglect cases involves the use of the some discretion. One reason for this is that police officers are concerned not only with violations of law, but also with the welfare of all persons involved. This means that even where the complaint is substantiated and there is a basis for court referral, a referral to a community agency for casework service may still be appropriate and desirable. Factors which should be considered are the seriousness of the situation in terms of the child's immediate need for protection and the ability and attitude of the parents in work-

ing with a community agency. Before making such referrals, the officer generally should check the records of the police department. In some cases, he may also contact other community agencies to determine whether the family has previously been known to them. Referral of children to social agencies by police is often difficult because of the unusual work pressures under which police operate. The scope of their operations and the variety of functions for which they are responsible require them to make dispositions quickly and with only a limited amount of information. Nevertheless, police in some cities have been very successful in referring families and in motivating them to accept or even to seek help from a community or social welfare agency.

A number of social agencies seek police referral of families; others are reluctant to accept such referrals. Police referral to any social agency for service should be made only after consultation with and agreement of the parents and should be regarded as a final police disposition. An exception might be made for referral to the "protective service" agencies discussed below. Such referrals should not become an "either-or" situation—either accept the services of a social agency or be referred to court. Under such conditions, the agency may find it difficult to make its services effective. In addition, there is always the implied threat that "official" police action will be taken if the child and family do not cooperate. In any event, police should refer a case to a social agency when, in their opinion, an available service can be of assistance to the child and his family on a voluntary basis without resort to the authority of the court. Effective use of social agencies by police involves not only the development of referral procedures but also mutual understanding and respect for the contribution each agency has to make in the community program for the protection of children.

Every community has at least one law enforcement agency whose functions are generally known to the citizen and agency worker alike. In contrast, there are some communities in which there is no casework service available and others in which a number of agencies provide such services. It is therefore extremely important that the police be fully cognizant of the nature and availability of such service. As mentioned earlier, specialized casework service for neglected children is sometimes referred to as "protective service." One publication defines it as "a specialized child welfare service which carries a delegated responsibility to offer help in behalf of any child considered or found to be neglected." [4] An author of another publication explains it as a "specialized social service in behalf of children whose health

4. Child Welfare League of America, Standards for Child Protective Service 1 (1960).

or welfare is impaired or under immediate threat of impairment as a result of a violation of or noncompliance with a law or legal responsibility for the protection of children, their education, employment, physical or emotional health or welfare."[5]

These definitions of protective service imply a new approach and philosophy in working with families in which neglect exists. They also indicate differences in the approaches used by a protective service agency and the more traditional casework agency and in the manner in which the agency enters the case. The latter usually work with families that come to them for help, while the former work with families that are not aware of their problem or that refuse to face it.[6] This requires the use of aggressive casework by the agency as a technique of operation once the existence of neglect has been verified. This technique or skill is one by which the caseworker is able to face a hostile parent and eventually persuade him that the worker is trying to help him meet a problem in his family.

After breaking down the initial barrier of hostility, the caseworker uses counseling and guidance procedures as well as the resources of other community agencies in helping the family. For example, the caseworker may request that homemaker service[7] be provided to teach a mother of low mentality or one who has never been exposed to good housekeeping practices how to run her household successfully. There are many such cases in which children are being neglected because mothers just don't know how to keep house. In another case, a working mother may be advised of a day care service that will care for her children while she works. The mother may be leaving her children alone simply because she does not know about the availability of day care. In other situations, it might be obvious that the mother is physically or mentally ill. In such a case, shelter care for the children outside the home or the service of a homemaker within the home during a period in which the mother is treated for her illness may be required.

Unfortunately, few communities have all of these services, but adequate casework and auxiliary services for neglected and abused

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5. De Francis, Let's Get Technical 8 (1958); see also Sandusky, *Services to Neglected Children*, 7 Children 27 (1960).
6. De Francis, note 5 *supra* at 4.
7. "A special service developed by a social agency to provide for interim maintenance of the home as a unit during the period of absence or incapacity of the person(s) who ordinarily carry the main responsibility for family management. The service provides qualified personnel, especially trained, responsible to the agency, to carry responsibility for care and management of the home and family." Long, Homemaker Service in Public Assistance 7 (U.S. Dep't of Health, Education, and Welfare, Public Assistance Report No. 31, 1957).

children should be available in all communities. Effective referrals to such agencies by the police can often eliminate needless removal of children from their homes and unnecessary court action, thus preserving the family unit where possible. Where such services are not available, police should work for their establishment.

Referral to juvenile or family court

Once the police officer has decided that a basis for court action exists and that such action is necessary, the case, as in a delinquency case, should be referred to the court. The officer should be prepared to file a petition and present the necessary evidence at the hearing if, in the opinion of the court, further action is necessary. If a petition is authorized, the court may refer the case for social study to the community agency or to its own staff. Because of its greater resources for obtaining and evaluating social information, the court may decide, at the point of intake, not to use its authority but to refer the case to a casework agency just as the police might have done earlier.

Taking abused and neglected children into custody

When it has been decided that court action is necessary, the officer must decide whether the child needs to be taken into custody immediately and placed in shelter care. Police have this authority in all communities. In some communities it may also be given to child protection agencies. Whenever a child is taken into custody, whether by a police officer or an agency worker, a referral to court should follow. Exceptions to this would be children temporarily lost or children placed at the request of the parent because of a temporary emergency.

Distinction should be made between the desirability of taking children into custody and statutory grounds for such action. The police cannot take children into custody merely upon the request of an individual or a social agency. They must determine for themselves whether sufficient grounds exist for such action. The police alone are responsible for exercising their authority in taking children into custody except when serving a court order. For this reason, the final decision must rest with them. Where another community agency also has power to remove a child from his family conferred upon it by law, that agency is, of course, similarly responsible for its own actions. Police departments and other agencies given responsibility by law for taking children into custody should know the law covering such action, including the law of arrest and that governing the use of force. They should also know techniques of self-protection not only in order to minimize the danger to themselves, but also to the children, to the parents and to the public.

What is equally if not more important is the effect upon the

child of removal from home. This is often an extremely difficult experience for a child, particularly a young child. The first rule then is that no child should be removed unless his immediate protection demands such action. When there is a question as to the need for removal, the officer should consult with the juvenile specialist unit or, in the absence of such a unit, a child welfare worker or some other person skilled in the handling of children. If possible, a juvenile officer, a woman police officer, or a child welfare worker should be available to assist in the actual removal. In any event, all officers should be trained to remove children in a manner which minimizes the harmful effects of the experience. For example, the removal should not be hurried. Depending on the child's age, he should be told truthfully what is happening, the reason for it, and where he is going. The child should be encouraged to take with him some familiar object—a toy, a blanket or a picture.[8] If at all possible, a parent should be encouraged to accompany the child to the shelter care facility.

All communities should have available to them some type of shelter care facility, possibly a boarding home, to take care of children in emergency situations. Some arrangement should be made under which the police are kept informed at all times as to which shelter care facility is open to them. The lack of such a facility presents a serious problem in many communities, often resulting in neglected children being held in detention homes or jails. Every effort should be made by the police to find suitable temporary care through an appropriate community agency. When proper shelter care facilities are not available, the police often attempt to find relatives or friends of the family to care for the children temporarily. As a protection to the police, it would be desirable to have the relative's or friend's home approved for temporary placement by a social service or welfare agency at the earliest possible moment. Again, where proper facilities are not available, the police should urge the community to provide them.

Police handling of adults involved in abuse and neglect situations

The mere fact that a petition alleging children to be neglected has been filed in juvenile court should not, either by law or policy, require that the parents be charged with criminal neglect. Police officers should be permitted to exercise discretion with respect to referring parents for prosecution in such cases. Often a situation which at first appears to involve willful neglect may not be so judged after

8. Norman, *Emergency Services in Child Welfare*, 33 CHILD WELFARE 3 (1954).

all the facts become available and are evaluated.

It has been the experience of workers in the field that most parents want to do what is best for their children. The neglect is oftentimes the result of the parents' inability to cope with the tensions and problems of modern living. Before parents are charged with criminal neglect, the case should be discussed with the court and the appropriate community agencies. Whether such action is necessary to gain control over the parents and its probable effect upon the continuing relationship between the parent and child and between the family and the agency providing care and service, are two of the factors which should be considered in making the decision.

Summary

A community program for the protection of children against abuse and neglect involves many agencies providing a variety of services. Very important among these agencies is the police department. It is the police who are called and are able to take action immediately, regardless of the time of day or day of the week, in emergency cases. In chronic and other nonemergency cases, referral can be made to other social and welfare agencies. Police handling of neglect cases does not differ substantially from procedures in delinquency cases. After receipt of the complaint, it is investigated, evaluated, and disposition is made.

Police agencies in some communities are fortunate enough to have the assistance of a social service or welfare agency that specializes in cases of child neglect. These "protective service" agencies use aggressive casework techniques to bring their resources to families that cannot or will not recognize their problem. The caseworker might then call on another community agency which offers homemaker service, day care, or shelter care, depending on the cause of neglect in the particular case. In some cases, the police will refer the case to the juvenile or family court. This can be done without removing the child from the family.

If removal is necessary, skilled help should be obtained if possible. At this point, the juvenile specialist should certainly be called. All police officers should get a short course in how to take children from their homes for the rare cases where this is necessary without help from specialists. Even where the case does go to court, this does not necessarily mean that criminal charges should be preferred against the parents. It is never necessary to take this step in a hurry. It should occur only after consultation with juvenile or family court officials. Dealing with neglect and abuse cases is difficult for the police, but there are situations in which the responsibility must be met.

Police Procedures in Truancy and Ungovernability Cases

Among the categories of jurisdiction recommended for juvenile courts by the Standard Juvenile Court Act is jurisdiction "concerning any child living or found within the district . . . whose environment is injurious to his welfare, or whose behavior is injurious to his own or others' welfare; or who is beyond the control of his parent or other custodian." [9] This grant of jurisdiction in the Standard Act is in a separate section from that granting jurisdiction over alleged violations of law. This takes these cases out of the category that traditionally has been labeled delinquency. The juvenile court acts of many States, however, still include "running away," "truancy," "incorrigibility," and "ungovernability" under the rubric of delinquency. Runaways are discussed on pages 72 to 74. This section will deal with truancy, incorrigibility, and ungovernability.

Truancy

Police agencies should work very closely with the schools in the handling of juveniles who are truant from school. The juvenile specialist unit which maintains liaison with the juvenile court should also maintain liaison for this purpose with the schools. Generally speaking, youngsters found to be truant should be referred to the schools for handling within the school framework. There are usually specialists on the staff of the school district administrator who work with these cases. The policies behind and mechanisms for these referrals should be worked out in a joint cooperative effort by police and school personnel. Truancy referrals to juvenile court should usually be made by school rather than by police personnel.

Incorrigibility and ungovernability

Incorrigibility and ungovernability are concepts that are much harder to discuss than truancy. These are interchangeable terms establishing catchall categories much less specific both in inherent meaning and in application. Such situations usually involve older children and reflect a breakdown in the child-parent relationship. A child falls into one of these catagories when he is beyond the control of his parents but has not yet been involved in violation of law as far

9. National Probation and Parole Association, Standard Juvenile Court Act §§ 8(2) (b) & (c) (6th ed. 1959).

as anyone knows. These allegations are frequently made to juvenile courts by the parents themselves. There does not seem to be any compelling reason for police activity in these cases, unless the parents are mistakenly using these terms to describe a case that does involve violation of law. In such a situation, the police should act just as they would on a similar complaint from any other source. By definition, however, they will have the advantage of the assured cooperation of the parents from the start. If the parents approach the police in a true case of ungovernability not involving violation of law, they should be sent directly to an appropriate social agency or to the juvenile court with their problem.

Use of these general catchall categories frequently results in abuse. Juveniles are taken into custody on the basis of an alleged violation of law when there is insufficient evidence to establish probable cause that they actually committed that violation. In these circumstances, the specific violation charge is dropped and a general allegation of incorrigibility or ungovernability substituted. This allegation is also sometimes used in an effort to minimize publicity when the offense involved is a sex offense. The result in either case is that there is no fair opportunity for the juvenile to challenge the basis for jurisdiction of the juvenile court.

Incorrigibility and ungovernability are all too often regarded as catchalls that can justify court jurisdiction in any case in which a specific basis for jurisdiction cannot be demonstrated. This is an abuse of juvenile court process that can and should be stopped. There are a number of case decisions in appeals from juvenile courts that hold that a pattern of antisocial conduct must be proved to establish one of these vague, general allegations. If this theory were pressed, such an allegation would be more difficult to prove than the more simple one of specific violation of law. Elimination of these categories as bases of juvenile court jurisdiction is being seriously considered.[10] More lawyers involved in juvenile court actions and more appeals in these kinds of cases would clarify the law of incorrigibility and ungovernability.

Summary

Truancy cases should be referred to the school authorities; ungovernability and incorrigibility cases, which can be proved only by demonstrating that the juvenile has persisted in a pattern of antisocial conduct over a period of time, should be sent to the appropriate community social agency or directly to the juvenile court.

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10. Rubin, *Legal Definitions of Offenses by Children and Youths,* 1960 ILL. L. F. 512.

POLICE PROCEDURES WITH ABSCONDERS, ESCAPEES, AND RUNAWAYS

POLICE OFFICERS frequently encounter juveniles who have run away from those who have legal authority over them. When a child is on probation or parole at the time he runs away, he is considered an absconder. If he runs away from an institution to which he has been sent by the juvenile court, he is an escapee.[1] If he has simply run away from his home, he is called a runaway. Police procedure for handling children in each of these three categories is considered below.

Absconders

It is a command responsibility of each police agency to work out procedures for the return of juvenile probationers and parolees who have absconded from probation or parole supervision within the State in which the police agency is located. These procedures may be dictated by local law. The procedures to be worked out will not necessarily be the same as those for adult absconders, since juveniles who are on probation or parole as a result of juvenile court action have not been convicted of a crime.[2] In some States, no satisfactory

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1. It may be argued that a juvenile cannot escape from an institution to which he has been sent by a juvenile court because he has not been convicted of crime. See *Ex parte* Small, 19 Idaho 1, 116 Pac. 118 (1910). With full realization of this problem, the term is used here to distinguish these juveniles from those who simply run away from their homes. The terms absconder, escapee, and runaway are also used in the Interstate Compact on Juveniles.

2. This has been handled by the NATIONAL PROBATION AND PAROLE ASSOCIATION, STANDARD JUVENILE COURT ACT § 13 (6th ed. 1959) as follows:

> When a petition has been filed bringing the child before the court under the provisions of subdivision 1 or 2 of Section 8 of this Act and the child resides outside the court district but in the State, the court may, after a finding on the allegations in the petition, certify the case for

statutes have been enacted to meet this difficulty. In these situations, it is particularly important for representatives of police agencies to meet with juvenile court, public welfare, and probation and parole authorities to work out satisfactory procedures which can be implemented by administrative action, and then to press for legislation which will make it possible to adopt better procedures.

When it is discovered that the juvenile has absconded from probation or parole supervision in another State, the same problems may exist. In such cases, help can usually be obtained from the local probation and parole authorities. In some States, however, this situation is covered by the Interstate Compact on Juveniles.[3] When a police officer in one of the 33 States which have adopted the Compact encounters a juvenile who has absconded from probation or parole in another of these 33 States, the procedures of the Compact are available. In such a situation, the police officer takes the juvenile into custody and delivers him to the local juvenile court. The court will contact the local State Compact administrator and the juvenile will

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disposition to the court where the child resides. Thereupon, the court receiving such transfer shall dispose of the case as if the petition were originally filed or the finding were originally made there. Whenever a case is so certified, the certifying court shall forward to the receiving court certified copies of all pertinent social and legal records.

3. This is an Act dealing with the interstate movement of juveniles, drafted by a national committee of experts and recommended to the various States for adoption by the Council of State Governments; for a brief discussion of operations under the Compact, see Martin, *Interstate Compact on Juveniles: Its Progress and Problems,* 1955–60, 7 CRIME AND DELINQUENCY 121 (1961); see also Wendell, *The Interstate Compact on Juveniles: Development and Operation*, 8 J. PUB. L. 524 (1959), and ZIMMERMAN AND WENDELL, THE INTERSTATE COMPACT SINCE 1925 (1950). The Compact has been adopted by the following states as of June 1962:

Arizona	Iowa	New York
Alaska	Kentucky	Ohio
Arkansas	Louisiana	Oregon
California	Maine	Pennsylvania
Colorado	Massachusetts	Rhode Island
Connecticut	Minnesota	South Dakota
Florida	Mississippi	Tennessee
Hawaii	Missouri	Utah
Idaho	Nevada	Virginia
Illinois	New Hampshire	Washington
Indiana	New Jersey	Wisconsin

An attempt to adopt it on the part of the Michigan legislature has been held to be ineffective by the Attorney General of that State, with the result that no attempt has been made to put it into operation there. Wyoming has adopted only Article X which authorizes any two or more party States to enter into agreements for the purpose of establishing or maintaining specialized services or facilities for juveniles on a cooperative basis.

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then be returned to his home State by Compact procedures, unless he is in additional trouble locally. In that case, the local difficulty will be cleared prior to his return. Police administrators in States that have not adopted the Compact should work toward its adoption.

Escapees

Much the same situations are encountered with escapees as with absconders. Police administrators have a responsibility to survey the local law and work with the institution officials of the State in establishing procedures under those laws. The Compact is again available if the State in which the juvenile is found and the State from which he has fled are both signatories of the Compact. In these circumstances, the Compact also provides that the police deliver the juvenile to the local juvenile court which handles the matter from that point on.

With both absconders and escapees, the Compact authorizes the issuance of a "detention order" by the local State Compact administrator or by the local juvenile court for the apprehension and detention of the juvenile. This order may be served by any officer anywhere in the State. In serving these orders, the same procedure should be followed as in the serving of all other orders for taking into custody. In addition, the Compact provides that if a police officer has "reasonable information" to the effect that a certain juvenile is an absconder or escapee, that juvenile may be apprehended and delivered to the local juvenile court without a written order.

Runaways

In dealing with runaways, the police have an additional problem which does not exist with absconders and escapees. The latter categories are already being given help by a State in meeting their problems. Their cases have already come to the attention of the juvenile service agencies. With runaways this is not so. As a result, the police are not only responsible for returning the juvenile to his home but for considering whether the case should be referred to juvenile court. Those who study the mental health problems of juveniles agree that running away from home is quite often indicative of deep-seated problems within the family.[4] This is substantiated by the experience of the police. The police frequently have their first of many

4. Johnson and Szurek, *The Genesis of Antisocial Acting Out in Children and Adults,* 21 PSYCHOANALYTIC Q. 323, 330 (1952).

contacts with a juvenile in a runaway situation. Runaway cases should be referred to the juvenile specialist unit.

Because a runaway situation usually means that the family has a serious problem, it is good practice for a police agency to get the assistance of a social agency in helping both the juvenile and his parents come to an understanding of their difficulty. The police department taking a runaway juvenile into custody should, at the same time the parents are notified, notify a local social agency which will give help in such cases, unless the case is referred to the juvenile court. A social worker can then be working with the juvenile pending the arrival of the parents or the making of other arrangements for his return, attempting to help the juvenile arrive at a satisfactory solution of the problem which led to running away. At the same time, the police department in the juvenile's home town should seriously consider notifying a social agency or the juvenile court there, immediately after notifying the parents of the runaway, to give the parents skilled help in understanding their child's conduct. In the many communities where such social services are not available, the local department of public welfare may be able to help.

When a runaway is located, the police agency in his home town should immediately be contacted to verify the information given to the police and to determine whether the family of the juvenile can and will come to get him. Police radio and teletype can be used for this purpose. Every community should have some sort of facility for holding runaway juveniles pending return. This facility should be designated by the local juvenile court judge. The juvenile should be taken to this facility when taken into custody. If the parents of the juvenile come after him, this ends the problem for the local police.

There is still work to be done, however, by the home town police agency. Every report of a runaway juvenile within the town should be considered like any other complaint. It should be investigated by the police department or by a local social service or welfare agency to determine whether the juvenile court jurisdiction which probably exists because of the runaway should be invoked. In case of doubt, the case should be referred to juvenile court. Occasionally there will also be a question as to whether there actually is a runaway. This will be true particularly when the child is taken into custody in his home town soon after being reported missing. Here the police will have to decide upon the evidence available to them whether an actual intent to run away from home existed.

Special problems are presented when the runaway is from another State. Again contact with the home town police agency should be made through police communication channels. These channels should be used to minimize expense. Usually a State police or State

highway patrol will be happy to cooperate by contacting its equivalent State law enforcement agency in the other State through police communication channels. The information will then be relayed to the municipal police agency in the other State. This service is available to courts as well as to police agencies. This does not preclude the use of social agencies as discussed above. When the answer is that the parents or other relatives will come to pick up the juvenile, these cases can be handled just like those of runaways from within the State. Special problems are presented in either case when the family of the juvenile would like to come for him but is not financially able to make the trip. This is frequently a problem where great distances are involved.

In such a case, the State child welfare agency may have funds available for the temporary maintenance and return of the juvenile if it has included these items in its Federal-State child welfare services plan as permitted by title V, part 3, of the Social Security Act, as amended. This law contains special authorization for Federal financial participation in "paying the cost of returning any runaway child who has not attained the age of 18 to his own community in another State and of maintaining such child until such return (for a period not exceeding 15 days), in cases in which such costs cannot be met by the parents of such child or by any person, agency, or institution legally responsible for the support of such child."[5] The Federal policy is to encourage provision for this purpose in child welfare service plans. Whether or not it is included in the plan of a particular State is a State decision made in consulation with the representative of the Department of Health, Education, and Welfare.

Police officials in every State should know whether these funds are available through the public welfare agency. If they are not, every effort should be made to persuade the State public welfare director to provide for their availability. When these funds are not available, private charitable funds may be, on a local basis. Travelers Aid will advance money in emergency situations where funds for reimbursement will be available at a later time and, in some communities, even when there is no possibility of reimbursement. Travelers Aid will also assist when the parents and the police are able to obtain the juvenile's cooperation in returning home by himself. In such a case, the parents may send the money for return transportation and Travelers Aid will assist in getting the child from one train, bus or airplane to another as required on the trip back.

Little difficulty can arise for local police officials when the juvenile consents to return to his home and when his parents come

5. Social Security Act, Title V, Part 3, Sec. 523 as set out in H.R. Doc. No. 454, 85th Cong., 2d Sess. 125 (1958).

and pick him up. There are possible difficulties if the juvenile is to return alone, however. If the juvenile is injured during the trip or if he runs away again, the local police agency may be subjected to adverse criticism. Difficult problems are also presented when a runaway child must be kept overnight. Where there is any doubt about such cases, they should probably be referred to the local juvenile court. Where the Interstate Compact on Juveniles is available, its provision for voluntary return should be utilized. What this provision does is to make formal the giving of consent by the juvenile so that it will be readily provable at any later date.

In this procedure, the police take the juvenile to the local juvenile court. Under the Compact, the court has discretion whether to appoint a guardian *ad litem* (a guardian for the purpose of this court proceeding only) for the juvenile. The judge then explains the situation to the juvenile, making sure that he understands fully what is happening and what his rights are. The juvenile then signs a written statement of consent. If a guardian *ad litem* has been appointed, he then also signs a statement that he believes that the juvenile should be allowed to return as directed by the court and that he consents to such return. The judge then signs a statement that he has explained the situation to the juvenile and that the consent of the child is voluntary. This is an excellent protection for the local police agency and should be followed where possible in every case when the juvenile is not delivered directly to the parents or their representatives.

Another provision of the Compact makes a procedure available for those cases in which the parents of the juveniles are not financially able to provide for his return and funds are not available from any other source. Under this procedure, the agency which picks up the child delivers him directly to the local juvenile court. Here, as in the case of absconders and escapees, the subsequent procedures are the responsibility and concern of the court and not of the police. Under this procedure, the cost of the return is eventually borne by the State from which the juvenile fled.

The States of Colorado, Florida, Kentucky, Louisiana, Massachusetts, Mississippi, and Pennsylvania have adopted what is known as the Optional Runaway Article of the Compact which simplifies this procedure somewhat, but which has not received general approval because of the belief that it does not provide proper social and legal safeguards for the juvenile. This does not change police procedure, however. The police officer who takes the juvenile into custody still delivers him directly to the local juvenile court.

As with absconders and escapees, the taking into custody may be by virtue of a "detention order" issued by the Compact adminis-

trator or by the local juvenile court judge or it may be made by virtue of "reasonable information" available to the police without any written order.

The above discussion has been concerned with the action of the police department in taking into custody of runaways. Attention must also be given to the response of the department to reports that juveniles are missing.[6] Many missing person reports are made by some member of the family at police headquarters. When the report is made by telephone, the patrol unit on whose beat the family resides should go to the home and take the report. Factors to be determined for the report are the age and sex of the missing juvenile, his description, how long he has been gone, whether there is any apparent reason for the disappearance, the circumstances surrounding the disappearance, and whether the child has run away before.

If the information in the report indicates that kidnaping or homicide is involved, detective specialists should be brought into the case immediately and the usual investigative procedures initiated. Where kidnaping is suspected, this will include notification of the Federal Bureau of Investigation. If the information indicates that a young child has merely wandered off, preplanned procedures for a search of the area should be activated. Arrangements for mass media publicity may also be indicated. If there is reason to believe that an older juvenile has left the area or the State, other police departments should be alerted. More detailed consideration of police reaction to individual missing juvenile reports is beyond the scope of this publication.

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6. For an excellent detailed discussion, see generally Los Angeles County Sheriff's Department, Crime Prevention Bureau Procedural Manual ch. 8, no date.

RECORDS AND STATISTICS

ADEQUATE RECORDS about juvenile cases must be maintained by police for the following purposes:

1. To provide a means for administrative control through continuing evaluation of departmental policies and procedures and of the performance of individual officers in juvenile cases;
2. To provide information on police contacts with a given juvenile for the police themselves, for the juvenile court, and for other legitimately interested agencies;
3. To provide information about conditions in the community which contribute to juvenile delinquency and to define the areas in which they exist for purposes of police control and community elimination;
4. To provide subject material for the curricula of the department's recruit and inservice training with respect to dealing with juveniles.

These basic purposes are essentially the same as those for all police record keeping. There is a special problem in the management of police records regarding cases of individual juveniles, however. Current theory and practice in governmental reaction to juvenile delinquency is based on rehabilitation and reeducation of the juvenile in an attempt to help him become an acceptable member of the community. To make his adjustment easier, he should be given a clean slate when he becomes an adult. This is why juveniles who have been brought under the jurisdiction of the juvenile court because of acts of delinquency are held by law not to have been convicted of crime.[1] This is why some States provide for the destruction of all

1. These provisions are generally similar to those in the NATIONAL PROBATION AND PAROLE ASSOCIATION, STANDARD JUVENILE COURT ACT § 25 (6th ed. 1959) which reads:

> No adjudication by the court of the status of any child shall be deemed a conviction; no adjudication shall impose any civil disability ordinarily resulting from conviction; no child shall be found guilty or be deemed to be a criminal by reason of adjudication; and no child shall be

juvenile court records on individuals under certain conditions.[2] This is why some States place restrictions on the fingerprinting and photographing of juveniles who have been alleged to have committed delinquent acts.[3] For this same reason, police records on juveniles

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charged with crime or be convicted in any court except as provided in Section 13 of this Act [Transfer to Other Courts]. The disposition made of a child, or any evidence given in the court, shall not operate to disqualify the child in any civil service or military application or appointment.

2. The most sweeping of these is that of Kansas:

> When a record has been made by or at the instance of any peace officer, justice of the peace, county judge, police magistrate, city judge or city police judge, or other similar officer, concerning a public offense committed or alleged to have been committed by a boy less than sixteen (16) years of age, or by a girl less than eighteen (18) years of age, the judge of the juvenile court of the county in which such record is made shall have the power to order such officer, justice, magistrate or judge to expunge such record; and, if he shall refuse or fail to do so within a reasonable time after receiving such order, he may be judged in contempt of court and punished accordingly. KAN. REV. STAT. § 38-815(h) (Supp. 1961).

California (CAL. W. & I. CODE § 781) and Missouri (MO. STAT. ANN. § 211.321 (Supp. 1961)) have similar provisions. There is none in the Standard Juvenile Court Act. Florida, New Jersey and Puerto Rico (see note three, *infra*) have special provisions on the fingerprinting of juveniles that authorize destruction. Some States even have statutes allowing destruction or return of records in the case of adults. Connecticut, Hawaii, Illinois, Iowa, Michigan, Minnesota, Montana, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, and West Virginia appear to be in this category. See Federal Bureau of Investigation, Revised Compilation of Fingerprint Legislation: Supplement to Training Document No. 26, Legal Aspects of Fingerprint Legislation, March 15, 1960.

3. Such a provision is a feature of the NATIONAL PROBATION AND PAROLE ASSOCIATION, STANDARD JUVENILE COURT ACT § 33 (6th ed. 1959):

> Without the consent of the judge, neither fingerprints nor a photograph shall be taken of any child taken into custody, unless the case is transferred for criminal proceeding.

Essentially similar provisions are found in the laws of Delaware (DEL. CODE ANN. § 10-977(a)(1) (Supp. 1960)), Florida (FLA. STAT. ANN. § 39.03(6) (1961)), Georgia (GA. CODE ANN. § 2418 (1959)), Guam (GUAM CODE CIV. PROC. § 260(e) (1953)), Kansas (KAN. REV. STAT. § 815 (Supp. 1961)), Missouri (MO. STAT. ANN. § 211.151 (Supp. 1961)), Ohio (OHIO REV. CODE § 2151.31 (1953)), Oregon (ORE. REV. STAT. § 419.585 (1961)), Puerto Rico (P.R. LAWS ANN. § 34.2007(d) and P.R. SUP. CT. RULES ON MINORS 10.4 (Supp. 1959)), Tennessee (TENN. CODE ANN. § 37-251 (Supp. 1960)), the Virgin Islands (V.I. CODE ANN. § 2503(e) (1957)), and Washington (WASH. REV. CODE ANN. § 13.04.130 (1962)). Colorado (COL. REV. STAT. ANN. § 22-10-2 (1953)) and Minnesota (MINN. STAT. ANN. § 260.161(3) (Supp. 1961)) have provisions against photographing only. Oklahoma (OKLA. STAT. ANN. § 20-870 (Supp. 1961)) appears to allow fingerprinting in felony

should initially be kept at an absolute minimum, the files containing them should be purged at regular intervals and should be closely guarded against unauthorized access.

A variety of records must be kept on police work with juveniles. The same administrative records, such as payroll and sick leave records, must be kept for the juvenile unit as for the rest of the department. These will also be kept in the same manner as similar records for the other divisions. Since they present no special problems, these records will not be considered further. To serve its function of preservation of life and property, the police department must have a system for the collection of information that will make it possible to anticipate some antisocial action by juveniles as well as by adults. These records are essential for preventive action as well as for effective investigation when such conduct does occur. Records must also be kept of complaints about unlawful activity, and information about the investigative process which follows complaint must be recorded. The same is true of the actual processing of children who have been referred to juvenile court. This means that information as to citation, taking into custody, and court disposition of the case should be available.

Each of these different files of police records concerning juvenile cases should be purged at regular intervals. This means that the records of defined categories of juveniles should be taken from the files and destroyed. This is necessary first of all for efficient use of the files. Files containing outdated and inactive information require an excessive inventory of expensive cabinets, take an excessive amount of expensive office floor space, and result in the waste of expensive manhours when the files must be searched.

Purging these files is also necessary to implement the philosophy of allowing young persons to begin their adult lives with a clean slate. Although accurate statistics are nonexistent, experience indicates that, despite the fact that many adult criminals were juvenile delinquents, only a very small percentage of juveniles who have contact with police while growing up actually become criminals. Those who do achieve satisfactory social adjustments as adults should not have the shadow of a police record jeopardizing their futures.

There are actually several facets to the general problem of confidentiality of police records in juvenile cases. Three of these are

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cases only. Idaho (IDAHO CODE § 16-1811 (Supp. 1959)) prohibits fingerprinting and photographing without the permission of the judge ". . . unless a peace officer determines it is necessary for the detection and apprehension of an unknown offender. . . ." California (CAL. W. & I. CODE § 504) specially protects the right of police agencies to fingerprint, as does New Jersey (N.J. STAT. ANN. § 2A:4-21 (1952)) which does, however, require destruction on dismissal or acquittal.

the separation of juvenile from adult records, the guarding of the separated records against unauthorized access, and the deliberate releasing of information to mass communication media. Fourteen of the 55 State and Federal jurisdictions in the United States have special statutes dealing with police records on juveniles, in addition to those on fingerprinting and photographing.[4] The commonest of these provisions is that such records should be kept confidential and separate from those of adults. Every jurisdiction should have such a statute. These statutes do not, however, necessarily require that records on juvenile cases be kept in the office of the juvenile specialist unit. This is a decision which should be dictated by the needs of administrative efficiency. It may well be decided that at least some records relating to juveniles should be kept in the same system as equivalent adult records, although in separate files. Others may best be kept in the juvenile unit office. Much can be said, for example, in favor of keeping complaint sheets on children's cases in a special juvenile section of the general alphabetical complaint file located in the department's central records system. This is justified on the basis that complaints coming to the attention of the police are the central element of police record systems.

There are a number of justifications for separating juvenile from adult records. The first is the philosophical one that records of adult antisocial conduct investigated by police agencies are records of criminal conduct while those on juvenile antisocial conduct are not criminal records. In the past there has been the added fact that control over police records has occasionally been lax, with unauthorized persons sometimes allowed access to them. Because this can be particularly harmful in the case of juveniles, it has sometimes been easier to provide safeguards for a separate system of juvenile records than to revise the entire record system of the department. With increasingly effective police record management, this argument has been considerably weakened. Separation does make it easier, however, to carry out special record management programs with juvenile records, such as the periodic purging program. Again, this separation can be accomplished by a separate section of the general file of the same type

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4. California (CAL. W. & I. CODE §§ 504, 781), Florida (FLA. STAT. ANN. § 39.03(6) (1961)), Georgia (GA. CODE ANN. § 2418 (1959)), Hawaii (HAWAII REV. LAWS § 333-4 (1955)), Idaho (IDAHO CODE § 16-811 (Supp. 1959)), Kansas (KAN. REV. STAT. § 38-815 (Supp. 1961)), Minnesota (MINN. STAT. ANN. § 260.161(3) (Supp. 1961)), Missouri (MO. STAT. ANN. § 211.321 (Supp. 1961)), New York, (N.Y. CHILDREN'S COURT ACT § 45 and N.Y.C. DOM. REL. COURT ACT § 84(a)), Puerto Rico (P.R. LAWS ANN. § 34-2007(f) (Supp. 1959)), the Virgin Islands (V.I. CODE ANN. § 2503(f) (1957)), Virginia (VA. CODE § 16.1-163 (1960)), Wisconsin (WIS. STAT. ANN. § 48.26(1) (1957)), and Wyoming (WYO. STAT. § 14.102(e) (1951)).

in a well managed record system as well as by a completely separate set of files in the juvenile division.

Control over access to police records has long been a serious problem. Information that should have been kept confidential has been made available to the mass communication media, to the personnel offices of business and industry, to private investigators working on a variety of types of cases, to lawyers, to insurance agents, and to just plain curious private citizens. The Federal Bureau of Investigation and other Federal investigative agencies were among the first to demonstrate that controlled access could be made a reality. This aspect of record management has also been developed to a fine art by the agencies responsible for our national defense, particularly by the civil and military intelligence agencies, and by many progressive State and local police agencies. One of the factors that has held back police progress in control over record access is that security systems cost money. Concerted effort can convince budget agencies of their necessity, however. Any community that wants a secure police record system can have it.

Many juvenile court acts have provisions protecting the privacy of court matters, similar to that in Section 33 of the Standard Juvenile Court Act.[5] An appreciable number of States have extended this provision to police records in juvenile cases as well.[6] There is also authority to the effect that the court provision should be considered binding on police agencies as well as on court personnel, even without a special provision regarding police juvenile records.[7] This is necessary in order to make the provision regarding privacy of court records in juvenile cases an effective one.[8]

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5. National Probation and Parole Association, Standard Juvenile Court Act § 33 (6th ed. 1959).

6. See footnote 4 above.

7. Letter dated 5 November 1957 and signed by John Anderson, Jr., Attorney General of Kansas, 6 Kan. L. Rev. 396 (1958).

8. The following specific recommendations were made by one scholar who examined this question exhaustively from both the legal and the social points of view:

   1. Newspapers should be allowed admittance to juvenile courts, but they should be forbidden by law from disclosing the names of the participants in the hearings.
   2. Publication of identifying data about persons in juvenile court hearings should be forbidden by statute in such a manner that the information does not reach the newspapers from sources other than the courts.
   3. Every juvenile before the court should be afforded the opportunity for a public hearing if he so desires.

   Geis, *Publicity and Juvenile Court Proceedings*, 30 Rocky Mt. L. Rev. 101 (1958).

This is a matter on which there must be community agreement. Because the information may be available from several agencies, the policy of one may be negated by that of others. This calls for cooperative action on the part of the juvenile court, the police, the community press, and other related agencies.

General Information Reports

One kind of police reporting seeks to establish files of general information that will allow the anticipating of trouble before it actually occurs. It also stockpiles information that may be useful in the solution of offenses through the systematic analysis of fragmentary bits of information that may tell a story when properly assembled. For example, bicycle registration programs facilitate the recovery and return of stolen bicycles to their owners. Development of files on cars owned and operated by juveniles suspected of illegal activity, on the membership and characteristics of gangs with a history of trouble-making, on nicknames and associates of juveniles suspected of law violations, and on places where troublesome juveniles are known to hang out can be extremely useful during both preventive and investigative procedures. Information can also be developed on the location of individuals and property particularly subject to attack by juveniles. A fact from any one of these files may provide the one additional clue that, although not too significant when considered alone, may fall into place with other available evidence to identify some juvenile as dangerous to himself and to society.

These files must necessarily be limited to confidential use by police agencies only. They will contain many facts that are innocent standing alone, but proof of antisocial conduct frequently consists of a chain of related facts, each of which might have a possible innocent explanation, but which, when taken together, make it clear that that possible innocent explanation is not the actual explanation. Investigation is merited long before authoritative action can be justified. Files of this type require close management control, however. The dangers are two-fold: general information that justifies only suspicion may be acted on by some officer as though it constituted probable cause; or some inquiring agency, such as the military or some potential employer, may be told of the contents of the file although it does not constitute proof of antisocial conduct by the juvenile. But these are abuses of general information files that do have a legitimate use. This logically calls for tight administrative control of the information once collected rather than a decision not to collect it.

General information files are peculiarly police files. They should certainly be kept private—for the use of police officials only on a need-to-know basis. They do not contain the kinds of information that should be spread upon the public record for the protection of the public. Police records that should be public records are those that are necessary for a proper accounting for expenditure of funds and use of facilities and equipment, and those that record authoritative action by the police with regard to particular citizens. These elements are not involved in the keeping of police general information files. On the contrary, the protection both of society and of individuals whose names might fortuitously appear in such files requires that access be strictly limited.

Complaint Reports

Complaints in cases involving children come from a variety of sources in a community. Recording these complaints in a consistent and uniform manner is necessary if the community is to achieve any measure of insight into its problems with children and youth. Complaint reports should contain as much of the following information as is available:

1. Source of the complaint, with the name, address and telephone number of the complainant;
2. Date and time of the complaint;
3. Name, address, telephone number, birth date, and sex of the juvenile involved;
4. Name of school attended or of employer;
5. Name, address, and telephone number of parents or guardians or of the spouse, if married;
6. Reason for complaint (conduct which would be a violation of law if committed by an adult; conduct which would not be a violation of law if committed by an adult; traffic law violations, and cases requiring protection or care but not involving violation of law by the juvenile);
7. Previous police contacts with the juvenile; and, ultimately,
8. Police disposition of the complaint.

Complaint reports should probably be kept in a separate juvenile section of the central complaint file. Further processing of the in-

formation obtained will vary from department to department. In one system after verification of the complaint, the information is transferred to index cards in triplicate which are then filed under name of complainant, name of the juvenile, and location of the action which is the basis of the complaint. The complainant file will result in the rapid identification of chronic complainants whose reports must be taken with a grain of salt. The location file will pinpoint high risk areas for community preventive action. The juvenile name file will turn up previous police contacts and serve as a master index to all files on that individual.

It will readily be recognized that the complainant and location files are essentially general information files. Only the complaint file itself and juvenile name index files are used in investigation to determine whether the juveniles mentioned should be referred to court. As with all police juvenile files, tight administrative controls must be maintained to assure that these are kept completely private.

Fingerprint and Photograph Files

Before entering upon a general discussion of investigative reports, the very controversial question of fingerprinting and photographing juveniles as aids in investigation of antisocial conduct bears some comment. There are three basic uses for fingerprints in police work. These are:

1. Positive identification of latent fingerprints found at the scene of an offense as those of a particular person from a limited group of persons known to have had opportunity to leave the latent prints. This does not require the maintenance of fingerprint files. All that is required is fingerprinting of the known group and comparison of those cards with the latents.

2. Positive identification of a person printed on a given occasion as the same person who was printed on a previous occasion. The purpose of this procedure is to establish the presence or absence of a record of previous offenses. This information is of more importance to court and institutional personnel than it is to police officials. It requires a file of fingerprints against which to make comparisons.

3. Positive identification of latent prints found at the scene of an offense as those of a person previously fingerprinted, thus establishing that the previously printed person was at the scene of this offense. This technique has resulted in the solution of many serious cases. It requires a file of fingerprints against which to make comparisons. For maximum efficiency, these files should

be maintained by offense category. There is seldom enough manpower to search voluminous files without such subdivision.

The fact that the first use of fingerprints does not require a file and that the second is not primarily a police but a court use has, in the past, led to the position taken by the U.S. Children's Bureau that files of this kind should not be kept by police departments of the fingerprints of juveniles.[9] It has also been the position of both the Children's Bureau and the National Council on Crime and Delinquency that no fingerprints should be taken without the consent of the juvenile court judge.[10]

In 1960, persons under 18 years of age accounted for 44.6 percent of all arrests for crime index offenses (murder and nonnegligent manslaughter, forcible rape, robbery, aggravated assault, burglary, larceny-theft, and auto theft) in cities, and for 33.6 percent of such arrests in rural areas.[11] Many offenses in these categories can be and are solved through the use of fingerprints as described under three above. The fact that such a disproportionate number of these offenses are being committed by juveniles requires a reexamination of the traditional position regarding police fingerprint files on juveniles. To assist in this reevaluation, the arguments against fingerprint files should be listed and analyzed. The argument for fingerprint files is simple: they result in identification of persons responsible for antisocial acts. Those against fingerprint files on juveniles are as follows:

1. **The simple act of fingerprinting in and of itself is possibly harmful to a sensitive juvenile.**

   When the act of fingerprinting is viewed in context, this statement is difficult to accept. In situations two and three above, the police have already decided that a basis for juvenile court jurisdiction does exist. These are cases in which fingerprints of persons currently in trouble are being taken for future use.

   Assuming that this is true, the isolated act of fingerprinting in the context of developmental and environmental background leading to the

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9. U.S. CHILDREN'S BUREAU, DEP'T OF HEALTH, EDUCATION, AND WELFARE, STANDARDS FOR SPECIALIZED COURTS DEALING WITH CHILDREN 39 (C.B. Pub. No. 346-1954).

10. NATIONAL PROBATION AND PAROLE ASSOCIATION, STANDARD JUVENILE COURT ACT § 33 (6th ed. 1959) and footnote 9 above.

11. FEDERAL BUREAU OF INVESTIGATION, DEP'T OF JUSTICE, CRIME IN THE UNITED STATES—UNIFORM CRIME REPORTS (1960). Larceny in this item includes thefts of all value and is therefore different from that used in the Crime Index Offenses which, on the recommendation of the consultant, Committee on Uniform Crime Reporting, has been limited to thefts of $50 or more.

violation of law, to reaction to that violation, and to police investigation, including in all probability both questioning and taking into physical custody by the police, is not significant. With all of this already having happened, the additional simple act of fingerprinting does not seem to be sufficiently harmful to outweigh the protection of society that will accrue from a limited fingerprinting program.

2. **Even if the simple act of fingerprinting is not in itself harmful, the act shows a lack of faith in the juvenile on the part of society that may block his rehabilitation and reintegration into society. This stems from the fact that putting the juvenile's prints into a file is justified only by the assumption that he is going to commit another violation of law in the future that may require positive knowledge of the current violation to enable society to react properly to that future violation.**

   This is a plausible hypothesis, but it can neither be proved nor disproved. Regarding the occurrence of fingerprinting in context once again and assuming that it may be a factor in the success of "rehabilitation," it is not a significant factor in the light of all others. This possible negative impact can be minimized by proper interpretive comment by the officer doing the fingerprinting, during the process. The special aptitude, training, and experience of the juvenile officer is especially helpful here. The possible significance in rehabilitation does not outweigh the social protection that is being forfeited by failure to utilize limited fingerprint files as an investigative tool.

3. **Even assuming that fingerprinting is not of itself harmful and that it can be so interpreted to the juvenile that it will not adversely affect rehabilitation, it creates a tangible police record that can present an obstacle to reintegration of the juvenile into the community. This is particularly true if the record gets into the hands of a military service into which the juvenile is attempting to enlist or of an employer with whom he is seeking employment.**

   It is true that this kind of nonpolice use of the fingerprint files is detrimental to the juvenile. But this is also true of all other police and court records in a particular case. Limiting the use of this file to police officials on a need-to-know basis will prevent this abuse while still allowing legitimate use.

4. **If the police are allowed to keep fingerprint files on juveniles, some juveniles will seek fingerprinting as a status symbol with their peer group. This may result in more delinquency.**

   Although there is anecdotal evidence that this does happen on occasion, there have been no systematic studies to indicate its frequency. There are certainly many cases in which this is not true. It again seems pertinent to look at the act of fingerprinting in context. Within the framework of violation, apprehension and, frequently, referral to court, the act of fingerprinting does not give much additional "status." This again is not a sufficiently important factor to outweigh the added protection for society which will result from a limited police fingerprint file on juveniles.

These arguments and their analysis make it evident that this matter is not clear cut. This means that there must be a careful weighing of advantages and disadvantages, of the possible negative effect of keeping limited fingerprint files against the positive additional social protection which would result. With this in mind, a system of juvenile fingerprint files that will achieve the lion's share of the possible social protection and, at the same time, minimize the possible negative effect has been worked out.

It is recommended that the following position on the fingerprinting of juveniles be considered by all jurisdictions:

1. Police agencies should be allowed to keep a limited file of fingerprints of juveniles on a local basis only. Copies of the fingerprint cards would not be sent to central State or Federal depositories, except in national security cases. These would be extremely rare.

2. Cards could be added to this file only when the offense is one in which police experience shows that prints are useful in solving future cases. The following list is suggested for trial purposes, subject to modification with experience: murder and nonnegligent manslaughter, forcible rape, robbery, aggravated assault, burglary, house breakings, purse snatchings and auto thefts.

3. No fingerprints of children under 14 would be placed in the file.

4. The files would be kept by the police separate from the adult criminal fingerprint files and under special security procedures limiting access to police personnel on a need-to-know basis. They would not be available to representatives of the military services (except in background investigations for placing men and women already in military or civilian governmental service or in the employ of defense contractors in a particularly sensitive position), of prospective employers, of the schools, or of any other nonpolice agencies except the juvenile court.

5. Cards will be pulled from the file and destroyed:
   a. If the decision after investigation of the case is that no basis for juvenile court jurisdiction exists.
   b. When the juvenile reaches his 21st birthday, if there has been no record of violation of law after reaching his 16th birthday. If there is a record of violation during the juvenile's 16th and 17th years, the police would exercise discretion as to whether to destroy the fingerprint card or to transfer it to the adult criminal file.

6. When the decision after investigation of the case is that a basis for juvenile court jurisdiction does exist but that the case should not be referred to court despite this fact, the card should be destroyed or, with the special permission of the juvenile court judge, placed in the juvenile file.

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7. In addition to those fingerprints that will go into the file, prints of juveniles may be taken as an investigative aid in a current case. If latent prints are found at the scene and there is reason to believe that a particular juvenile participated in the offense, he may be printed for purposes of immediate comparison, even if his prints could not be filed under the above criteria—if, for example, the juvenile were under 14 years of age or the offense involved would not qualify under item 2 above. If the result is negative, the fingerprint card should be immediately destroyed. If it is positive, it should be made a part of the investigative report forwarded to the court. If the case is not sent to court despite a positive comparison, the prints should be destroyed or, with the special permission of the juvenile court judge, filed with the police copy of the investigative report. It should not go into the juvenile fingerprint file.

This system is believed to make fingerprinting available to police in the great majority of cases involving juveniles in which it would be of practical assistance. At the same time, it prevents indiscriminate, unnecessary fingerprinting and abuse of the prints, once obtained. Consultation with the juvenile unit would be good practice in cases where juveniles are to be fingerprinted.

There is ample evidence for the belief that the police have demonstrated those qualities of judgment which would be required to make this system operate effectively. For example, in one major city in a State which has no legal restriction on the fingerprinting and photographing of juveniles, the police *neither* fingerprinted *nor* photographed juveniles taken into custody in the following percentages of cases, during 12 consecutive months: November, 89.9 percent neither fingerprinted nor photographed; December, 86.9 percent; January, 87.2 percent; February, 88.3 percent; March 91.6 percent; April, 93.8 percent; May, 90.6 percent; June, 90.1 percent; July, 91.0 percent; August, 88.8 percent; September, 91.2 percent; and October, 88.6 percent.[12] This is the kind of restraint and exercise of good judgment that can be expected from a modern, progressive law enforcement agency.

Photographing juveniles presents somewhat different problems than does fingerprinting. Police officials find photographs particularly helpful in two kinds of situations involving juveniles. With chronic runaways, the photograph can be reproduced and distributed to other law enforcement agencies and to television and newspaper outlets as an aid in finding the juvenile. The other use is for "rogue's

12. Details available from the authors on request.

gallery" purposes. If all juveniles arrested for a specific serious crime are photographed, these photographs can then be shown to future victims of the same kind of crimes who may have gotten a look at the assailant.

These arguments are not persuasive. Identification by photograph is not very reliable. This is particularly true with juveniles who are changing in appearance very rapidly. Eyewitness testimony is notoriously inaccurate. In runaway cases, recent photographs can almost always be obtained from the families of the juveniles involved. Situations in which juveniles should be photographed might possibly arise, but they should be rare enough to make special permission of the juvenile court judge not an onerous provision.

Investigative Reports

Investigative reports record the heart of the work of the police department with juveniles on individual cases. The basic purpose of the report is to record the facts relied on in making the three decisions for which police are responsible in every case that they send to the juvenile court. These decisions are whether a situation presents a basis for juvenile court jurisdiction, whether that jurisdiction should be invoked, and whether invoking jurisdiction requires that the child be taken into physical custody.

Investigative reports will not be filed on every police contact with a juvenile. Some contacts will require no written report at all. An example might be an instance in which a patrol car merely slows down in its cruise to warn a group of children about playing in the street. Other situations may require a general information report rather than an investigative report. An example might be the report of a storekeeper that he has overheard conversations which make him believe that some of his juvenile customers might be invoved in illegal activity. He has no information about specific acts and certainly no proof. The value of such information in a general information file has been discussed above.

Another situation not requiring an investigative report would be investigation of a complaint which immediately demonstrates that the complaint is groundless. An example might be where a storekeeper reports a supposed theft and names a juvenile whom he suspects. On arrival at the store, the officer is told that the whole affair is a mistake, that the property was merely mislaid and has been located. In this situation, as well as in the situation in which a more detailed investigation which does require an investigative report ultimately proves that the complaint was unfounded, the name of the juvenile

and other identifying data should be removed from the complaint record. Statistical evaluation requires that the record with the rest of its information be preserved, but no justifiable reason can be advanced for allowing the identifying data to remain intact. The risk of later use of this record to the detriment of the child demands that the extra administrative load of expunging identity be carried. If the investigating officer has reason to suspect that the complaint was valid and that the storekeeper is now suppressing it for reasons of his own, a general information report should be filed.

Disposition of the investigative report itself when the investigation is negative raises several problems. Enough of the report must be retained, at least temporarily, to allow supervisory evaluation of the efficiency of the investigation. Items in the report which are positive in nature and are similar to items normally gathered in general information reports could well be transferred to such files. When this evaluation and screening procedure has been completed, the report should be destroyed.

Some States are reported to have statutes forbidding the destruction of police records. These should be construed to apply only to records necessary for fiscal control and to public records of authoritative action in criminal cases. They should not be applied to reports and records dealing with juveniles. Where State courts refuse to take this position, the statute should be amended to accomplish this purpose. In any event, a procedure should be established for screening negative investigative reports. The screening should be devised to accomplish both of the above purposes, evaluation of the police work of the investigating officer and excerpting of material for general information files.

Where the investigation is positive and a decision is made to send the case to juvenile court, one copy of the investigative report should be sent to the court and one copy retained by the police agency until the child passes beyond juvenile court age. If the case is not sent to court, both copies should be retained in the police file. Prior to filing, the case should be evaluated for efficiency of the police investigation. When the individual passes beyond juvenile court age, the report should be screened as recommended above for negative investigative reports. The report itself should then be destroyed. Under these procedures, an investigative report should be made in every instance when actual physical custody is taken of a child.

As mentioned above, investigative reports should be made whenever an appreciable investment of police time is involved and whenever the investigation shows that there is a basis for juvenile court jurisdiction. Reports should also be made when the necessary investigation is beyond the means of the original investigating of-

ficer for any reason. An example would be a case in which inquiries in another city were necessary.

It should be obvious, from this discussion of the different uses to which the investigative report can be put, that a combination complaint-investigative report form is not desirable. Efficient use of each of these records requires that they be separate. If there is need for an investigative report, it should be separate from the complaint record.

There has been much controversy about the extent to which the investigative report should carry social information. The answer seems apparent. It should carry the amount of social information that is necessary in making the three basic police decisions that have been referred to so frequently in this publication. It is beyond the scope of the police investigation to go further in the gathering of social data.

This discussion indicates that there is little reason why the format of the investigative report used in juvenile cases should be much different from that used in adult cases in the department. Using one format will be desirable in most cases because of its tendency to reduce confusion. Departmental policy may specify that specific procedures be positively recorded as having been followed in juvenile cases, such as notification to the parents of the police contact with their child with an accompanying explanation of the significance of that contact, and other similar recommended procedures for juvenile cases. If fingerprints were taken during an investigation, the single set taken should be handled as indicated above under Fingerprint and Photograph Files.

As with all records relating to police contact with juveniles, access to investigative reports should be carefully guarded. They should be available to police personnel only on a need-to-know basis. Investigative reports will be prepared at the police station just as in other cases.

Taking into Custody Reports

Because the act of taking a child into physical custody is of such strategic importance, its emergency nature should be stressed by requiring the filing of a report in every instance in which a juvenile is not left with his family. This report should contain a brief summary of the facts which are recorded in more detail in the investigative report. It should also contain a statement of the interpretation of the officer of those facts which justified the taking into physical custody. Close administrative supervision over access to these reports would obviously be required.

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In those cases in which, under policy determined by the chief administrator of the department, the juvenile is taken directly to the juvenile court, there will not be a booking at the station in the same sense that there is in criminal cases. The officer can notify his department by telephone or radio immediately after the taking into custody. This is necessary so that information will be available at headquarters if parents or other persons with a legitimate interest make inquiry. The officer will make out whatever records are required by the court at the detention facility. The record of the police department will be the taking into custody report filed at the time of the action and the investigative report filed later. Since followup on these cases is crucial for evaluation of police judgment on taking into custody, arrangements with the court for sending information to the police department about the eventual disposition of juveniles taken into custody should be made. Under these procedures, the question of "secret arrest" which has arisen in the past is eliminated, since custody and control are in the court rather than in the police.

Statistical Evaluation of Police Juvenile Records

In the United States today it is impossible to tell the extent of special police problems with juveniles. The laws under which police experience their contacts with juveniles vary tremendously. In many jurisdictions, there are no guiding statutes. Even within single jurisdictions under a single law or lack of law, there are tremendous variations in procedure. For this reason, statistics gathered on the basis of current practice are of limited value. Statistical evaluation under a single set of procedures would be of much greater use. For this reason, statistical reporting will be considered here on the basis of practice according to the procedures recommended in this publication.

Police contact with juveniles occurs in the following four situations:

1. Where the juvenile is alleged to have committed acts (except those mentioned in three below) which would be violations of the criminal law if committed by an adult;
2. Where the juvenile is alleged to have committed acts which bring him under the jurisdiction of the juvenile court but which would not be violations of the criminal law if committed by an adult;

3. Where the juvenile is alleged to have committed an act which would be a violation of the motor vehicle law if committed by an adult (motor vehicle violations are crimes in most jurisdictions, although not in all);

4. Where the child is essentially a victim either of neglect or of abuse.

It would, therefore, be justifiable to measure the extent of contact in each of these situations. This measure could be obtained for each of the four by taking count at three successive points in the police process of:

1. The number of complaints recorded in each of these four categories with the police complaint system;

2. The number of cases in each category in which investigation shows that a basis for juvenile court jurisdiction exists;

3. The number of cases in each category in which the police decide to refer the case to court:

   a. By the citation process,

   b. By taking the child into physical custody.

When further broken down by sex, age group and, in the case of violations of the criminal law, by the violation alleged, such a reporting system would give an accurate picture of the magnitude of the police problem and of the manner in which the police are attacking it. This reporting system could then be supplemented by a similarly structured system for picturing the court and institutional aspects of the juvenile deliquency problem.

Additional records might be kept for internal police management purposes, such as comparative figures on the manner in which these police decisions are made by individual officers, but these figures would not be necessary to show the configuration of the juvenile delinquency pattern of the community.

Summary

Records on police contacts with juveniles must be kept for purposes of administrative and community appraisal of department policies and procedures in juvenile cases. To keep faith with the noncriminal procedures for handling juveniles, these records must be kept private.

In the typical police agency, it will be necessary to provide for general information reports, complaint reports, investigative reports, and taking into custody reports regarding children and youth. From these reports, statistical analyses can be made which will provide a community with a profile of its juvenile deliquency problem. A limited police file of juvenile fingerprint cards is also necessary. In its entire record program for juvenile cases, each police agency should strive to minimize the number of records initially created, should purge the files of unnecessary records on a regular basis, and should set up controls to assure that access to these files is limited to police officers on a need-to-know basis. When such a system has been established, statistical evaluation based on the records it contains will be meaningful.

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