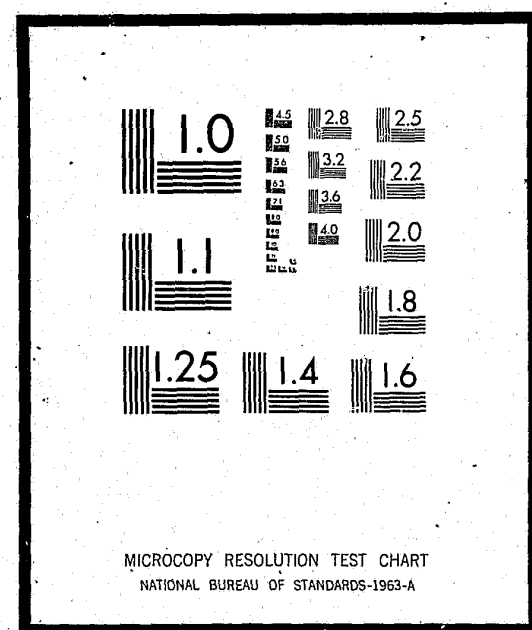


# NCJRS

This microfiche was produced from documents received for inclusion in the NCJRS data base. Since NCJRS cannot exercise control over the physical condition of the documents submitted, the individual frame quality will vary. The resolution chart on this frame may be used to evaluate the document quality.



Microfilming procedures used to create this fiche comply with the standards set forth in 41CFR 101-11.504

Points of view or opinions stated in this document are those of the author(s) and do not represent the official position or policies of the U.S. Department of Justice.

U.S. DEPARTMENT OF JUSTICE  
LAW ENFORCEMENT ASSISTANCE ADMINISTRATION  
NATIONAL CRIMINAL JUSTICE REFERENCE SERVICE  
WASHINGTON, D.C. 20531

Date filmed

9/3/75

DRAFT

## INTAKE SCREENING GUIDES -

Improving Justice for Juveniles

by

Jay Olson  
George H. Shepard - *phone: 245-2860*  
Program Managers-Operations

416410

U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE  
Office of the Assistant Secretary for Human Development  
Office Youth Development  
Washington, D.C. 20201

# TABLE OF CONTENTS

	<u>PAGE</u>
Preface	1
Introduction	5
References	9
PART ONE - LAW ENFORCEMENT JUVENILE INTAKE SERVICES	
CHAPTER I - LAW ENFORCEMENT SCREENING AND REFERRAL PRACTICES	10
CHAPTER II-INTAKE DETERMINATIONS AND PROCEDURES	14
State Statutory Requirements:Police Discretion	15
Juvenile Arrests and Records	17
Investigation of Juvenile Cases	18
Law Enforcement Discretionary Practices	19
Detention Practices	21
Working Agreements with Other Youth-Serving Agencies	23
Availability of Community-Based Alternatives	24
Inappropriate Referrals	25
Status Offenses	25
Neglected Children	26
Inappropriate Functions	28
CHAPTER III-ORGANIZATION AND ADMINISTRATION FOR JUVENILE SPECIALIZATION	
Specialization for Work with Juveniles	30
Size of the Juvenile Unit or Division	31
Placement of the Juvenile Unit in the Hierarchal Organization	32
The Autonomy of the Juvenile Division	33
Hours of Operation for the Juvenile Unit	35
Assignment and Training of Personnel	35
CHAPTER IV -SUMMARY OF GUIDES FOR LAW ENFORCEMENT SCREENING OF JUVENILE CASES	39
References	42

	<u>PAGE</u>
PART TWO - JUVENILE COURT INTAKE SERVICES	
CHAPTER V- JUVENILE COURT INTAKE	43
Legal Basis for the Intake Process	44
CHAPTER VI INTAKE DETERMINATIONS AND PROCEDURES	47
Screening Practices	47
Initial Contact	48
Factors in Decision-Making	49
Intake Dispositions	51
The Rights of Youth and Parents	54
Prosecutor's Role	55
Detention and Shelter-Care	55
CHAPTER VII ORGANIZATION AND ADMINISTRATION	58
Intake Staff	59
Volunteers	60
CHAPTER VIII SUMMARY OF GUIDES FOR JUVENILE COURT INTAKE SCREENING	62
References	64

## PREFACE

The development of these INTAKE SCREENING GUIDES complements the Office of Youth Development strategy for delinquency prevention and youth development. The strategy is based upon an understanding of why most youth do not get into trouble rather than why some youth run afoul of the law. The primary reason that most youth develop beneficially and assume productive and rewarding roles in society is that they have access to socially acceptable and personally gratifying roles in society. Worker, athlete and student are examples of roles which provide youth with a stake in society. A few major social institutions provide the most opportunities for youth to assume such roles. These include the school, the world of work, recreation, and the family.

Youth who are denied access to socially acceptable, gratifying or rewarding roles are frequently those which the social institutions have, advertently or inadvertently, failed to reach. They include those who are expelled from the schools for truanting; those who have been prematurely adjudicated "delinquent" by the juvenile courts for acts which would not be crimes if they were adults, and those whose behavior is in any way different from accepted norms. Young people in this category are prone to negative labeling by other people and institutions, and this negative labeling process reduces access of youth to desirable social roles. Practices of the community youth-serving agencies, including those within the juvenile justice system, which propel youth into the juvenile justice system, can actually contribute to delinquency. All too often, police and juvenile court intake units funnel youth into the

2

system rather than utilizing a careful screening process that selectively determines which youth can best be served by: (1) leaving them alone, (2) referring them to a youth-serving agency outside the justice system; or (3) retaining them in the system because they are a threat to personal safety or property.

Police and intake practices need alteration. Impediments and barriers to socially acceptable roles for youth must be removed by legislation, executive order, or administrative changes in practices. This publication addresses one barrier--the practices of most law enforcement and juvenile court intake units which indiscriminately funnel youth into the juvenile justice system at the high cost of labeling and stigmatizing them and the heavy outlay of funds for the costly processing and treatment resources of the system.

The fundamental actions and decisions by police officers and juvenile court intake staff are governed by juvenile court law, and the implementation of their practices. During the development of INTAKE SCREENING GUIDES, the Office of Youth Development was also preparing "Model Acts for Family Courts and State-Local Childrens' Programs", (hereinafter referred to as the Model Acts). The Guides are consistent with the provisions of the Model Acts.

Research disclosed a notable absence of consistency in the approach of intake services of agencies at all levels to the task of screening youth coming to their attention. The critical decisions of arrest, detention, release, referral to juvenile court, diversion, filing of a petition, or warning and release are decisions which are too often based upon tradition, whimsy, and the individual bias of those working without the

benefit of formulated policy and enlightened, standardized procedures. Decisions made at the entry points of the juvenile justice system have a profound impact upon youth, and set the stage for the success or failure of attempts at helping them.

The writers, both of whom have had extensive experience in the juvenile court and law enforcement, surveyed past and current literature on the dispositional practices of these agencies. Police and juvenile court intake units were visited and current practices observed. This, together with their many observations and past experiences as Consultants with the former Division of Juvenile Delinquency Services, United States Children's Bureau, Department of Health, Education and Welfare, enabled them to ask questions and obtain data pertinent to the current study. Their survey data was assessed and evaluated, developed into draft guides, and sent to selected practitioners for review and comment, prior to publication.

The authors wish to acknowledge the assistance and cooperation of many commanding officers of police juvenile control units, the directors of court and probation services, and their myriad of dedicated assistants and associates, without whom this publication could not have been written.

The guidance and help of Mr. Tom Albrecht, assigned as liaison by the Law Enforcement Assistance Administration of the Department of Justice, and Mr. Richard W. Kobetz, Assistant Director of the Professional Standards Division, International Association of Chiefs of Police, is gratefully acknowledged, as is the wisdom and experience of Mr. William H. Sheridan, Legislative Aide to the Commissioner, Office of Youth Development, Department of Health, Education and Welfare.

The authors are indebted to Mrs. Benna Cooper, Staff Assistant, and to Miss Priscilla L. Haselrig, Secretary, who have spent tireless hours with the manuscript without complaint, during the preparation of the publication.

## Introduction

Programs of diversion for youth have been proliferating in most all sections of the country in the past 7 years. The major impetus for this development was the report of the 1967

President's Commission on Law Enforcement and Administration of Justice. The commission recommended establishing alternatives to the system of juvenile justice.

"The formal sanctioning system and pronouncement of delinquency should be used only as a last resort.

In place of the formal system, dispositional alternatives to adjudication must be developed for dealing with juveniles, including agencies to provide and coordinate services and procedures to achieve necessary control without unnecessary stigma. Alternatives already available such as those related to court intake, should be more fully exploited.

The range of conduct for which court intervention is authorized should be narrowed, with greater emphasis upon consensual and informal means of meeting the problems of difficult children." 1/

The proposed agency to provide and coordinate services was identified as a Youth Services Bureau by the Commission. However, it offered an idea rather than a detailed plan of action. As a result many different types of Youth Services Bureaus have evolved throughout the nation. 2/

As programs of diversion, including Youth Service Bureaus and Youth Services Systems 3/ emerged, the role of the police and

juvenile court intake took on increased importance, as the nature and extent of diversion in any community will be largely determined by the screening practices of these two agencies in the juvenile justice system.

From the literature reviewed and visits made to police departments and juvenile courts in all sections of the nation, wide variances were found in screening and referral practices. Differences in practices and absence of agreement on nomenclature may seem unimportant. However, to the extent that many youth are unnecessarily subjected to the formal and costly processes of the juvenile justice system including the overuse and misuse of detention, the need for Guides and some degree of uniformity in practice becomes immediately apparent.

Youth who are unnecessarily retained in the juvenile justice system are negatively and inappropriately labeled. The stigma associated with this labeling is damaging.

The delinquent label accomplishes four major changes in the life of the child to whom it is attached. First as a self-fulfilling prophesy, it encourages the child to identify himself as a delinquent and bad. He organizes his behavior, attitudes, and ambitions accordingly.

Secondly, the label acts to strip the youth's community of the positive means of control it normally employs to hold the behavior of its youth in line with its values. By rejecting the child who has acquired a delinquent label society withdraws its recognition and affirmation.



...the label serve effectively to cut off legitimate opportunities for success and recognition. The most significant people in a child's life -- his peers, family, neighbors and authority figures react to the child labeled delinquent with mistrust, suspicion and caution.

The fourth and most critical result of the delinquent label is that it opens the door to illegitimate opportunities to the child. If a youth accepts its delinquent label and seeks out friends who have also been labeled, his behavior will tend to conform to the standards of those friends from whom he is forced to seek recognition and approval. 4/

Improved screening and diversion of youth from the juvenile justice system will have another beneficial effect. For those youth who must be retained in the system for the protection of the community the lightened caseload of the court and juvenile correctional system will allow a greater allotment of time for case study, evaluation and rehabilitation. Currently the huge caseloads in the juvenile justice system do not allow for the individual attention required by each youth.

Finally, the processes and resources of the juvenile justice system are expensive. How expensive we are not sure but there is general agreement that it is considerably more expensive than the substitute route to care and treatment outside the system.

This publication has been developed to aid law enforcement and juvenile court intake services perform a more effective job in screening and referral of youth coming to their attention.

8

Part One discusses the role of Law Enforcement in the intake process, and addresses itself to a review of some current practices and procedures which require alteration. Chapter I discusses the framework of law enforcement juvenile operations in the context of present-day enabling legislation and practices; Chapter II is concerned with law enforcement intake determinations and procedures and suggests changes in practices; Chapter III covers the organization and administration of law enforcement juvenile control units and offers staffing patterns, training guides, and the need for autonomous operation, Chapter IV is a summary of Guides which have been interspersed with comment in the first three Chapters.

Part TWO is concerned with juvenile court intake services, and is addressed to a review of the current state of the art in the juvenile courts. Chapter V gives an overview of the legal bases for the intake process; Chapter VI discusses intake determinations and procedures that highlight some of our present-day faults in the system; Chapter VII covers the organization and administration of the juvenile court intake unit and discusses the role of volunteers in the court system, and Chapter VIII is again, a summary of Guides found interspersed with comment in the preceding three Chapters.

#### REFERENCES

1. Task Force Report on Juvenile Delinquency and Youth Crime, President's Commission on Law Enforcement and Administration of Justice, U.S. Government Printing Office, Washington, D.C. 20402, (1967), p.2.
2. For a further discussion of Youth Service Bureaus see "Youth Service Bureau-A National Study", Youth Development and Delinquency Prevention Administration, Department of Health, Education and Welfare, U.S. Government Printing Office, Washington, D.C. 20402, (1973).
3. Information on Youth Services Systems developed by the Office of Youth Development, Department of Health, Education and Welfare, Washington, D.C., 20201, is available upon request.
4. Duncan, D.F. "Stigma and Delinquency", Cornell Journal of Social Relations, 4:41-45, 1969.

#### PART ONE

#### LAW ENFORCEMENT JUVENILE INTAKE SERVICES

## CHAPTER I

### LAW ENFORCEMENT SCREENING AND REFERRAL PRACTICES

In most communities, the law enforcement agencies are given wide discretion in handling youthful offenders and in making dispositions of juvenile cases.

In essence, law enforcement agencies are governed by their State juvenile codes, which, to varying degrees, depending upon the age and sophistication of the law itself, dictate the general procedures to be followed in juvenile cases.

In practice, however, many law enforcement agencies have adopted informal procedures which do not conform with State laws. While this approach is understandable and salutary from the point of view of screening youth from the juvenile justice system, it points up the need for the revision of legislation and practices which are sanctioned by the law.

It was found, for example, that in some States where the juvenile code mandates the delivery of juvenile violators to the custody of the juvenile court or probation department, the police, (particularly in the more populated areas of the State), will delve more deeply into the individual aspects of their juvenile cases, and deflect or screen a considerable number of youth from the juvenile court. It has been estimated that law enforcement agencies are thus able to divert about 50% of their cases from the juvenile courts, and in some instances, as much as 75% or more. Despite this salutary practice of diversion from the juvenile justice system, observations in many communities have disclosed that there is still

great room for improvement. There does not appear to be any hard or fast rule which serves as a total determinant in the law enforcement dispositional process, and throughout the country, hundreds of young people are propelled into the juvenile courts who do not belong there or for whom there are no adequate services.

Most law enforcement juvenile officers consider the following factors in making dispositions of their juvenile cases:

1. The seriousness of the offense.
2. The age of the offender.
3. The previous history or record of the offender.
4. The attitudes of parent and child to each other; the parents' capacity to supervise.
5. The availability of community-based alternatives to the juvenile court.

The dispositions generally available to law enforcement officers in juvenile cases are:

1. Outright release, (for minor offenses or in weak cases).
2. Warn and release, (with or without notice to parents/guardians, depending upon factors in # 1, above).
3. By consent or agreement with parents/guardians and the youth, to a community-based social service or welfare agency, or to the prevention division of the Department established in accordance with the Model Acts, Part II, Title A or Title B. <sup>/1</sup>
4. Referral to the juvenile court.

In general practice, most law enforcement agencies will refer serious criminal offenses to the juvenile court, i.e., those Part I crimes listed in the Uniform Crime Reports of the F.B.I., consisting of Murder, Forcible Rape, Aggravated Assault, Robbery, Burglary, Larceny (over \$50), and Auto



12

Theft. The first four types of crimes are considered "violent crimes against the person", and these cases, as well as other serious crimes against property, are almost always referred to the courts. With the other three types of Part I crimes, (Burglary, Larceny over \$50, and Auto Theft), there is some evidence that law enforcement does divert from the court.

Several interesting variations of practice were observed.

Some law enforcement juvenile investigators go far beyond most others in handling Part I felony crimes by juveniles. Some officers are required to investigate every facet of the case, and to screen out offenders whose acts, while felonious by legal description, are nonetheless inconsistent with "felonious intent" or are otherwise mitigated by extenuating circumstance. As a result, a youth, for example, who demanded and accepted another's money or property, such as sporting equipment and the like, (on the face--a felonious act), might be diverted from the juvenile court if the officer ascertained that the act was isolated, and not a common pattern for the perpetrator.

Elsewhere, observations disclosed that the juvenile officers must refer cases to the juvenile court if a written report of the incident leading to the contact was prepared by the investigator! Such action inappropriately removes discretion from the hands of the law enforcement officer, and could conceivably place a burden on the juvenile court caseload. It could promote the negative labeling and stigmatization of youth, and, importantly, discourage law enforcement officers from making and keeping any records of contacts with youthful law violators. Within such a system, it is also conceivable that law enforcement could purposely refrain

13

from making written reports of any juvenile case because of the onerous work involved in preparing reports, and the possibility of having to appear in court at a later date as a result.

Observations in numerous juvenile divisions disclosed a variety of methods of operation, staffing and training. Distinct differences were also noted in record-keeping, interview techniques and the use of discretion by staff.

Although marked exceptions were observed, the basic shortcoming in many units was the lack of guidelines and criteria in the use of discretion in arriving at dispositions regarding court referral and the use of temporary secure custody or detention.

The following chapters will point out some of the areas of law enforcement juvenile intake operations which should be addressed by agencies that are genuinely concerned with youth, and are seeking to bolster delinquency prevention activities.

## CHAPTER II

### INTAKE DETERMINATIONS AND PROCEDURES

#### Departmental Policy and Attitudes Regarding Juvenile Behavior

Police work, by its very nature, is dynamic and ever-changing. In any given locale, the law enforcement operation reflects the attitude of the majority of its citizens. Chiefs of law enforcement agencies are very conscious of public pressures, and it is not unusual that departmental policies are weathervanes of perceived public attitudes.

Law enforcement, therefore, takes its cues from Chiefs, who in turn are sensitive to their community values, mores, judgments, and opinions. This process filters down through the ranks, and law enforcement officers can thus be viewed as enforcing the laws in accordance with public demand. If that demand takes the hard line on youth, that attitude for the most part is attributable to the community itself. Observations of law enforcement agencies in all types of settings bear out these generalizations. This helps to explain why diversion by law enforcement intake units is accentuated by greater rates when there exists a greater amount of community-based alternatives to the juvenile justice system.

Experiences with the Office of Youth Development's youth services systems projects indicate that law enforcement agencies do begin to divert more juvenile cases to community alternative programs when they become aware of their existence and conscious of their potential. Community clamor for changes in the processes which help to criminalize youth are almost always followed by changes in the posture and practices of agencies which may impact negatively upon youth.

#### State Statutory Requirements: Police Discretion

State juvenile codes and laws vary from State jurisdiction to State jurisdiction. As with community attitudes, they reflect the general values and mores of the people of the State when the law was adopted.

Very few State laws expressly authorize the use of discretion by law enforcement in the handling of juvenile cases. Most State laws are silent on this issue, while still few others specify that discretion should rest with their juvenile courts and/or probation departments only.

The use of police discretion in juvenile cases has been reported and recommended in several Federal publications, <sup>13</sup> as well as by other authorities, public and private. It is almost impossible to accurately estimate the actual number of cases diverted, since many law enforcement agencies do not keep formal records of all of their contacts with juveniles, particularly for minor offenses.

The Office of Youth Development's publication, the Model Acts, <sup>14</sup> will assist the States in drafting new juvenile statutes that address the thorny issue of the reduction of the breadth of juvenile court jurisdiction via the diversion of the greatest number of juveniles from the juvenile justice system, consistent with the protection of both the juveniles' and the public's safety.

Among the major recommendations of the Model Acts is the suggestion for strong and efficient State or locally administered programs of delinquency prevention and treatment outside of the juvenile justice system. <sup>15</sup> The type of organization is left to the discretion of individual States,--to

be mandated by enabling legislation, and to permit the designated agency to effectively carry out and implement the program.

Under such a system, the referral of youth to the State or locally administered delinquency prevention program by law enforcement agencies, schools, parents and other agencies, would not carry with it the concomitant stigmatization so prevalent with referral to the present juvenile justice system.

Law enforcement agencies and personnel offer varied reasons, real or imaginary, for their referral of so many inappropriate cases to the juvenile courts. The most common argument offered remains--the requirement of State juvenile laws. Observations in many locales, however, do not support this contention. Discretion is practiced by sophisticated and enlightened law enforcement juvenile staffs--their State laws notwithstanding. Again, while this practice may be commendable from the point of view of those who would reduce referrals to the juvenile courts, it still points up the need for legislative revision.

It should be remembered that law enforcement practices can, in essence, overtax the operation of any juvenile court by the indiscriminate referral of all kinds of cases to that court, especially during those periods when any given community or department decides to engage in an overall crack-down on juveniles.

### Juvenile Arrests and Records

Very frequently, law enforcement officers on patrol handle cases of juveniles who are apprehended in the commission of a crime or unlawful act. Under most State laws, the officers have a right to take such youth into custody and to charge them with the law violation. Departmental policies generally govern the specific action to be taken in such cases.

The handling of juvenile arrests and the subsequent investigations vary with many law enforcement agencies. While there is no procedure that should dictate the exact methodology for each agency in every instance, the following recommendations will assist agencies in preparing and maintaining necessary records and reports, and in facilitating the diversion of appropriate cases from the juvenile courts.

Juvenile cases handled by personnel in the field that are not disposed of by warning or admonition and/or arrest, should be referred to the juvenile unit or specialist(s), (see Chapter III for a discussion on the Organization and Administration for Juvenile Specialization), for follow-up action, if needed. The juvenile unit should be made responsible for conducting further investigation of cases which require extensive handling or follow-up.

Arrests of youth by personnel assigned to all other departmental units should be reported on specified forms to the juvenile division, so that up-to-date records may be maintained. Arrest dispositions, when available, should similarly be reported in these instances to the juvenile unit.

Law enforcement officers should be required to prepare and submit contact or field investigation reports to the juvenile unit on substantive types of cases on juveniles in which no arrest is made at the scene, but where the need for follow-up is indicated. These reports should be filed in the juvenile unit, and be made available only to other members of the Department, other law enforcement agencies and/or to juvenile court personnel, on a NEED-TO-KNOW basis. The sealing and purging of these reports should be done periodically by the juvenile division staff, pursuant to the provisions of the Model Acts, Part I, Sections 45 through 48.

#### Investigation of Juvenile Cases

Investigations concerning juveniles should be conducted in an air of privacy, in appropriate settings, with all of the necessary rights and privileges, including the right to representation by counsel, afforded in adult cases. Civil rights laws and the decisions of the United States Supreme Court make such treatment mandatory.

Law enforcement officers, particularly juvenile specialists, should treat every juvenile case subject without any pre-conceived notions of deserved punishment. The legal definition of the crime itself should not always serve as a bar to diversion, even in some kinds of felony cases. The basic consideration of the safety of the public may often require summary arrest and court referral. But, where the safety of the public or the youth is not the prime consideration, then such other factors as the youth's age, behavior patterns, amenability toward re-direction, family support/cooperation and victimless crime, could be considered for arriving at the final disposition.

Reliance by officers on a youth's "previous history or record" can sometimes becloud the investigational or dispositional process. Previous records of juvenile cases often contain unsubstantiated reports or charges which may weaken rather than reinforce a case against a juvenile. Previous records could be utilized to provide an inkling or clue to a youth's behavior patterns, but they should be carefully screened to distinguish between fact and hearsay.

#### Law Enforcement Discretionary Practices

Some law enforcement juvenile units operate on a very clearly-defined basis regarding criteria for diversion from the juvenile courts, and in the use of discretion.

Others have been observed whose operations are seemingly without departmental guides, direction or policy. In such units, staff assigned are likely to handle juvenile cases on a purely personal basis. If the officer is prevention-oriented, the use of discretion is possible; if there is no firm departmental policy regarding diversion or guidelines for the handling of cases, the officer may be more likely to refer to the juvenile court than not to refer. Young people who are handled by such units and staff are likely to run the risk of being referred to the juvenile courts more frequently than youth handled by agencies that operate with clear-cut policies and guidelines.

All law enforcement agencies, particularly the personnel in juvenile units, should accelerate their diversionary practices by the increased use of discretion.

Law enforcement agencies should prepare and disseminate written guidelines and procedural manuals for the personnel in the handling of juvenile cases. Variations among agencies in their practices concerning arrest, detention and referral to the juvenile courts are directly attributable to this lack of standardized procedure and obviously account for the high percentage of inappropriate cases sent to the juvenile courts.

All law enforcement officers should be trained and made aware of their departmental policies regarding the handling of juveniles and the use of discretion.

Discretion should be practiced on an individual basis and on an equal basis for all youth, without regard to race, color, creed, sex, economic status, influence or personal appearance. A youth's attitude to the investigating officer, which will vary with the style and attitude of the officer in each case, should not be highlighted by the investigator. Young people will react in different ways during periods of stress, and first appearances are often deceiving.

A study by Piliavin and Briar,<sup>16</sup> documented the fact that law enforcement personnel would more frequently hold for court and/or securely detain certain youth on the basis of their "attitudes". Attitude factors included surliness, lack of respect, talking back to the officer, curse words, etc. Other factors frequently considered were mode of dress, residence in the poorer sections of the city, hair styles, etc. The sad result of such a process is that a sophisticated youth, by showing his "best side" or apparent remorse for his involvement, could deceive the officer into making a favorable disposition in the case, (outright release or citation to court),

even though the facts of the case itself might warrant a referral to court or secure custody pending court hearing. The youth with the poor attitude, on the other hand, was likely to wind up in the juvenile court, even though a more appropriate disposition for him could be referral to an alternative service in the community.

#### Detention Practices

The right to detain is tantamount to the right to imprison or otherwise to deprive another of his or her liberty. This right is usually reserved by all States to the courts alone. Observations disclosed far too many instances when the decision for secure custody or detention was based upon personal bias, whimsy or other arbitrary judgment. It was also observed that the malpractice of detention was prevalent where specific law enforcement-court guidelines were absent, or where the juvenile court detention responsibility had been abrogated by design or common usage.

While the decision to apply for secure custody or detention needs to remain a judgmental value on the part of the investigating/arresting officer, the departmental policy regarding the recommendation should be based solely upon two criteria:

1. When the youth in custody is legally wanted by other authorities, such as an escapee or an absconder;
2. When the youth in custody is a definite danger to the public safety, and his or her release would pose a threat to that safety.

In all other instances, when the decision is made to send juveniles in custody to the court, the youth may properly be released to parents,

guardians, responsible relatives, etc., who will be responsible for the youth's later appearance in court. This process, (commonly referred to as "citation"), has many advantages, and should be encouraged. See the Model Acts, Part I, Secs. 21 & 22, for a fuller discussion of this subject.

When a youth held in custody by law enforcement personnel qualifies for secure custody or detention, pursuant to these guidelines, the investigating officer should notify the juvenile court judge, or the person(s) designated by the judge as detention intake for the court, of the facts of the case in issue, and request permission to deliver the youth to the designated shelter for temporary, secure custody. (See Model Acts, Part I, Sec. 21 (b)).

Upon receipt of permission, when the youth is delivered to the designated shelter, a full report of the incident causing the request for detention should accompany the youth, for the attention of the designated detention intake officer of the facility. The final decision to detain or not to detain must remain with the detention intake officer. (See Model Acts, Part I, Sections 18 through 21, relative to Taking Into Custody, Detention, and Shelter Care Facilities: Authorized Use, Criteria for Continuing Detention of Child, for a fuller discussion of Law Enforcement in Detention and Shelter Care).

Law enforcement agencies should prepare and include in their procedural manuals guidelines for their personnel concerning action to be followed when the decision is made that a youth in custody, under investigation, is to be referred to the juvenile court.

Rules governing detention and shelter care procedures should be worked out

in accordance with guidelines mutually agreed upon by the law enforcement and juvenile court/detention intake personnel concerned, and be made part of the "working agreements" discussed in the next section.

#### Working Agreements with Other Youth-Serving Agencies

Law enforcement should require their juvenile staff to catalog and maintain up-to-date files with and contacts of all of the community youth-serving agencies, private as well as public.

This practice would facilitate the referral of juvenile cases to community-based care when the facts of the case would warrant such referral. Juvenile staff should be required to periodically call upon the youth-serving agencies in their districts, to continue personal contact with key staff in these agencies, and to help establish rapport. Experience has shown that such formal and informal contacts pave the way for the establishment of working agreements between law enforcement and youth-serving bodies, and assist staff in procuring needed services for youth outside of the traditional juvenile justice system.

Juvenile division commanders or appropriate staff in the department should be given the authority by the Departmental head or other necessary local authority as required by law, to participate in the development of formal agreements with the community youth-serving agencies, (particularly with juvenile court intake units, youth service bureaus and probation departments), with regard to the handling and disposition of juvenile cases. When these formal agreements are reached, the appropriate departmental officer or local official should be empowered to sign necessary documents in relation to the implementation of the agreements.



These agreements should be formalized into writing, when, after due consideration, procedures for operation have been agreed upon by all of the parties concerned. The roles, tasks and functions of each party to the agreement should be carefully spelled out. All parties should be required to furnish their respective personnel with up-to-date, loose-leafed procedural manuals which define their operations. Periodic meetings should be held by all of the parties to the agreement, with one another, to bring to light and resolve any difficulties encountered in the performance or requirement of the parties, and to up-date or amend practices as required. Changes necessitated by these reviews must be recorded and made available to all respective personnel, in writing, for inclusion in procedural manuals.

Availability of Community-Based Alternatives

The data available reveals that in many locales, the presence of community-based alternatives to the juvenile justice system DO act to increase diversion at both the law enforcement and juvenile court intake levels. This was particularly significant in those areas where on-going youth services systems and/or youth services bureaus had established alternatives which made it expedient for the police and the courts to refer their cases--especially non-criminal offenses.

Most of the Juvenile Division commanders and staff interviewed voiced little, if any, opposition to the establishment and operation of these alternatives. This was particularly true in those areas where the service provided had been operative for some time, had established good working relations with law enforcement, and had established some degree of effectiveness. Those not viewed as being "anti-establishment", "anti-police", or "far-out" were regarded as allies. A juvenile division was observed working closely with an Office of Youth Development grantee that had been asked to suggest to the division the kinds of unavailable services that youth in the area required. Here, the division plans to provide funds for those needed services--under grant funds derived from the State Planning Agency, via the Law Enforcement Assistance Administration.

Experiences like this, plus numerous other observations, lead to the conclusion that law enforcement agencies can and will support diversionary practices. Most necessary, however, are strong working agreements among cooperating agencies, flexible, written guidelines, and above all, enabling legislation which mandates diversionary practices.

Inappropriate Referrals

Status Offenses

It has been estimated that almost 40% of all cases handled by the juvenile courts are "status" cases, i.e., those types of offenses which are criminal only for youth, but are not crimes when committed by adults. These include truancy, running away from home, curfew violations, ungovernability, smoking, drinking, etc.

Status offenses succeed only in cluttering juvenile court calendars and take a heavy toll of the time of court personnel which could better be spent in handling the court's more serious youth delinquency cases.

Law enforcement agencies are, to a large extent, the prime source of referral of status offenses to the juvenile courts. Frequently, this practice is necessitated by the paucity of community-based alternatives, the provision of State juvenile codes, or both. The Model Acts speak to the need to provide alternative services for youth who are status offenders, (see Part II, Sections 4, 13, 14 and 15).

Law enforcement agencies can achieve a giant step forward in youth development by initiating local restraint in the referral of status offenses to the juvenile courts.

Procedural manuals should contain guidelines which, when augmented by local working agreements with other youth-serving agencies, require personnel to refer status cases to agencies outside of the juvenile justice system where possible.

#### Neglected Children

Despite the growing number of social and welfare organizations, private as well as public, many law enforcement agencies are yet involved in the responsibility for and handling of cases concerning neglected children.

As with status offenses, cases concerning neglected children are not appropriate for handling within the traditional juvenile justice system. (See Model Acts, Part I, Sec. 2 under Definitions, and Sec. 34).

A neglected child<sup>\*</sup> is generally a victim of family and/or societal failure. He or she has not committed any violation of law that would necessitate action by an agency in the traditional juvenile justice system.

Law enforcement agencies generally become involved in neglect cases by virtue of the fact that the safety of children is concerned, or because the child might be the victim of a crime. When this occurs, it may become the duty of the law enforcement agency to preliminarily investigate the circumstances. During this period, child victims of neglect should NOT be placed in any jail or detention facility used for delinquents. If shelter care is required, law enforcement agencies could cooperate with the social and/or welfare authorities by delivering the child to a designated shelter-care facility, and should then immediately refer the case to these authorities for further handling. Should subsequent investigation indicate the need for court action against a party or parties responsible for the child's state, the social/welfare agency may take the necessary steps to initiate the required action.

Procedural manuals should contain guidelines which, when augmented by local working agreements with the designated community social/welfare agency, require personnel to refer neglected children's cases to that

---

\*The term neglected child means a child 1) who has been abandoned by his parents, guardian, or other custodian; 2) who is without proper parental care and control, or subsistence, education, medical or other care or control necessary for his well-being because of the faults or habits of his parents, guardian, or other custodian or their neglect or refusal, when able to do so, to provide them; or 3) whose parents, guardians, or other custodians are unable to discharge their responsibilities to and for the child; and 4) in any of the foregoing, is in need of care or supervision. The term dependent child is NOT used. It is believed that the financial ability of parents to care for their children should not be a factor in removing them from their homes. (See Model Acts, Part I, Sec. 2, "Definitions").

agency for necessary care and action.

### Inappropriate Functions

Some law enforcement juvenile divisions and their staff are still engaging in services to youth which have been held to be inappropriate. These include such tasks as unofficial probation, casework supervision and even counseling.

"Unofficial probation" is the process by which some law enforcement juvenile officers impose upon youth who have not been referred to the juvenile court for a violation, the task of reporting regularly to the law enforcement officer at the police station or elsewhere, on a pre-scheduled basis. Generally, the juvenile reports on his activities since the last visit was made, and receives encouragement/admonition (as warranted), from the officer.

This process is not only an inappropriate function for law enforcement, but can be, on its face, a coercive sanction applied without due process of law.

The Model Acts, Part I, Sec. 13, (under Comments), excludes unofficial probation as a practice for probation officers themselves, with the exception of those services which may be necessary in the limited interim period between court referral and the filing of a petition. The International Association of Police, <sup>17</sup> takes the position that law enforcement personnel should not engage in official or unofficial probation, nor in counseling.

The provision of casework supervision and/or counseling by law enforce-

ment officers fall into the same category as unofficial probation, and likewise, are inappropriate functions.

It is apparent in many instances that law enforcement personnel who provide these services often do so because they feel that other youth-serving agencies in the community are failing to supply them, or that the services are otherwise unavailable.

Law enforcement agencies should not undertake the provision of services which are inappropriate to their basic missions. The primary duty of the juvenile specialist is to refer youth who require services to those public and/or private agencies which may professionally dispense them.

If a given community does not possess the services required by youth, it becomes incumbent upon the law enforcement agency to bring the need to light in the community. To do otherwise merely delays the day when the community itself will assume its responsibilities for youth, and serves only to dilute law enforcement manpower in the necessary performance of their appropriate functions.

CHAPTER III  
ORGANIZATION AND ADMINISTRATION FOR JUVENILE SPECIALIZATION

Law enforcement agencies, while generally consistent nationwide in terms of mission, vary widely in regard to their handling of juvenile cases.

Noteworthy differences were observed in such aspects as specialization for work with juveniles, the size of the juvenile unit or division, the autonomy of the unit or division in the agencies' hierarchal structures, hours of operation of the unit, and the assignment and training of personnel.

Specialization for Work with Juveniles

When one considers that youth under 18 years of age comprise 25.6% of the total arrests for serious Part I crimes, <sup>/8</sup> the need for some form of specialization in juvenile work becomes accented.

Almost all of the large law enforcement agencies, and even most of the medium-sized agencies are structured for specialization in juvenile work. Many small-sized departments, (those containing 15 or less sworn officers), have also been observed with staff who are specifically assigned to handle juvenile cases.

The National Advisory Commission on Criminal Justice Standards and Goals, <sup>/9</sup> suggests that every police agency having more than 15 employees should establish juvenile investigation capabilities and that agencies having more than 75 employees should establish juvenile investigation units.

In the considered opinion of many authorities in the field, <sup>/10</sup> every law enforcement agency, regardless of size, should have at least one officer

who devotes all or part of his time with responsibilities for handling complaints and cases affecting juveniles.

Size of the Juvenile Unit or Division

There exists no patent formula for the assignment of officers to juvenile work. The International Association of Chiefs of Police, <sup>/11</sup> ascertained that the number of law enforcement juvenile officers per 100 officers was 2.7%, (out of a total of departments with a combined number of 202,877 officers).

There does not appear to be any correlation between the size of a given juvenile unit or division and its effectiveness. Equally, if not even more important, is the mission of the unit itself in regard to crime "prevention", community relations, and, particularly, juvenile relations. Observations and data disclosed juvenile units in relatively small departments as well as large ones in which assigned personnel were dedicated in high degree toward crime prevention rather than to high scores for juvenile arrests.

The gauge of an efficient unit or division and its staff should not be the number of delinquency adjudications attained, but rather the number of cases "deferred" from serious criminal careers. The juvenile specialist should be concerned with how many youth were diverted from the courts, particularly for status offenses; how many boys and girls were stopped from truantly school in a constructive fashion; how many home adjustments were achieved by talking to parents, guardians, counselors; how many cases were closed by referral to social/welfare agencies, and how many young people were successfully interested in lawful pursuits as a substitute for aberrant behavior.

The concept of operation is the same for all law enforcement juvenile units, regardless of size. Data and observations indicate that large as well as small units essentially perform the same kinds of work, particularly if the unit is concerned with delinquency "prevention". The measure of effectiveness is not one of size alone, but rather the dedication of the unit to assist young people with prevention services.

#### Placement of the Juvenile Unit in the Hierarchal Organization

There appears to be a great variance in the operational placement of juvenile units and divisions in law enforcement agencies.

It is difficult to ascertain why they appear so frequently within the aegis of the department's Detective Division. One of the explanations offered was that the rank of "detective" carried with it additional compensation, and juvenile specialists could therefore be financially rewarded.

While there is no compelling argument against giving juvenile specialists salaries commensurate with specialist functions, the placement of the unit in the detective division appears contrary to the recommendations of the President's Commission on Law Enforcement and Administration of Justice /12 it its "Task Force Report on Police". Here, the juvenile division is suggested as an autonomous operational bureau, on a line level with such other divisions as Patrol, Traffic, Detective and Vice.

Detective divisions have a very definite and vital place in police organizations. Very few law enforcement agencies could operate efficiently without a well-trained and competent investigative arm. The danger, if any, in placing the juvenile unit within the detective division is that,

for the most part, detective functions are "clearance" oriented, i.e., the primary duty is to make arrests for crimes reported. The juvenile unit, on the other hand, is, or should be, concerned more with prevention activities. Placement of the unit within the detective division could result in a conflictory mix of philosophy. It is conceded that prevention activities could be carried on within the aegis of a detective division. Adherence to these INTAKE SCREENING GUIDES might result in greater diversion and screening by any juvenile unit, regardless of its placement in the hierarchal structure of the agency.

#### The Autonomy of the Juvenile Division

Observations indicate that the autonomy of the juvenile unit or division sets the stage for how the unit will operate, how it sees its functions, how assigned staff view their tasks, and how other departmental units or divisions view and treat it.

Juvenile units which do not enjoy autonomous status are subject to many abuses from within the departmental organization. For example, units were observed which were saddled with extraneous and inappropriate functions. These included bicycle registrations, (more appropriately a function for the Traffic Division or perhaps the Property Bureau); missing persons reports for all ages of people, (more appropriately a function for the Detective Division; the investigation of all sex cases, regardless of the age of the victim or perpetrator, (more appropriately a function for the Detective Division or even the Vice Division, and, in one instance, even the service of administrative code violations ( a civil code process)--a function totally inappropriate to law enforcement!

It was observed that juvenile units which were placed within other major operational units, enjoyed less prestige than the parent units themselves. Staff in these units were frequently referred to by other officers as "kiddy cops", "the lollypop squad" and in other, far more derogatory terms. While no effort was made to evaluate the psychological impact, if any, on the officers or its effect upon their work, it was readily discernible that some of them were embarrassed and often irate about their status and function in the eyes of other officers.

The lack of autonomy has other disadvantages, not the least of which is the "raiding" of personnel in times of need by the parent unit as well as by other major divisions. In view of the heavy involvement of young people in crime and delinquency, such action is short-sighted.

Some of the advantages that accrue to an autonomous unit include: 1) direct access to the Chief for the receipt of instructions and orders, and the direct transmittal to him of the status of the department's activity with youth in the community; 2) a direct chain-of-command to and from the unit's commander and subordinates, in conformance with the most accepted standards of organizational management, and 3) the improved status and prestige of staff in their own views as well as in the eyes of other specialist personnel.

For these reasons, it is recommended that law enforcement agencies which include juvenile units in their hierarchal structure, place these units on a line level with other major departmental operational units.

#### Hours of Operation for the Juvenile Unit

Young people are most likely to get into trouble with the law during their free hours--after school, holidays, and week-ends. It is, therefore, imperative that law enforcement and other legally mandated services for youth be available at all times, especially during peak hours.

Juvenile units must be manned with sufficient personnel in accordance with needs, 24 hours-a-day, and seven days a week. In small agencies, off-duty specialists should be on call. Departmental procedural manuals should be available and kept up-to-date so that, if necessary, other members of the department can be properly guided in handling juvenile cases that arise when specialist staff are unavailable.

Units which fail to provide services other than 9:00 A.M. to 5:00 P.M., Mondays through Fridays, (except holidays), are short-changing the youth of their communities. Experience over a given period of time will assist juvenile unit commanders to schedule staff in accordance with requirements.

#### Assignment and Training of Personnel in the Juvenile Unit

Officers selected for assignment to a juvenile unit or division should be carefully screened. The criteria for selection should not be based upon favoritism or partisanship, but rather on ability. They should be assigned by the Chief of the department, by and with the consent of the unit commander. Assignment to the unit should be on a detail basis rather than permanently. The detail should be contingent upon the officer's efficiency ratings and ability to perform satisfactorily. Officers who do not measure up to accepted standards should be reassigned to other duties in the department.



36

The basis for assignment should be:

1. Empathy

Empathy or understanding is a vital ingredient for a law enforcement juvenile specialist, if he or she is to be able to reach out to young people and relate to their needs.

Specialists with outward or innate hostilities toward young people cannot function appropriately. Officers must establish close ties with young society. They have to understand what these young people think and feel, why their own value systems seem to clash with establishment values, and particularly, why they appear to be alienated toward other in society. Most importantly, juvenile specialists have to "like" young people and enjoy working with them.

By the very nature of their work, personnel in the juvenile justice system must make every effort to understand those whose behavior appears different from accepted norms. Those who fail to understand are often visible as adherents of corporal punishment for all occasions; as those who would place the parents of delinquents in jeopardy on the basis that they (the parents) are solely responsible for their childrens' behavior, and those who feel that sanctions are warranted in every instance of aberrant behavior.

2. Education and Training

Ideally, every law enforcement officer should be specially trained for work with juveniles. Uniformed patrol officers are generally an agency's first contact with youthful offenders. Wattenberg and <sup>/13</sup> Bufo, have documented the fact that the first contact a youth has with a law enforcement officer can set the stage for success or failure as far as recidivism is concerned.

37

Every law enforcement officer should receive at least 20 hours of instruction on juvenile procedures, concepts and philosophies, as part of the State's mandated basic training program. In addition, periodic in-service training, suggested at 40 hours per year, per <sup>/14</sup> officer, should include intermediate and advanced training in police-juvenile work.

Law enforcement juvenile specialists should be required to receive additional specialized training in such subjects as juvenile law, procedures, concepts, developmental psychology of adolescents, etc. They should be required to attend, at Departmental expense, institutes and seminars on police work with juveniles which are recognized by competent educational authorities.

The work of assigned personnel should be reviewed periodically by the department Chief and the unit's commander as a gauge for the continuation of the assignment. If the departmental policy is to reward specialists with extra compensation, juvenile specialists should be included in this category.

Preference for assignment to the juvenile unit could be given to those officers with college degrees or those who have completed course work in the behavioral sciences, as well as to those who have completed attendance at institutes and seminars on police work with juveniles, or combinations of all of the above. Preference could also be given to those with previous experience in such occupations as social work, big/brothers/sisters, scouting, boys/girls clubs, social service volunteers, and the like.

3. Experience in Law Enforcement

The value to a law enforcement agency in the assignment of personnel

to any specialist functions is enhanced when selected officers possess experience in general law enforcement duties.

In the realm of juvenile specialization, a knowledge of police work, together with specific information on high delinquency areas, youth resources available, etc., is particularly valuable. For this reason, law enforcement officers should have at least one year's experience on patrol before they should be considered for assignment to the juvenile unit or division.

#### CHAPTER IV

##### SUMMARY OF GUIDES FOR LAW ENFORCEMENT SCREENING OF JUVENILE CASES

1. Law enforcement agencies should, where conditions and availability of personnel warrant, establish and maintain juvenile control units or divisions. Where necessary, at least one officer, who devotes all or part of his time to the handling of complaints and cases affecting juveniles, should be assigned.
2. All sworn personnel in law enforcement agencies should receive at least 20 hours of basic training in the concepts and philosophy of enlightened law enforcement work with juveniles, and in the procedures for the handling of juvenile cases. Mandatory in-service training should include intermediate and advanced training in these subjects.
3. Personnel assigned to juvenile divisions should be selected on the basis of their empathy, education and experience/training for this work. Juvenile specialists should be required to receive additional intermediate and advanced training, suggested at 40 hours per year, per officer, in appropriate subjects.
4. Assignments to the juvenile division should be on a detail basis, only, and the caliber of work performed should be the gauge for the continuation of the assignment.
5. Where established, juvenile divisions should be in operation seven days-a-week, 24 hours-a-day. Extra staff should be assigned at necessary peak hours.
6. Law enforcement agencies should prepare and disseminate procedural manuals to all sworn personnel containing explicit guidelines for the handling of juvenile cases, especially with respect to Detention and diversion from the juvenile courts. Procedural manuals should be periodically revised and up-dated.

7. Law enforcement agencies should enter into formalized agreements with all of the community youth-serving agencies which delineate the action to be taken in handling and referring juvenile cases. Agreements resulting in formalized procedures should be incorporated into the departmental procedural manuals.
8. Law enforcement agencies should encourage and train their personnel to practice the diversion of appropriate cases from the juvenile courts to community-based alternatives.
9. Law enforcement juvenile divisions should be required to catalog and maintain up-to-date records of and contacts in, the community-based youth serving agencies, to facilitate the referral of appropriate juvenile cases.
10. Juvenile records on file in a law enforcement agency's juvenile division or elsewhere should be periodically reviewed and purged, if appropriate. Juvenile records should be made available only to those with a need-to-know status, pursuant to law. (See Model Act, Part I, Secs. 46-48).
11. The investigation of juvenile cases should be conducted in an air of privacy, with all of the civil rights and safeguards, (including the right to counsel), given to juveniles as are afforded in adult cases.
12. The practice of discretion by law enforcement officers in juvenile cases should be authorized by law. When practiced, discretion should be afforded on an equal basis for all youth, regardless of race, color, creed, sex, economic status, influence, etc. Guidelines for the use of discretion should be included in departmental procedural manuals.
13. In the practice of discretion, law enforcement officers should consider each juvenile case on an individual basis. Reliance on a youth's previous history or record should be decelerated when other factors

- in the background of the case could shed some light in arriving at an equitable disposition.
14. The main criteria for the recommendation of secure custody or detention in juvenile cases should be: 1) the youth is legally wanted by other authorities, 2) the youth is a danger to the public safety. The practice of "citation" to court at a later date should be encouraged in appropriate cases.
  15. Law enforcement officers should not be swayed by personal bias when in the process of determining the disposition of juvenile cases. The imposition of sanctions in not a police function, and should be left to the courts to determine.
  16. Law enforcement agencies and their juvenile staff should, where possible, refrain from referring status offenses and neglected childrens' cases to the juvenile courts, particularly when other alternatives are available. When alternatives are not available, the agency heads should highlight the need for these alternatives to appropriate local authorities. (See Model Acts, Part II re: Alternative Programs).
  17. Law enforcement personnel should not engage in the practice of informal probation, casework supervision, or counseling. The provision of such services is more appropriate to qualified and trained professionals in the field.
  18. Juvenile units or divisions in operation in law enforcement agencies should be structured as autonomous operational divisions on a line level with other major operating units.

42

REFERENCES

1. Model Acts for Family Courts and State-Local Childrens' Programs, U.S. Department of Health, Education and Welfare, Office of Youth Development, U.S. Government Printing Office, Washington, D.C. 20402, (1974), (hereinafter referred to as the Model Acts.)
2. Kelley, Clarence M. Crime in the United States, Uniform Crime Reports, U.S. Department of Justice, Federal Bureau of Investigation, U.S. Government Printing Office, Washington, D.C. 20402, (1972).
3. Myren, Richard A. and Swanson, Lynn D. Police Work With Children, U.S. Department of Health, Education and Welfare, Welfare Administration, U.S. Government Printing Office, Washington, D.C. 20402, (1962) and now out of print; Challenge of Crime in a Free Society, President's Commission on Law Enforcement and Administration of Justice, U.S. Government Printing Office, Washington, D.C. 20402, (1967), and its companion work, Task Force Report on Police, and, Police, Standard 9.5, "Juvenile Operations", National Advisory Commission on Criminal Justice Standards and Goals, U.S. Department of Justice, Law Enforcement Assistance Administration, U.S. Government Printing Office, Washington, D.C. 20402, (1973) pp. 221-24.
4. Model Acts, op. cit.
5. Ibid., Part II.
6. Piliavin, Irving M. and Briar, Scott. "Police Encounters With Juveniles", American Journal of Sociology, 70:206-14, September, 1964.
7. Kobetz, Richard W. THE POLICE ROLE AND JUVENILE DELINQUENCY, Professional Standards Division, International Association of Chiefs of Police, Gaithersburg, Maryland 20760, (1971), p. 130.
8. Uniform Crime Reports, op. cit.
9. Police, Standard 9.5, op. cit.
10. Police Work With Children, op. cit.
11. Kobetz, Richard W., op. cit., Table # 7, (p.55).
12. Task Force Report on Police, op. cit., p. 47.
13. Wattenberg, Wilson W. and Noel Bufe, "The Effectiveness of Youth Bureau Officers", Journal of Criminal Law, Criminology, and Police Science, December 1963, pp. 470-75.
14. Challenge of Crime in a Free Society, op. cit.

PART II

JUVENILE COURT INTAKE SERVICES

483616 67

43

CHAPTER V

Juvenile Court Intake

A prominent Juvenile Court Judge described juvenile court intake as a unique and valuable tool.

"Intake is permissive tool of potentially great value to the juvenile court. It is unique because it permits the court to screen its own intake not just on jurisdictional grounds, but, within some limits, upon social grounds as well. It can cull out cases which should not be dignified with further court process. It can save the court from subsequent time-consuming procedures to dismiss a case. It provides an immediate test of jurisdiction at the first presentation of a case. It ferrets out the contested matters in the beginning and gives the opportunity for laying down guidelines for appointment of counsel and stopping all social investigation and reporting until the contested issues of fact have been adjudicated. It provides machinery for referral of cases to other agencies when appropriate and beneficial to the child. It gives the court an early opportunity to discover the attitudes of the child, the parents, the police, and any other referral sources. It is a real help in controlling the court's caseload. Because it operates in the sensitive area of direct confrontation with the police, the school and other community agencies, intake can make or break the community's good communication with and understanding of the juvenile court's role.1/

The intake process of the juvenile court varies extensively throughout the nation. Observations in some communities reveal it is little more than a perfunctory service handled by staff that do little more than receive and log complaints and police reports for further processing in the court. Some courts do not recognize the need for intake service and authorize the filing of petitions in virtually all cases coming to the courts attention. Despite these variances most juvenile courts identify intake services as a necessary and vital service. Although there is general agreement on the need for an

44

intake service, practices among intake workers reveal there is no agreement on how the service should be performed or decisions that should be made. This may be due in large measure to an absence of court policy and clearly formulated procedures. Secondly, there are no standards or guidelines in the field except for the recently published reports on the National Advisory Commission on Criminal Justice Standards and Goals. The report on Correction of the National Advisory Commission includes standards for Juvenile Intake Services.2/ While these standards are a welcome beginning to nation leadership for improved intake practices the subject is addressed in a generalized manner and does not include a number of specific intake determinations and procedures which are included in this publication.

Legal Basis for the Intake Process

The concept of intake through some sort of preliminary review by staff providing intake services for the juvenile court has gained wide acceptance. Most state statutes, the Standard Juvenile Court Acts, and the more recent HEW Model Acts for Family Courts and State-Local Children's programs provides for a preliminary inquiry to determine whether the interests of the public or of the child require that future action be taken.

Complaints alleging delinquency or neglect shall be referred to the intake office of probation services. The intake office shall conduct a preliminary inquiry to determine whether the best interests of the child or of the public require that a petition be filed. If judicial action appears necessary the intake office may recommend the filing of a petition, provided however that all petitions shall be prepared and countersigned by the prosecutor before they are filed with the court. Decisions of the prosecutor on whether to file a petition shall be final.4/

The preliminary inquiry or review, in practice, is interpreted in a variety of ways by juvenile courts and probation departments. In some intake offices the preliminary inquiry takes on all the elements of a criminal investigation with intake workers gathering evidence, conducting interrogations, questioning witnesses and making field visits. Why such activity should be performed by intake is a mystery as these tasks are all law enforcement's responsibility. Police are equipped by training and experience to perform these investigative functions, intake workers are not.

There is another compelling reason why intake should not accept complaints for investigation. To do so would mean that the court, through the action of its own representatives would be placed in the position of petitioner with the result that the court would be sitting in judgment on its own petition. Placing responsibility on the intake worker for investigating the act, filing the petition, and supporting the petition with the necessary evidence in court can place him in an adversary position in the eyes of the child and family. It is therefore, essential that intake workers refer the complainant or complaint to an agency having statutory powers and responsibility to investigate such complaints and recommend the filing of a petition, where such action is deemed necessary. Final responsibility for determining the validity of the complaint and sufficiency of the evidence rests with the prosecutor who should countersign all petitions and present the evidence at the court hearing.

The preliminary inquiry is difficult to distinguish from a social study in some instances. Intake workers develop a family history probing the causative factors for a youth's behavior. They review school records and examine environmental and economic conditions for clues to the alleged anti-social behavior. Such actions before the court has held a hearing on the facts of the case is clearly an invasion of privacy.

The nature of the intake process has been clearly described by Sheridan.

Juvenile Court intake process is a screening mechanism. It is essentially an office and not a field process. Rather than a preliminary inquiry or investigation, it is more in the nature of a review or evaluation of information which should be supplied by the person or agency seeking to file a petition. It can and should be an expeditious process. Exposure of children and families to a long period of uncertainty as to what is going to happen may, for many, increase tension and anxiety. For younger children, delay makes it difficult to relate a court experience to an incident which may have happened weeks before. For those in detention, delay may be a damaging experience as well as the imposition of an unnecessary economic burden upon the community. 5/



## CHAPTER VI

### INTAKE DETERMINATIONS AND PROCEDURES

#### Screening Practices

Among juvenile court intake units the nature and extent of processing varies extensively, particularly in the area of decision-making. Intake practices range from little or no screening to extensive screening and referral. Overall, the screening is generally inadequate as large numbers of youth are funneled into the court for minor crimes or status offenses. (Status offenders, as used here, include all children and youth coming before the juvenile courts for conduct which would not be criminal if committed by an adult. This includes children who are alleged ungovernable or beyond the control of their parents or guardian, children who are truant, runaways, as well as those who violate ordinances, regulations or statutes which are applicable to children only, such as curfew violations, the illegal use of alcohol, tobacco, or attendance at activities or functions from which children are excluded by law.)

Many youth are brought to the attention of police and the court because no community resources are available to address the special needs of acting-out children and youth. This creates more problems than it solves. When intake personnel accept these referrals for further service in the overburdened justice system they create an illusion of service and the community feels comfortable that "someone has taken care of the situation".

#### Initial Contact

The initial involvement of juvenile court intake begins with the receipt of a written complaint alleging that an offense or condition of neglect brings the child within the purview of the State Juvenile Court Act. (Telephone complaints or oral complaints should not be accepted at intake. Such complaints, most of which require further investigation, should be referred to law enforcement or, if neglect is alleged, to a protective service agency for appropriate investigation.)

The offense for which a juvenile may be referred to juvenile court may be an act, which if committed by an adult would be considered a crime, or it may be a status offense which was defined earlier. In some instances the child is brought to intake along with the written complaint, while in other instances law enforcement agencies issue a citation to the child and parents to appear at intake at a later date.

#### Neglect Cases

Some State statutes include dependency in the jurisdiction of the juvenile court. The term is not used in the Model Acts because the financial ability of parents to care for their children should not be a factor in removing them from their home. The former common category of neglect has been broadened in the Model Acts to include the category of minors in need of supervision (also known as children in need of supervision and persons in need of supervision.)

"Neglected Child" means a child

1. Who has been abandoned by his parents, guardian or custodian;
2. Who is without proper parental care and control, or subsistence, education, medical or other care or control necessary for his well-being because of the faults or habits of his parents, guardian, or,

- 49
3. Whose parents, guardian, or other custodian are unable to discharge their responsibilities to and for the child;
  4. In any of the foregoing is in need of care of supervision.6/

New procedures for handling complaints of neglected children are incorporated in the Model Acts. Complaints to the intake unit, alleging neglect, may be made only by representatives of (1) a public or private agency providing care or social services to children and families, (2) a hospital, or (3) a mental health agency.7/ These provisions are designed to keep children and youth who have not committed crimes from referral to the juvenile court unless they have first had the benefit of services or care from the above agencies.

Referrals from the agencies to juvenile court intake services would only be necessary when, in the judgment of the agency, a change of legal status was indicated.

The new procedures would reduce the volume of cases referred to juvenile court intake and in turn reduce the length of time required to screen and process cases, which is often a problem in the juvenile justice system.

#### Factors in Decision-Making

The first decision made at the point of intake is whether the complaint is one over which the juvenile court has jurisdiction. This requires knowledge of the jurisdiction of the court and generally presents no complex legal problems. In order for the court to have jurisdiction, certain specific conditions must be present. The youth must be within the

50

age jurisdiction of the court, allegedly involved in an act or situation described by the state juvenile court act, and prima facie evidence of such involvement exists. Should any question arise concerning the sufficiency of the evidence the matter should be referred to the prosecutor for a final decision. If there appears to be prima facie evidence in support of the allegations the question of whether or not a petition should be authorized is next. In cases involving an act which would be a crime if committed by an adult the nature of the act becomes very important but not always the controlling factor. The public certainly has the right to be protected, and crimes such as murder, rape, robbery, aggravated assault, and arson are serious enough to justify the filing of a petition and scheduling a court hearing.

A second factor to be considered is previous history. Access to police and court records should be readily available to determine if the youth or family are known to either agency. If the case is active with the court, the youth's probation officer should be consulted. However, this does not shift any of the intake decisions from the intake worker to the probation officer.

Other important factors are the age and time of day the offense occurred. Among the very young, the offense may be an impulsive act without great significance, or it could be a danger signal and "cry" for help. Only a skillful intake worker will be able to make such determinations. Perhaps of greater significance is the time of day an offense occurred and the more unusual the hour and the younger the child, the greater the significance. For example, a child under fourteen

51

who commits a delinquent act late at night or during early morning hours should trigger a concern. The time the act takes place is often a clue to the type of supervision afforded by the parents or guardian.

The area in which a youth lives is also significant. The competent intake worker is familiar with all sections of the community and knowledgeable about those areas with the highest delinquency and the forces at work which contribute to delinquency. Caution is urged in the use of this factor for obvious reasons. Under no circumstances should this element be the principle reason for recommending the filing of a petition.

Still other elements to be considered are:

- What is the attitude of the child toward his conduct, himself, family, and victim?
- What is the attitude of the parents toward the situation?
- What is the attitude of the parents toward the child?
- Is there a recognition by the youth of the seriousness of the situation?
- Was the youth alone or in company of others who are accomplices?

#### Intake Dispositions

The above questions do not represent an exhaustive list of factors to be considered but are suggestive of the questions which should be going through the mind of the intake worker in his diligent effort to determine whether he should: (1) refer the matter to the prosecutor for a decision on jurisdiction or sufficiency of evidence; (2) recommend the filing of a petition; (3) warn and release or (4) refer the youth, with consent, to an appropriate community resource for the assistance needed.

52

Although there can be a number of factors to consider in the decision-making process at intake, the nature and extent of screening is often determined by special circumstances. For example, when there is prima facie evidence that a youth has committed a crime of violence, has a history of serious offenses, or failed to appear at previously scheduled hearings, extensive screening before recommending the filing of a petition is unnecessary and unwarranted. In such cases the intake worker should immediately recommend the filing of a petition and place the youth in detention pending a detention hearing.

The objective of helping youth live within limits set by law while protecting society is not realized by funneling more youth into the system. Unless it is determined after careful screening that a youngster is a serious threat to person or property, official action cannot be justified. One writer believes the juvenile court should only concern itself with offenses, which if committed by adults, would be crimes.

. . . . . The Juvenile Court should serve as a last resort, used only when questions of restraint and coercion arise. In this perspective, the business of the juvenile court should usually be limited to offenders whose conduct would be a violation of the criminal law if committed by an adult. The juvenile court should not be saddled with the role of a child welfare agency or with the rehabilitation of children who run away, smoke, refuse to attend school or are otherwise "incorrigible." For those problems, other suitable agencies must be found in existing or new social service agencies.8/

For youth who do not need to move beyond intake and for whom additional processing in the juvenile justice system could be both detrimental and costly, certain important dispositional alternatives should be considered. Some youth coming to the attention of juvenile court intake can

best be served by terminating any further involvement by the state or community in their lives. Often the act of being apprehended and confronted with a minor violation is all that is necessary when the youth and parents evidence concern about the behavior and the willingness to take corrective action.

There are other youth whose behavior and/or offenses do not require court action but do require referral to an appropriate youth-serving agency for meeting individual needs and problems that are apparent to the intake worker. The needed service may be counseling, special education, health care, employment, vocational rehabilitation, or financial assistance. The list is only suggestive and often involves the parents and other family members as well. Hopefully the community's youth service system will be responsive to these needs with an appropriate referral center and a coordinated services delivery system. Such systems are currently the major program thrust of the Office of Youth Development. (Information on Youth Services Systems strategy, funding, and technical assistance is available from the Office of Youth Development, Washington, D.C.)

Some intake units and probation departments provide continuing service to children and families after a decision has been made that no petition will be filed. Various terms are used to describe the service: unofficial probation, non-judicial supervision, unofficial supervision or simply "Supervision". The court and its designated representative - the intake staff, have no authority to act without the filing of a petition. There are other reasons that continued service should not be used: (1) Regardless of the nomenclature used, continued service in the juvenile justice system

identifies and stigmatizes a youth as delinquent. (2) "Unofficial" handling leads to a distortion in the minds of some as to the functioning of the court and probation department and (3) the use of unofficial processing is easily susceptible to abuse and has been.

#### Adjustments and Referrals

After intake has made a determination that no petition will be filed, they should refer the case to an appropriate agency or conduct conferences for the purpose of affecting adjustments or agreements. A time limit of 10 days from the time the initial complaint was received, should be used for effecting adjustments or making referrals. This can be done administratively but preferably by statute as provides in the Model Acts.<sup>9</sup>/

The time for affecting adjustments can often be used to reach an agreement for restitution when there have been damages or unrecovered stolen property. However, if court action is necessary to recover damages or restitution, the complainant or victim should be informed that a separate action will have to be initiated in a court having civil jurisdiction, and not in the juvenile court.

#### The Rights of Youth and Parents

Before an intake worker begins his initial interviews with the juvenile and parents, they should be informed by the worker of their right to remain silent. If the youth and his parents wish to participate in the interview, nothing they say can be later used in evidence against them. This should be made clear to everyone participating in the interview.

When an intake worker recommends that a petition be filed he should fully explain to the child and his parents their right to an attorney.

55

If the child has not secured the services of a lawyer to represent him, legal counsel should be appointed. The Model Acts indicate that legal counsel should be an unwaiverable right for youth that are petitioned into court. In some instances involving situations of neglect, it may be necessary to appoint separate attorneys for the child and parents.

#### Prosecutor's Role

In attempts to use the court as a collection agency for restitution, intake workers are sometimes confronted with complainants who demand to file a petition despite the worker's decision to pursue an alternate course of action. At any time the intake office refuses to authorize a petition, for whatever reason, the complainant in such situations should be notified by the intake office of his right to a review of his complaint by the prosecutor. The prosecutor, upon request of the complainant, should review the facts presented by the complainant and after consultation with the intake office, authorize, countersign, and file the petition with the court when he believes such action is necessary to protect the community or interest of the child.

All petitions should be prepared and countersigned by the prosecutor before they are filed with the court and the decision of the prosecutor on whether to file a petition should be final.<sup>10/</sup>

#### Detention and Shelter Care

In those cases in which there is a basis for intake to recommend that a petition be filed, the next decision deals with the need for temporary care pending court hearing.

However, as explained earlier, the decision to recommend the filing of a petition and the decision to use temporary care for a youth does not

56

require, in each instance, a large segment of time for contemplating what should be done. In fact, for certain crimes, such as crimes of violence, the decision to recommend the filing of a petition and use of detention should not delay the youth's admittance to the detention home providing the time constraints for filing a petition and scheduling a detention hearing are followed. (Time constraints are discussed later in this chapter.) Temporary care can be provided in a detention home, which provides secure custody, or in a shelter which provides care in a non-secure facility such as a foster or group home. The use of detention should be confined to those youth alleged to be a serious threat to the community and considered dangerous. If a youth presents a threat to his own personal safety, i.e. suicidal threats, but is not otherwise dangerous, temporary care should be provided in a hospital, or other types of mental health facility appropriately equipped for such patients.

The detention of youth in jails and juvenile detention facilities throughout the nation has been a scandalous story.

"Despite frequent and tragic stories of suicide, rape, and abuse of youth, the placement of juveniles in jails has not abated in recent years. The overuse of jails for adults and juveniles has been denounced by justice system personnel and lay critics, but this criticism has not produced any significant change in the vast majority of states."

... "Detention in physically restricting facilities built for the exclusive use of juveniles has been characterized generally as positive when contrasted to juveniles in adult jails. Although many juvenile facilities may be more healthful or humane than their jail counterparts, they still are jail-like facilities and are often even located adjacent to jail. Confinement in such a facility may be equally harmful, particularly in cases where the person has not committed a criminal violation."<sup>11/</sup>

Shelter care is appropriate for children and youth who must be removed from their homes until a court hearing is scheduled, but who are not dangerous to themselves or others. Four advantages of shelter care are apparent:

1. Shelter care is much less expensive than detention care.
2. Shelter care is less likely to confirm delinquency status.
3. The "home like" setting of shelter care is more conducive to setting the groundwork for future "helping" efforts.
4. Community resources and particularly youth services are more readily available to the youth in shelter care than those in a detention home.

Despite the advantages of shelter care a national study of delinquent children and youth in custody reveals that there were only 18 shelters caring for 363 youth when the last census of juvenile facilities was made in June 1971. This represents less than 3 per cent of all delinquent youth in temporary care facilities.<sup>12</sup> /

For all children and youth placed in detention homes, shelters, or hospitals by the intake unit, the Model Acts provides that:

- (1) a petition shall be filed within 24 hours, Saturdays, Sundays, and holidays included.
- (2) a detention or shelter care hearing shall be held within 24 hours, Saturdays, Sundays, and holidays included, from the time of filing the petition to determine whether continued detention or shelter care is required.<sup>13</sup> /

## CHAPTER VII

### Organization and Administration

Because of its importance, intake service requires a clear identity in the administration of probation or juvenile court services. A separate intake unit is essential in larger jurisdictions. In smaller courts where this is not practical, it is recommended that the intake function be centralized in one individual. Staff on duty or on call twenty-four hours a day is essential. Most intake units are either a part of probation departments or a unit in a Department of Court Services that includes a variety of services such as probation, intake, and detention. In recent years there are indications of interest in placing administrative responsibility for juvenile correctional services and delinquency prevention services, including intake and probation, in the executive branch of state government.

There are four states which have enacted legislation mandating responsibility for these services to a designated state agency.<sup>14</sup> / Whether prevention and treatment services are locally administered, state administered, or some combination of the two, there is a need to insure the delivery of services to all communities.

Public programs of delinquency prevention and treatment may be entirely State administered or partly locally administered. In the latter type, the local units should be vested with as much responsibility as possible and appropriate, the State government making this possible by providing consultation and adequate financial assistance. In addition, to promote quality, uniformity and efficiency of services, local administration should be governed by State promulgated regulations and standards. Subject to differences that exist between State and local governments with respect



59

to jurisdiction, organization and administration, the principles applicable to the State agency should also be applicable to local agencies. Regardless of how administered, services and facilities for the prevention and treatment of delinquency should, to the greatest extent possible, be community-based and close to those they serve and to other auxiliary community services.<sup>15/</sup>

It is not uncommon to find responsibility for intake services shifting between staff of the juvenile court intake office and detention-home personnel depending upon the time of day a referral is made to the juvenile court and referral source. The situation is complicated by the fact that detention home staff and intake staff have different supervisors. It is further complicated when there are no written guidelines or procedures for the screening and referral of cases. While the physical location of intake service may be in the court, probation department, or detention home, all intake staff performing intake service should be under the direction of the intake supervisor.<sup>16/</sup> following written procedures and guidelines for decision-making and processing of children and youth. This is essential since the total intake screening process of (1) determining whether the court should take action and if so, what kind of action (2) determining the need for temporary care or (3) determining whether the matter should be referred elsewhere, is all a part of one process.

#### Intake Staff

A youths first experience with the juvenile court can have a profound impact upon him. As the intake worker for the juvenile court will be the first person with whom the youth has contact, a youth's concept

60

of justice will be largely determined by how he is treated at intake. The worker should be particularly sensitive and skillful in short-term interviewing and capable of making important decisions after brief contacts with the complainant, youth and family. Therefore, the intake unit should be staffed from the best personnel in the probation department. Staff should have experience in probation services and be knowledgeable about the juvenile court law, rules of court, the juvenile correctional system, referral procedures, community youth serving agencies and the role and function of personnel in the justice system. Most intake units visited during the preparation of this publication were staffed with experienced personnel, most of whom were college graduates with undergraduate degrees in the social sciences.

#### Volunteers

Volunteers can support and supplement the intake operation. In fact the use of volunteers can add a new dimension to the total intake service. Volunteers can greet youth and parents as they arrive at intake and provide an orientation to intake and court procedures. In addition, they can explain the roles of the intake counselor, probation officer, judge, prosecutor and defense counsel. They can also assist the family in filling out the intake face sheet which contains family identifying information. Generally it contains the names of family members, place of employment, birthdates, school, address, phone number and other factual information. Finally, volunteers can be of assistance to families that are being referred to another agency for service after a determination has been made by the professional staff that no court action will be taken. They can expedite the referral by making appointments,

6.1

clarifying instructions, providing transportation and follow-up on referrals to see that appointments are kept and services delivered.

Tasks at intake which should be reserved for the professional intake staff are those which involve the actual case decisions and determination described throughout this publication.

62

## CHAPTER VIII

### Summary of Guides for Juvenile Court Intake Screening

1. The principle emphasis at intake should be the diversion of youth, who pose no serious threat to the community, from the juvenile justice system.
2. The Intake Service of the Juvenile Court should be a clearly identified service within the organization of juvenile probation services.
3. The decision to detain any child or youth in secure custody or shelter home, pending a detention hearing, is the sole responsibility of intake staff through powers granted to it by the court.
4. Intake services should be provided by staff on duty or on call twenty-four hours-a-day, seven days a week.
5. Intake services should be handled expeditiously and within the time constraints suggested by the Model Acts.
6. Continued services by intake or probation staff, such as "unofficial probation" without the filing of a petition is an unwarranted invasion of privacy, is subject to abuse, and labels youth as delinquent.
7. The police practices and practices of intake service should be developed in a written manual as part of the rules of court. Distribution of the rules should be available to all who may have business with the court.
8. Questions arising at intake about the jurisdiction of the court or sufficiency of the evidence should be referred to the prosecutor for a final decision.
9. When the intake unit recommends that a petition be filed, the prosecutor should authorize, countersign, and file all petitions with the court.

63

when in his judgment such action is necessary to protect the community or interest of the child.

10. Intake staff should be selected from the best qualified personnel in the probation department and should possess special skills in short-term interviewing and decision-making.
11. The use of volunteers at intake is encouraged. A variety of tasks can be assigned to volunteers complementing the work of salaried staff.
12. Before the initial intake interview begins, the child and parents should be informed that they have the right to remain silent. They should also be informed that whatever they say, if they elect to participate in the interview, cannot be used against them at a later time.

Whenever the intake worker determines that he will recommend the filing of a petition, the youth and parents should be advised of their right to an attorney and the provision of legal counsel if they do not wish to employ their own.

64

#### REFERENCES

1. Waalkes, Wallace, "Juvenile Court Intake - a Unique and Valuable Tool", Crime and Delinquency Vol. 10. No 2, April 1964 P. 123.
2. Report on Corrections, Standard 8.2, "Juvenile Intake Services", National Advisory Commission on Criminal Justice Standards and Goals, U.S. Government Printing Office, Washington, D.C. 20402, (1973),
4. Model Acts for Family Courts and State-Local Childrens' Programs, Office of Youth Development, Department of Health, Education and Welfare, U.S. Government Printing Office, Washington, D.C. 20402, (1974), Sec. 13(a),
5. Sheridan, William A. "Juvenile Court Intake", Journal of Family Law, University of Louisville School of Law, Vol. 2 2:146, Fall, 1962.
6. Model Acts, op. cit., Sec. 2.
7. Model Acts, op. cit., Sec. 14
8. McNulty, Jill K. The Right to be Left Alone, reprinted with permission from American Criminal Law Review, Vol. II, No. 1, (1972) by the Office of Youth Development, Department of Health, Education, and Welfare, U.S. Government Printing Office, Washington, D.C. 20402, (1974).
9. Model Acts, op. cit., Sec. 13 (d).
10. Ibid., Sec. 13(a).
11. Sarri, Rosemary C. "The Detention of Youth in Jails and Juvenile Detention Facilities", Juvenile Justice, Vol. 24, 3:2-5, November, 1973. (Dr. Sarri is Project Co-Director of the National Assessment of Juvenile Corrections, now in process.
12. Children in Custody, a report on the Juvenile Detention and Correctional Facility Census of 1971, National Criminal Justice Information and Statistics Service, Law Enforcement Assistance Administration Department of Justice, U.S. Government Printing Office, Washington, D.C. 20402, (1974), p. 1.
13. Model Acts, op. cit., Sec. 23 (a)
14. The States are: Maryland, Florida, Rhode Island, and Vermont.
15. Model Acts, op. cit., under "Principles Underlying the Legislative Materials", No. 6.
16. Also know as Chief of Intake and Director of Intake.

**END**