ALTERNATIVES TO THE JUVENILE JUSTICE SYSTEM:

Their Development and the Current "State of the Art"

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Introduction

The past hundred and fifty years' history of the American juvenile justice system can be viewed as the chronicle of a series of endeavors to devise alternatives to the processing of juveniles as criminals. The founding of the New York House of Refuge in 1824 provided a model for what became a considerable number of institutions designed to segregate the child offender from adult criminals. An equally important step was the development of probation services. In 1869 Massachusetts enacted a statute requiring the presence of a state agent in court in cases in which juveniles were accused of a crime and might be placed in a reformatory. This agent was to search for alternatives such as foster placement or indenture and to otherwise protect the interest of and provide for such children (Schultz, 1973). The reform movement next reached toward separate detention facilities for juveniles, with an 1877 New York statute, for example, prohibiting placing a child under 16 years "in any prison, place of confinement, or in any vehicle for transport in company with adults charged with or convicted of crime, except in the presence of proper officials" (Rosenheim, 1962).

The long stream of reform seemed for many years to have achieved its optimal form in Illinois in 1899 with the passage of legislation establishing the first state-wide juvenile court--a model which rapidly spread throughout the U.S. and, indeed, throughout the Western world. No longer was the juvenile offender to be dealt with under the aegis of the criminal law. He was not a criminal, but a "delinquent." The guiding

principle of the first Illinois Act was "that the care, custody and discipline of the child brought before the court shall approximate as nearly as possible that which they should receive from their parents, and that as far as practicable they shall be treated not as criminals but as children in need of aid, encouragement and guidance" (Rosenheim, 1962).

Following the idealistic goals of the early juvenile court movement, a complex panoply of programs and services came into being as alternatives to the processing of juveniles by the criminal justice system. At the law enforcement level, the functions of police investigation, screening, and disposition were to be carried out by specially-trained juvenile officers. When preadjudication detention was necessary, special juvenile detention facilities were to be provided. Adjudication and court disposition would take place in the juvenile court, aided by juvenile probation officers. If institutional placement was deemed necessary, juvenile "training schools" were to be called upon. The skeletal framework--and sometimes the flesh as well--of a complete system that functioned as an alternative to criminal justice treatment was well in place by the third decade of the twentieth century. The dimensions of the task at hand, as well as the necessary methodology, were becoming clear, it was generally believed. The perceived need was to muster the personnel and money to do the job.

Why an Alternative to the Alternative System?

By the 1960's the earlier mood of optimism concerning the performance and prospects of the juvenile justice system was on the wane. Thoughtful analysts wrote of the "Unfulfilled Promise of the American Juvenile Court" (Ketcham, 1962). In two landmark cases, the Supreme Court

of the U.S. seemed to scathingly question both the juvenile court's effectiveness in carrying out its stated goal of rehabilitating delinquent children and the constitutionality of certain of its practices (Kent vs. U.S., 1966; In re Gault, 1967). Possibly the most severe blow of all was administered by the prestigious President's Commission on Law Enforcement and Administration of Justice. In its 1967 report the Commission stated, in what became perhaps its most oft-quoted excerpt, "Studies conducted by the Commission, inquiries in various states, and reports by informed observers compel the conclusion that the great hopes originally held for the juvenile court have not been fulfilled. It has not succeeded significantly in rehabilitating delinquent youth, in reducing or even stemming the tide of delinquency, or in bringing justice or compassion to the juvenile offender" (President's Commission, 1967).

But the juvenile court was the pivotal hub the functioning of which was an essential determinant of the entire juvenile justice system. If it failed, the system failed. Thus, in another section of its report the President's Commission recommended that 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" (President's Commission, 1967). The wheel had turned full circle; the call was for a major effort to develop alternatives to the juvenile justice system which had, itself, originally been designed as an alternative to the application of criminal law. The Commission's suggestion was apparently the product of "an idea whose time had come." The planning and action that followed was rapid and widespread. By 1974 the Juvenile Justice and Delinquency Prevention

Act could announce that it was "the declared policy of Congress . . . to divert juveniles from the traditional juvenile justice system and to provide critically needed alternatives. . . ."

Where in its history of some ten or so decades of development had the struggle for the creation of a just and effective official alternative to the criminal processing of juveniles gone wrong? Why develop new alternatives to the alternative previously regarded as among the finest flowerings of a democratic society's compassionate concern for its troubled and troubling young people? More to the point of present history, what justice system dangers and failings do we seek to avoid in the shaping of new alternatives?

It should first be recognized that the case for developing new alternatives need not rest upon acceptance of sweeping generalizations to the effect that "The juvenile court has failed." This is a proposition of so little meaning as to be impossible to research, to defend, or to refute. Indeed, in some respects the juvenile court movement has been one of the most successful societal endeavors of modern times. To large degree, it has succeeded in what was perhaps the central task assigned it by its founders: removal of most juvenile offenders from the toils of the adult criminal justice system. No person knowledgeable of the degradation and the callous disregard for human decency and dignity that characterizes the criminal justice system in general, and the country's misdemeanant courts and local jails in particular, can doubt that most juveniles are better off for juvenile rather than criminal justice intervention in their lives. Thus the President's Crime Commission, amidst its condemnation of much juvenile court practice, still felt it necessary to note that, "As trying

as are the problems of the juvenile courts, the problems of the criminal courts, particularly those of the lower courts that would fall heir to much of the juvenile court's jurisdiction, are even graver . . ." (President's Commission, 1967).

Glaring exceptions to the contrary, the juvenile court movement, juvenile probation, and juvenile corrections have attracted to their service many individuals of deep understanding, passionate conviction, and dedicated determination to help the child become what he can best become. Present dissatisfactions spring in part from unrealistic expectations that the juvenile justice system should itself stem the tide of youths' misbehavior. Such an endeavor is beyond the capabilities of the police, courts, and corrections. Studies using self-reports by youngsters of their own behavior indicate that almost ninety percent of all American youths commit offenses for which they could be adjudicated delinquent. Adolescence in this country is a time of turbulence, of strain, and of considerable acting out. The challenge is to a democratic society itself, not just to one circumscribed set of social institutions (Lawrence and Shireman, 1979).

Inadequacies in Juvenile Justice System Performance

More pertinent than vague dissatisfactions with our inability to reduce general rates of violative behavior are the all too frequently justified concerns about the quality of programs for youngsters drawn into the juvenile justice net, the life experience thus accorded such youngsters, and the programs' effectiveness, either in terms of rehabilitative influence or of protection of society. The spirit of our time is one of pessimism about the ability of government to control or even adequately

respond to the affairs of society. The expression of such pessimism in the juvenile and criminal justice arena is well exemplified by an oft-reviewed and widely quoted publication, "The Effectiveness of Correctional Treatment--A Survey of Treatment Evaluation Studies" (Lipton, et al., 1975). The authors of this work report having reviewed over 200 research reports evaluating projects applying most current treatment methodologies. Their conclusions are summarized by a dramatic quotation from their work: "With few and isolated exceptions, the rehabilitative efforts that have been reported so far have had no appreciable effect on recidivism."

Palmer (1975) and others have replied to this probably much-too-sweeping generalization; for example, many of the experimental groups in programs cited by Lipton, et al., are shown in their own volume to have exceeded the performance of control or comparison groups. Later works (see, for example, Bohnstedt, 1978) make clear that some program modalities (including some applied in juvenile diversion projects) have achieved the rather impressive feat of positively re-channeling some human behavior. But in a broader sense, Lipton and his colleagues are right. No intervention modality yet exists which can be generally employed by an authoritarian arm of society with any degree of sureness that it can bring about change in the attitudes and behavior patterns of a particular delinquent youth. Some programs may succeed somewhat more often than they fail, but the failure rate of all of them remains high. Further, no method exists for definitively determining in advance which youths will respond positively to intervention into their lives, which will be impervious to such intervention, or which may actually be harmed by it. In fact, no method exists to positively predict which offenders will repeat their offenses if "left alone" and which will not.

Further, the projects subjected to evaluative research leading to the foregoing conclusions generally represent endeavors to apply a particular methodology under favorable circumstances. They have been brought to bear upon relatively few youths. They shed little light upon the nature of the juvenile justice experience accorded the vast majority of the more than one million American youths referred each year to the country's juvenile courts (National Council of Juvenile and Family Court Judges, 1975). The sheer size of the task too often seems to defeat achievement of the goal envisaged by the juvenile court's founders: patient and understanding inquiry by an unhurried judge into the roots of misbehavior, followed by fashioning of a disposition that combines compassion and science in a program designed to bring the erring youth into productive participation in community life. The reality is often exemplified by the big-city court receiving referrals of many thousands of youths each year, employing a staff of hundreds which must almost of necessity be so bureaucratized as to lead to depersonalized, assembly-line operation based upon an endless series of fifteen-minute court hearings disposing summarily of the fate of children and families.

The juvenile justice reality is also one of frequent provision to courts by their supporting communities of resources inadequate to their mission. Wisdom and compassion undoubtedly do exist in many probation departments, detention centers, and juvenile correctional institutions. But the inquiring reporter easily and frequently encounters the realities of over-burdened probation officers forced to carry out their assigned tasks of guidance and counseling through thirty-minute interviews once a month, demeaning detention in the filth of adult jails, and incarceration

in correctional institutions characterized by punishment, isolation, neglect, abuse, and the absence of simple decency in relationships among inmates or between inmates, staff, and administration (see for example Richette, 1969; James, 1970; Bayh, 1971). The inescapable conclusion is that the juvenile justice system as it functions with respect to many youths is no longer an answer but is a part of the problem. While it must be better enabled to perform its necessary functions, it is also inevitable that alternatives to it will be sought for youths not clearly requiring intervention implementing the full authoritative power of the state.

Labeling and the Self-Fulfilling Prophecy

The recent years' criticism of the performance of the juvenile court and its related agencies goes beyond observations of the inept performance of individual courts and programs. It reaches to the fundamental issue as to whether the juvenile justice process can be rehabilitative or is inherently damaging and thus one from which the child should be protected. This issue derives largely from "labeling theory." Such theory proposes that the procedures of arrest, court referral, formal finding of delinquency, and exposure to a correctional program may so operate as to define the individuals subject to them as being different from and excluded by conventional society. Thus, formally processed juveniles may acquire both a private self-concept and a public reputation endangering their reintegration into the community. This view was furthered by Lemert's contribution to the 1967 President's Crime Commission Task Force Report:

> Social scientists familiar with the juvenile court and its problems in the main agree that one of the great unwanted consequences of wardship, placement, or commitment to a correctional institution is the imposition of stigma. . . . The conclusion that the court

> processing . . . in some ways helps to fix and perpetuate delinquency in many cases is hard to escape (Lemert, 1967).

The application of such a proposition to the issue of the development of alternatives to the juvenile justice system rests upon a set of still relatively untested, although intuitively appealing, assumptions to the effect that (a) juveniles exposed to the experiences noted by Lemert do perceive themselves to be stigmatized in the eyes of significant others, (b) formal processing does result in the affixing of an enduring label causing youngsters to be denied access to conventional routes toward socialization, and (c) processing employing alternatives to the juvenile justice system is necessarily--or even usually--less stigmatizing than is formal processing. These assumptions have not been adequately subjected to empirical examination. The very few such tests of them as have been made have yielded evidence that is not wholly supportive or is even contradictory of them. Thus, endeavors to establish the effects of delinquent labeling on school performance (Fischer, 1972), or a sense of stigma following arrest and detention center care (Foster, et al., 1972), or lesser stigma following alternative than that following institutional care (Paternoster, et al., 1979) have been unsuccessful. In fact, if the existence of a stigmatizing effect is supposed, it may, as far as can be demonstrated, follow referral to a diversion project just as surely as it may result from other justice system processing. One major review of research on the problem to date notes that: "So far as we know, no one has shown that the juvenile offender and his family perceive their handling as materially different under auspices of a diversion unit than under a more traditional juvenile justice agency. The question is rarely formulated, let alone asked" (Mahoney, 1974). And Elliott (1978) claims that,

"From a labeling perspective, it appears that receiving help or treatment from agencies is more stigmatizing than being arrested and processed in the justice system."

Nonetheless, failure to demonstrate a labeling effect associated with official processing does not prove that none exists. Thus, to many scholars the apparent inherent logic of labeling theory persists and provides at least some further impetus to the movement toward the development of alternatives.

The Scope of the Present Alternative System

It is difficult to assess the extent to which the recent years' thrust to develop alternative programs has resulted in increases in the proportion of youth diverted away from the formal system. Simple diversion is not new. It has never been deemed socially profitable to officially process all juveniles entering the front door of the juvenile justice system. An unknown but undoubtedly large number of youths coming to the attention of law enforcement officers as a result of illegal behavior have always been released without arrest or other referral. Of the 1,569,626 contacts that did result in arrest in 1976 and were reported to the FBI, 39 percent were terminated by police adjustment and release (U.S. Uniform Crime Reports, 1977). Of the estimated 1,317,000 delinquency cases referred in 1975 to the nation's some 2,879 juvenile courts, 678,023 (51 percent) were adjusted at court intake, or by probation officers or judges without official court action (National Council of Juvenile and Family Court Judges, 1975). One commonly-cited estimate is that "of every 500 possible juvenile arrests . . . there are 200 police contacts resulting in 100 arrests. Of these, only forty youth are taken into custody, only

20 appear before a judge, and only two or three are sent to a correctional facility" (Nejelski, 1976).

Our topic, however, extends beyond simple or traditional diversion from the formal juvenile justice system. We are concerned with specific alternative programs developed to make possible planned diversion as a means of achieving a designated purpose which may include, but frequently goes beyond, freeing the child from the justice system. As previously noted, the movement toward such alternatives was largely stimulated by the 1967 report of the President's Crime Commission. It called for the development of a nation-wide network of "youth service bureaus" which would serve as "central coordinators of all community services for young people" and "would provide services lacking in the community or neighborhood, especially ones designed for less seriously delinquent youth" (President's Commission, 1967). Within three years more than forty of the 55 states and territories had developed programs labeled youth service bureaus, and by 1971 more than 150 such organizations were in operation (Howlett, 1973). During the period 1971-72 an estimated 50,000 youth who were in immediate jeopardy of the juvenile justice system were reported to have received direct service from approximately 140 bureaus, while, "at least an additional 150,000 youth who were from the respective target areas, but not in immediate jeopardy of the juvenile justice system, were participants in the program . . ." (U.S. National Study of Youth Service Bureaus, 1972).

Under the aegis of the Law Enforcement Assistance Administration, the movement toward the development of service programs that function as alternatives to full justice system processing has burgeoned. Some programs

are designed to receive referrals from the police level, while others come into play at juvenile court intake, detention, or at the time of court disposition hearing, or of commitment to correctional institutions. Some programs fulfill all of these functions. No information documenting the total number of such endeavors is available, although impressions of the extent of the movement are conveyed by the numerous mentions of alternative agencies in the literature and by reports such as those from one particular state (California). In Los Angeles County for example, the Sheriff's Department reported 119 "referrals to social agencies" in 1968-69. By 1974-75 that figure had increased to an estimated 2,098. Statewide, it was estimated that by 1974 between 150 and 200 alternative projects had come into existence, many being relatively new, with their numbers still growing (Klein, et al., 1976).

Constantly expanding though the movement would appear to be, it is only beginning to make a major national impression on the proportion of youths arrested who are referred to alternative programs rather than to courts. Available data on this point are unsatisfactory, due to the varying number of law enforcement agencies that report these data in any given year. Nonetheless, it is of some value to note that in 1970, of the 1,266,151 youths reported to have been taken into police custody, 50.3 percent were referred to juvenile court jurisdictions, while 1.6 percent were reported to have been "Referred to Welfare Agency," a category in which most alternative program referrals would probably appear (U.S. Uniform Crime Reports, 1971). By 1978 the proportion reported to have been arrested who were referred to juvenile courts had <u>increased</u> to 55.9 percent. The proportion referred to welfare agencies changed only slightly, increasing to 1.9 percent (U.S. Uniform Crime Reports, 1979).

The overall impact of the attempt to provide alternatives to the correctional institution is also hard to measure. Some encouragement may be taken from the fact that according to a Corrections Magazine survey, the recent years have seen a considerable decrease in the number of juveniles confined in public training schools--from 34,200 in 1965 to 26,000 in January, 1978 (Wilson, 1978). This has been accomplished in spite of both a growing juvenile population in the U.S. and enormous increases in the numbers of juveniles arrested.

The most recent available data from the 1977 Census of Public Juvenile Facilities also suggest a decline in the use of public correctional and detention facilities and a shift toward the use of open, rather than institutional, facilities, and toward private, rather than public care. Thus for the 2 1/2 year period ending on December 31, 1977 the number of residents housed in publicly-operated facilities for juveniles decreased by 7 percent to a total of 46,000. These youths were housed in 992 facilities, an increase during the 2 1/2 year period covered by the data of 14 percent. A combination of fewer youths in a larger number of facilities at least hints at a trend toward the use of smaller facilities. Encouragingly, four out of every ten of the 992 facilities were classified as "open" as opposed to "institutional" (the "open" versus "institutional" classification is new and thus does not yield data which can be compared with previous years). Almost two-thirds of the facilities for long-term placement fall in the "open" classification, which is made up largely of shelter homes, group homes, and some ranches. The decreased use of public care facilities was accompanied by a 7 percent increase in the number of youths housed in private-sector facilities, to a total of 29,400 (National Criminal Justice Information and Statistics Service, n.d.).

The apparent trend toward decreaseduse of large public institutions appears to be due to several factors. On the one hand, state departments of corrections have generally experienced constrained budgets and limited resources for maintaining youths in institutions. One response to shrinking budgets has been widespread attempts to reduce the numbers of youths placed in institutions, shorten lengths of stay for committed youths, and design programs for juveniles that do not require expensive institutional care. A second factor that appears to have affected rates of institutionalization is the mandates contained within Federal legislation, in particular the 1974 Juvenile Justice and Delinquency Prevention Act (as amended), accompanied by the efforts of the Office of Juvenile Justice and Delinquency Prevention to implement these mandates. A third factor, one largely responsible for a climate of opinion consistent with Congressional and OJJDP intent, is related to the significant shift in attitude that has swept many professionals in the juvenile justice field. The disillusionment and disenchantment with the juvenile court and conventional corrections programs that laced the 1967 report of the President's Commission signaled a shift in the climate of opinion among those who were concerned about dispositions for adjudicated juvenile offenders. Arguments that maintained that a stay in a correctional institution could have detrimental effects on a youth prevailed. Practice wisdom began to suggest that the "new corrections" would require programs that cared for juveniles outside of traditional correctional facilities. Though these arguments claiming that institutions damage youths residing in them have generally been based on impressionistic, rather than systematic empirical evidence, the effects of this dramatic shift in professional ideology havehad profound impact on

long-range plans for handling juvenile offenders.

It is important to note, however, that a decline in the numbers of juvenile offenders in public detention and correctional facilities does not necessarily signify a decline in the number of children who are in some manner institutionalized as a result of violative behavior. In fact, for the 1970-75 period there is evidence to suggest that while the numbers of juveniles in public correctional facilities may have declined substantially, the numbers of juveniles in public and private institutions in general (correctional, child welfare, and mental health) for behavior that would be considered illegal if taken note of by law enforcement officials actually increased (Lerman, 1979). Thus, it appears that many youths who in previous years would have been placed in correctional facilities were referred to child welfare and mental health institutions instead. A decline in the numbers of youths in secure correctional facilities in recent years may have been accompanied by an increase in the numbers of youths in child welfare and mental health institutions. When these data are considered together it appears that there was a net increase between 1970 and 1975 in the number of these youths in institutions. In fact, it appears that there were more youths per 100,000 in institutions in 1975 than in 1950.

Lerman has suggested a number of reasons for this apparent increase: (1) an increase in the number of private organizations caring for delinquent youths; (2) an increase in the number of delinquent-type youths who have been placed in private facilities by parents, guardians, and welfare agencies (as opposed to law enforcement officials or the court); (3) the transfer of legal responsibility for status offenders from probation and corrections officials to public child welfare officials; (4) the tendency to

regard delinquent behavior as a symptom of "acting out" behavior or of emotional disturbance that requires residential treatment in a structured setting (child welfare or mental health); and (5) the availability of federal funds (for example, from the Social Security Act) for placing youths out of their homes. The Juvenile Justice and Delinquency Prevention Act requires only that states provide evidence of a decline in the proportion of youths being placed in correctional facilities. The legislation does not require states to document corresponding increases or decreases in the proportion of delinquent-type youths placed in secure child welfare and mental health institutions such as state and county mental hospitals, psychiatric units of general hospitals, children's psychiatric facilities, and private hospitals. (The deinstitutionalization agenda of recent years has been directed largely at the development of alternatives to public secure detention and correctional facilities characterized as existing for delinquents.) However, despite the absence of a net decline in the numbers of delinquent-type youths in institutions, significant attempts have been made to design and administer alternative programs.

Contemporary Alternative Programs

As we have seen, the term "alternatives" has been used in many different ways by individuals interested in the study of programs that remove youths from the juvenile justice system. We have referred to alternatives to institutionalization, community-based alternatives, alternatives to formal processing, and alternatives to detention. As with other popular terms in juvenile justice, such as diversion, community-based, and prevention, the term alternatives takes on a variety of meanings and is used to signify a variety of types of programs. On the one hand,

alternatives to institutionalization may refer to any program designed to serve youths who would otherwise be cared for in a secure setting. On the other hand, a community-based alternative may be a program that is designed to serve youths who would otherwise be cared for in an institution and one that deliberately attempts to engage youths with the life of the community through contacts with school, jobs, recreational activities, and church. Thus, a program may qualify as an alternative to institutionalization without being a community-based alternative, though both types of programs may be referred to generally as alternatives. It is therefore important to understand the various ways in which the term alternatives is currently used and the variety of programs that can be classified as alternatives.

As we noted earlier, the 1967 report of the President's Commission on Law Enforcement and Administration of Justice, and the 1974 Juvenile Justice and Delinquency Prevention Act were two significant documents that paved the way for current attempts to provide alternative programs for juveniles. These alternatives have taken on a variety of forms and have been made available to youths at several stages in the formal processing of juveniles by police, the court, and corrections. More specifically, in many jurisdictions around the nation both residential and nonresidential programs are available as alternatives to formal processing by police, as alternatives to secure detention, court intake, and secure correctional facilities.

Police Diversion Programs

The 1967 report of the President's Commission on Law Enforcement and Administration of Justice concluded that, "informal pre-judicial handling is preferable to formal treatment in many cases and should be used more

broadly. The possibilities for rehabilitation appear to be optimal where community-based resources are used on a basis as nearly consensual as possible. . . . Court referral by the police should be restricted to those cases involving serious criminal conduct or repeated misconduct of a more than trivial nature." This statement, made over a decade ago, foreshadowed a burgeoning of attempts by police departments throughout the nation to provide programs that were designed to divert certain juveniles from formal processing by police, courts, and corrections.

The police diversion programs that have been developed nationwide have varied considerably in their goals, screening procedures and services. In some jurisdictions, for instance, the primary goal is to identify youths whose alleged offenses and offense histories do not warrant referral to court and to warn and release them. In other jurisdictions, however, the primary goal is to identify youths who should not be referred to court and to refer them to or provide them with needed services (McDermott and Rutherford, 1975). This is an important distinction; programs whose primary goal is matching diverted youths with needed services require different staff and procedures, and may have significantly different consequences than programs whose primary goal is merely to avoid unnecessary referrals to court.

The legal status of youths in police diversion programs also varies considerably. It is the policy of some programs to divert juveniles at the point of contact with police and to simultaneously sever the youths' ties with the police and court; that is, a decision to divert a youth is also a decision to discontinue any formal relationship the youth might have with the police and court as it relates to the offense for which the youth was

encountered. In other jurisdictions, however, a decision to divert is conditional; youths can be referred to court if they commit a new offense or misbehave within a specified period of time following the decision to divert. Programs that operate in this manner are sometimes referred to as pseudo-diversion or formal diversion programs, as opposed to true or informal diversion programs.

Whether or not programs retain authority to refer youths to court as a result of a program infraction or law violation following diversion raises several important due process issues (Shakman, 1979). In particular, programs that retain the authority to refer youths to court for an offense committed following diversion may introduce an element of coercion into a program that was designed to be voluntary in nature. That is, youths who have not been adjudicated in court may be diverted at the time of encounter with police and may be referred back to court without ever having been found delinquent or a minor in need of supervision. This is particularly true for youths who are required to admit guilt before they are admitted to a diversion program. On the one hand, there may be an incentive for a youth to admit guilt for an offense he did not commit in order to avoid referral to court; however, if he commits an offense following diversion or violates a rule of the diversion program he might have a petition filed against him in court for an offense he did not in fact commit. Youths who participate in police diversion programs that sever their relationship with the court and who are not required to admit guilt before being diverted do not assume this risk.

A second problem that is sometimes encountered is that certain youths who would otherwise be warned and released by police if the only

other option available were referral to court are included in police diversion programs because of the availability of services; that is, the availability of a diversion program and social services may encourage police to process and refer youths who would otherwise be released. This is sometimes referred to as a "widening of the net effect." It is important to note, however, that there is disagreement about whether such a consequence is desirable or undesirable. On the one hand, it can be argued that youths who normally would not receive follow-up services after arrest are sometimes provided with meaningful assistance. On the other hand, however, it is sometimes argued that a diversion program represents an unwarranted, gratuitous intervention in the lives of youths who otherwise would be released after an encounter with police (Klein, 1979). It has been argued that this is a particular problem in instances when police would prefer to refer a youth to court but are reluctant to do so because the case against the youth is not strong (Altschuler and Lawrence, 1979). In these cases a referral to a police diversion program is sometimes viewed as a way to maintain some control over a youth's life.

There is evidence that in many jurisdictions the criteria used to determine whether a youth should be referred to court, released, or referred to a police diversion program are not well specified and that the characteristics of youths referred to court, to police diversion programs, and released are often not significantly different. The percentage of youths referred to police diversion programs varies considerably both across and within police departments. It has been documented, for instance, that juvenile officers within a single department may refer youths to diversion programs using substantially different criteria (Klein, 1976).

In general, however, officers tend to consider the seriousness of the instant offense (the offense that resulted in the encounter with police for which diversion is being considered), the youth's offense history (both number and seriousness of prior offenses), and the youth's attitude and demeanor. Some departments rely on detailed score sheets to determine whether a youth should be diverted, admonished and released, or referred to court. These score sheets ordinarily include the type of offense allegedly committed by the youth, the youth's offense history, the extent of personal injury to victims, and the extent of damage to property. Youths who are on probation or parole, or who are participating in a diversion program at the time of arrest, are often not eligible for diversion.

The individuals who decide whether or not a youth should be diverted at the time of encounter with police also vary. In some jurisdictions the arresting officer makes the determination. In others the arresting officer makes a recommendation that is reviewed by a superior officer. And in some departments there are Diversion and Disposition Officers who make final decisions on youths' eligibility for diversion.

A wide variety of services are offered under the auspices of police diversion programs. Sometimes services are provided to youths directly by officers or civilian staff employed by the police department. In other instances, police refer youths to social service agencies and individuals located in the community. Services provided by personnel of the police department frequently include crisis intervention and short-term counseling. In many departments officers and civilian staff are trained in techniques of crisis intervention and counseling, and are acquainted with problems of, for instance, physical and drug abuse. Some departments employ civilian

professionals, such as social workers and psychologists, who have had substantial training and experience in these areas.

Youths referred to community agencies for services frequently receive counseling; some diversion programs refer youths to agencies that provide tutorial assistance, employment information and job referral, and temporary shelter (in a group or foster home). Youths are also provided with advocates on occasion, individuals who serve as "Big Brothers" or "Big Sisters." It is frequently the case that staff of police departments do not or are not able to follow cases once youths have been referred to community agencies. In many instances the youth's formal relationship with the police ceases once a referral to a community agency is made. Police may resume contact, of course, if a youth commits an offense following referral.

Alternatives to Court Intake

Police who encounter juveniles have a number of options available to them. (1) simple release; (2) release with an official report describing the encounter; (3) warning with release to parent or guardian; (4) referral to other social service agencies; (5) police supervision; (6) referral to court; and (7) referral to court for detention. Not all of these options are available in every police department; only some of these options, or combinations of them, may be used. A substantial proportion of youths who encounter police are not, however, diverted at this point; many of them are referred to juvenile court for formal processing and, perhaps, for detention. In addition, some youths are brought to the attention of the court by parents or guardians, representatives of public and private

agencies, teachers, and ordinary citizens. Thus, many youths who are not diverted by police, or who are referred to court by other parties, may be eligible for alternative programs made available at the point of court intake.

At court intake complaints are heard and decisions are made whether or not to handle a case formally (by filing a petition and scheduling an adjudication hearing). In some jurisdictions this decision is made at an intake hearing. In many courts, five options are available to intake personnel: (1) simple release from the court's jurisdiction (perhaps to parents); (2) release to parents with youth placed on informal probation; (3) release to parents with petition filed; (4) admit to secure detention with petition filed; and (5) refer youth to a program that is an alternative to formal processing (Young and Pappenfort, 1977).

There is evidence that many of the cases that are referred to court do not require formal processing. As noted earlier, for instance, it has been estimated that about half of all juvenile cases referred to court are handled nonjudicially (National Council of Juvenile and Family Court Judges, 1975). This occurs for several reasons. For example, a single court may accept referrals from many police departments where different criteria are used to determine when youths should be referred to court for adjudication. Some departments refer youths to court who in other police jurisdictions would not have been diverted (Ferster and Courtless, 1969). And, as noted above, some referrals to court are not screened by police and come directly from other agencies and individuals. Parents, for instance, have been known to file a complaint in juvenile court in order to "scare" youths into proper behavior. Many of the complaints filed by individuals other than

the police do not concern serious infractions and should not be handled formally (Young and Pappenfort, 1977).

The alternative programs available at court intake are similar to those available to police who consider diverting youths. Youths are sometimes provided with services from court staff and sometimes from agencies and individuals located within the community. Services may be residential and nonresidential. Typical services include counseling, tutoring, foster care, wilderness programs, independent living, advocacy, and job training.

As with police diversion programs, distinctions can be made between court diversion programs that allow the court to reinstate a petition following a law or program violation and those that do not. Thus, the danger exists in some programs that youths who in fact have not committed an offense may admit to a charge and agree to "voluntarily" participate in order to avoid formal court processing (Shakman, 1979).

The individuals who decide whether or not to refer youths to alternative programs at the point of court intake vary. In some areas an intake worker from the probation department makes a decision after considering information available from the police or other complainants. In some cases an extensive study of the youth's past behavior, school performance, and family life is conducted prior to a decision. And in some jurisdictions a prosecuting attorney must approve an intake worker's decision before a youth can be referred to an alternative program.

Alternative to Detention Programs

All jurisdictions face the problem of caring for certain youths who cannot be returned home following an arrest. It has been the practice in most jurisdictions that youths who are considered especially dangerous

to the community or to themselves, or who seem likely not to appear in court, are placed in secure detention facilities or local jails prior to their initial appearance in court. The amount of time youths spend in secure detention facilities or jails averages about one to two weeks in many areas of the country, though instances when youths are detained for very brief or very long periods of time are not uncommon.

It has been documented, however, that secure detention is misused for large numbers of youths awaiting court hearings (Ferster, et al., 1969; Sarri, 1974; Young and Pappenfort, 1977; Poulin, Levitt, Young and Pappenfort, 1979). Misuse of detention takes various forms and occurs for a variety of reasons. For instance, many jurisdictions do not have resources available to care for youths with special psychiatric or neurological problems. These youths are often detained because alternatives are not available. Or youths who are in fact dependent or neglected may be misclassified as children in need of supervision and detained; this may happen when shelter care facilities or foster homes are not available for neglected youths who have been removed from their homes. And there is evidence that in some jurisdictions youths who represent little danger to the community and to themselves are referred to detention so that they will be eligible for services that otherwise would not be available to them; that is, in some jurisdictions youths must first be placed in detention before they can be referred to an alternative program.

In addition, youths arrested for status offenses such as running away from home are often detained at higher rates and for longer periods of time than youths arrested for delinquent acts (Young and Pappenfort, 1977). This may result because runaways frequently cannot be returned home after

arrest (either because they refuse to return home or because parents refuse to care for them) and, if foster or shelter care is not available, must be detained. Runaways are occasionally detained for short periods of time in order to "teach them a lesson."

Detention facilities in many jurisdictions do not have specific intake criteria; police and court staff frequently do not monitor admissions and youths who do not require secure custody are sometimes inappropriately placed in detention. This can be a particular problem in jurisdictions where police make the final decision to detain or release a youth. The criteria police use to decide whether a youth requires detention vary considerably. Consequently, such factors as a youth's race or sex, the time of apprehension (daytime, evening, or week-end), and the proximity of a detention facility frequently have a greater effect on decisions to detain than the seriousness of a youth's offense or the danger he represents to the community and to himself (Young and Pappenfort, 1977; Coates, Miller, and Ohlin, 1978). Fortunately, in many jurisdictions detention decisions are routinely reviewed by a juvenile court judge or referee within a relatively short period of time (usually 24 to 36 hours) following an arrest (Whitlach, 1973; Hunstad, 1975; Kehoe and Mead, 1975). These reviews or detention hearings frequently result in the removal of a youth from secure detention.

Procedures have been introduced in many jurisdictions in an attempt to reduce the number of inappropriate admissions into detention. In some areas strict intake criteria have been established; these may include a score sheet that must be completed for each youth referred for detention (considering the instant offense, the youth's offense history, contacts

in the community, and attitude), written criteria that must be met in each case that relate to the youth's danger to the community and to himself, and to the likelihood that he will appear in court if not detained, and regular administrative review of detention decisions (in addition to judicial review at a detention hearing).

Nonresidential alternatives to detention have been developed in many areas (Keve and Zantek, 1972; Buchwalter, 1974; Cannon, 1975; Drummond, 1975). These programs are usually designed to use the youth's own home as an alternative while awaiting court hearing. Youths who participate in these "home detention" programs are ordinarily released to their parents' recognizance to await court hearings and are periodically supervised by a youth worker employed by the court's probation department. The youth workers are expected to keep the juveniles out of trouble and to make certain that they appear in court. Ordinarily, a youth worker will visit each youth on his caseload regularly (for example, once each day or every other day) and will either phone or personally contact the youth's parents, teachers, and employer. Youths are frequently expected to abide by rules specified in a contract (such as attending school, observing curfew, maintaining regular contact by phone with the youth worker); youths who violate conditions of their contract are often admitted to detention as a consequence. The goals of home detention programs vary. Workers in some programs merely try to keep the youths trouble free and to have them appear in court. Others attempt to provide counseling to youths and their families and to organize regular recreational activities.

Home detention programs are ordinarily designed for both alleged delinquents and status offenders; however, some programs serve only alleged

delinquents or status offenders. Youths who have allegedly committed offenses such as burglary, vandalism, and theft are frequently included in these programs; youths charged with offenses such as homicide, rape, and aggravated assault are rarely placed in home detention programs. Status offenders, however, are often considered difficult youths to handle in these programs unless other living arrangements (such as a relative or foster home) are available for youths who have repeatedly run away from home or who have been repeatedly referred to court for ungovernability. These youths frequently come from homes where family relations are considerably strained; home detention is frequently not successful in such unstable settings. In general, however, home detention programs enjoy high rates of success, when success is defined as (1) failure to commit new offenses during the program, and (2) appearance in court. A review of six home detention programs in different jurisdictions indicates rates of success ranging from 82.2 percent to 97.5 percent, where the percentages reflect the proportion of total program youths who had not been accused of committing a new offense and appeared in court (Young and Pappenfort, 1977).

Residential programs have also been designed as alternatives to detention in many areas (Kaersvang, 1972; Cronin and Abram, 1975; Long and Tumelson, 1975). These programs usually rely on foster homes or one or more group homes as alternatives. Some group home programs are designed exclusively for use as alternatives to detention. Others serve as alternatives to detention but also accept youths who have been adjudicated delinquent or minors in need of supervision. In addition, some group homes that serve as alternatives to detention employ staff who provide services directly to youths (counseling, educational, cultural) and some purchase

services from other agencies and individuals located in the surrounding community.

Youths who are in group homes as an alternative to detention spend their time in a variety of ways. In some programs youths attend school during the day (their own if possible) or work at a city or county-sponsored job. During evenings and weekends youths may participate in counseling or recreational activities, or may take a short trip to a play or movie. Volunteers frequently help to arrange activities along with the house-parents of the home.

While many group homes that function as alternatives to detention accept alleged delinquents and status offenders, some are designed for special classes of youths, for example, runaways. In fact, some programs are designed primarily as alternatives to detention for youths who have run away from homes in other states; examples of these programs can be found, for instance, in warm-weather states (for example, Florida) that attract youths from various sections of the nation (Long and Tumelson, 1975). The primary goal of programs such as these is ordinarily to provide crisis intervention and, in conjunction with organizations such as Traveler's Aid, to return youths to their homes.

Private foster care is also used frequently as an alternative to detention. In many areas foster parents are paid per diem to care for a youth between the time of arrest and court hearing. In several jurisdictions, however, individual foster parents or proctors are paid an annual salary and provide full-time care and companionship for youths on a short-term basis throughout the year (Young and Pappenfort, 1977).

Many jurisdictions rely on both residential and nonresidential

alternatives to detention. One arrangement that has been used in several jurisdictions relies on "advocates" who are summoned to the police station following an arrest (Spergel, et al., 1979). Advocates are frequently employed by private social service agencies with which a state social service agency contracts. Their responsibilities include crisis intervention and arranging an alternative for youths who would otherwise be placed in detention. Advocates often try to place a youth in his own home between the time of arrest and court hearing (similar to home detention); in cases when a youth cannot be placed in his own home an advocate may refer him to a shelter, group, or foster home. Thus, while some jurisdictions must rely exclusively on nonresidential (home detention) programs or residential (shelter, group, or foster home) programs, in some areas advocates are available to consider both nonresidential and residential alternatives.

Despite the ability of many alternatives to detention programs to successfully prevent youths from committing new offenses and to assure youths' appearance in court, they too can at times be misused. There is evidence that the creation of alternatives to detention may encourage police to process and refer youths who otherwise would have been warned and released. It appears that the availability of new services can result in the referral of a greater number of youths and youths with less serious offense histories than those who otherwise would have been referred to secure detention (Spergel, et al., 1979). As we pointed out in the discussion of police diversion programs, the referral of youths to alternative programs who would not have been processed formally otherwise is not necessarily undesirable. Meaningful services are sometimes made available to youths as a result; it has not been demonstrated, however, that these services

significantly affect recidivism rates. Program planners and administrators should, however, recognize the possibility that alternative programs can be misused.

A second way in which alternative programs can be misused is found in areas where youths are considered eligible for these programs only after they have been admitted into secure detention. It is possible that youths are occasionally referred to detention by police in order to make them eligible for services provided by alternative programs; these youths may not represent a danger to themselves or to the community in a way that warrants the initial secure detention.

Alternatives to Post-Adjudication Institutionalization

The 1967 President's Commission on Law Enforcement and Administration of Justice, and the 1974 Juvenile Justice and Delinquency Prevention Act encouraged states to provide alternative, community-based programs for youths who would otherwise be sent to correctional institutions following adjudication. We noted earlier, however, that while there is evidence that the absolute numbers of youths in correctional institutions has declined in recent years, there is also evidence that there has been a corresponding increase in the numbers of delinquent-type youths in child welfare and mental health institutions.

Nonetheless, there have been serious attempts in many jurisdictions to carefully design and provide alternatives to institutionalization for juvenile offenders. These alternatives have been both residential and nonresidential. They have included restitution programs,[1] day treatment

[1] In February 1978, the Special Emphasis Section of the Office of Juvenile Justice and Delinquency Prevention announced a discretionary grant program designed to encourage the development of restitution programs, in

centers, group and shelter care homes, foster homes, supported work programs, and outward-bound or wilderness programs. In some jurisdictions these programs are operated directly by Departments of Corrections and Departments of Probation. In others youths are provided with services purchased from private vendors; youths maintain regular contact with "case managers" who assess their needs, match them with appropriate services, and monitor their progress.

As might be expected, these programs vary considerably in their admission criteria (e.g., based on offense history and psychiatric status), geographical area served (local versus county- or state-wide), auspices (county or state agency versus private agency), program goals (e.g., psychological counseling versus job training), size, average lengths of stay, staff qualifications (e.g., professional versus para-professional), treatment techniques and services (e.g., positive peer culture versus behavior modification or token economy), costs, and follow-up care. However, two particularly important dimensions on which alternative programs tend to differ are (1) the extent to which an alternative program is itself institutional in nature, and (2) the extent to which an alternative program is community-based.

Programs that function as alternatives to placement in correcitonal institutions may in fact resemble institutional programs. For instance,

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particular for youths who have been adjudicated for serious offenses. This grant program represents the first large-scale, nationwide attempt to test the use of restitution as an alternative to incarceration for serious offenders. Eighty-five programs have been funded; most require youths to either provide monetary payment to victims, community service, or direct service to victims. The Office of Juvenile Justice and Delinquency Prevention has funded the Institute of Policy Analysis to conduct an evaluation of the restitution initiative.

a program designed as an alternative for juvenile offenders who are considered seriously emotionally disturbed may operate in a secure cottage on the grounds of a state mental health facility or on the floor of a private psychiatric hospital (Agee, 1979). Though these programs represent alternatives to placement in secure correctional institutions they may not represent an alternative to institutionalization per se. Programs for juveniles that are operated as residential mental health programs may, and frequently do, maintain significant, institutional control over youths' lives, for example, by locking doors and restricting movement, close surveillance, and discouraging contact with the community (Coates, Miller, and Ohlin, 1978). Thus, there is an important distinction between programs that function as true alternatives to institutionalization (such as restitution programs, wilderness progrms, and nonsecure group homes) and programs that simply provide an institutional alternative to placement in a correctional facility (such as certain private psychiatric facilities and secure group homes).

It should be stressed, however, that it is probably important to maintain these two types of programs. It is reasonable to assume that certain juvenile offenders (for example, the particularly violent or emotionally disturbed offender) cannot be placed in nonsecure, noninstitutional programs because of the danger they represent to the community. For these youths a reasonable goal is to provide to the extent possible secure care that is benign and noncoercive. The hard reality, however, is that some youths will need secure care that is somewhat institutional in nature. This care can sometimes be provided more humanely by child welfare and mental health programs than by correctional institutions; this is not,

however, always the case. Child welfare and mental health programs can and have been as restrictive and coercive as correctional programs.

Programs also vary considerably in the extent to which they are community-based. The term community-based is also one that is defined in many different ways. To some it refers to any program that is not operated in a traditional institutional setting. To others, however, the term implies certain characteristics of programs and services, for example, whether a program is located near a youth's home, funded through local sources, or staffed by community residents (Coates, Miller, and Ohlin, 1978). For instance, the Juvenile Justice and Delinquency Prevention Act of 1974 stated that:

> the term "community based" facility, program, or service means a small, open group home or other suitable place located near the juvenile's home or family and programs of community supervision and service which maintain community and consumer participation in the planning, operation, and evaluation of their programs which may include, but are not limited to, medical, educational, vocational, social, and psychological guidance, training, counseling, alcoholism treatment, drug treatment, and other rehabilitative services.

One of the most comprehensive definitions of community-based has emerged from the evaluation of the sweeping effort to close down training schools and other locked facilities for youths in Massachusetts in the early 1970's (Coates, Miller, and Ohlin, 1978). The evaluators were careful to point out that a program located outside of an institution is not necessarily community-based: "We all know of too many programs that are merely islands within the community--small institutions, but nonetheless institutions." Rather, a community-based program is one that attempts to increase and enhance the quality of contact youths have with families, schools, peers, recreational and cultural programs, and the world of work. In particular, a community-based program is one where (1) youths are free

to communicate with whomever they wish about whatever they wish; (2) youths are encouraged to participate in making decisions; (3) coercion is not used to control youths; (4) youths regard program rules and procedures as fair and just; (5) frequent contact with individuals outside of the program (school, friends) is encouraged; (6) youths' communications with individuals in the community are not monitored; and (7) the community gives youths a fair chance of "making it."

It is frequently argued that well-designed and well-staffed community-based programs are less expensive to operate per youth than traditional correctional programs (probation or institutionalization). Cost data are often scarce, vague, or simply unavailable. Nonetheless, the data that are available concerning the costs of alternative programs are suggestive. The evaluation of the OJJDP-funded Deinstitutionalization of Status Offender program found, for instance, that noninstitutional services can be provided for status offenders at about 20 percent less than the cost of juvenile justice system processing (National Institute of Juvenile Justice and Delinquency Prevention, 1979). In California, evaluators studied eleven diversion projects operating in 1975 that were thought to represent fairly well the alternative programs functioning in the state at that time (Bohnstedt, 1978). For these eleven projects, the average cost per client was $180, a saving of some $320 per client over that incurred by serving a case through probation. Unfortunately, there was no net savings to taxpayers: a considerable proportion (one-half) of the cases served by the eleven projects would normally not have been served by the courts at all. Savings were thus dissipated--but some potential for such savings appears to have been demonstrated.

Massachusetts' massive program placed into alternative programs almost all youths who otherwise would have been placed in correctional institutions. Some went to expensive forms of residential care, but the most clearly community-based rather than institutional programs appeared to be the most successful and were by considerable margins the least expensive to operate (Coates, Miller, and Ohlin, 1978). The National Assessment of Juvenile Corrections, in their study of a national sample of correctional programs, found that "the 1974 average cost per offender-year for state institutions, camps, and ranches was $11,657. By contrast, the 1974 average costs per offender-year for state-related community-based residential programs were $5,501 or less than one-half the cost of correctional care. NAJC project staff estimated that, collectively, 41 states could have realized a potential total of savings of over $50 million during 1974 through the achievement of a 50 percent level of deinstitutionalization" (US. NIJJDP, 1979).

Measures of Effectiveness

Examination of the research to date upon the effectiveness of alternative programs reveals that:

1. A number of projects have succeeded in providing services alternative to justice system processing which achieve post-treatment recidivism rates as low or lower than those achieved by the formal system, although this is by no means a consistent result and the precise conditions under which it is accomplished are difficult to specify.
2. Reduction in the numbers or rates of youths treated in the justice system rather than by alternative systems has been

achieved in some but not all of the few studies for which reasonably adequate data are available.

3. Inquiry is seldom made into the degree to which less tangible but nonetheless vitally important goals are realized: conveying to youths and families the concept of societal intervention as being of a facilitating, helping nature, rather than purely coercive and restrictive; preserving and enhancing the greatest degree of freedom possible, and self-responsibility on the part of youths, families, and community institutions; and the avoidance to the degree possible of infliction of pain, suffering, and degradation. In short, fundamental aspects of the question as to whether or not the alternative movement better represents a democratic society's proper response to its citizens are rarely addressed, although, intuitively, the movement's greater reliance upon voluntary participation and lesser degrees of coercion suggests a higher probability that such goals can be achieved.

This brief summary requires some elaboration. Just as is the case with many large-scale social reform endeavors, a summary evaluation of the effectiveness of alternative programs is hampered by the presence of multiple, often-conflicting and frequently vaguely defined goals; by the complexity of the research task and the inadequacy or inapplicability of available research methodology; and by the common tendency to inaugurate and to continue or discontinue programs on the basis of their congruence with a current wave of popular intent and the presence or absence of charismatic leadership, rather than on a basis of empirical measurement of

outcome. Thus, formal, data-based evaluations are rare and often produce equivocal results. However, from the relatively few evaluative efforts to date, some generalizations can be suggested.

1. <u>When rates of post-treatment recurrence of violative behavior are used as measures, there is no clear tendency of significant differences between the effects of justice system or alternative treatment</u>.

Klein (1979) cites two studies showing superior results from justice system referral at police or court intake, three studies showing lower recidivism rates achieved by alternative programs, and eight studies yielding equivocal findings. Bohnstedt (1978) found similar mixed results when he compared recidivism rates for eleven California projects. Other scholars have come to similar conclusions (Lundman, 1976; Gibbons and Blake, 1979).[1]

With respect to programs designed as alternatives to secure detention, the Office of Juvenile Justice and Delinquenty Prevention recently funded a systematically-evaluated, eight-state project directed toward the de-institutionalization of status offenders. In lieu of secure detention, the programs generally provided supervision of youths in their own homes or shelter or foster home care. Over a twelve-month follow-up period, there proved to be no measurable, significant differences between the effects upon subsequent offense rates exerted by secure detention as opposed to alternative care. The two interventions had similar effects regardless of the youths' offense histories; that is, whether they were only marginally

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[1] A national evaluation of the Office of Juvenile Justice and Delinquency Prevention's Diversion Initiative has been designed to address several important issues related to diversion: (1) the effects of diversion, as opposed to standard juvenile justice processing, on youths and the juvenile justice system; (2) differences in the effects of diversion with and without service; and (3) the effects of labeling.

involved in status offense behavior, were chronic status offenders, or were youths who had committed both delinquent and status offenses (Klein, 1979). Other important findings from this evaluation were that most arrested status offenders (as many as 90 percent) can be cared for in their own homes rather than other residential placements, and that all of the DSO projects succeeded in removing or diverting status offenders from secure detention and incarceration. (Several problems were encountered in the projects, however: there was difficulty recruiting foster parents, arranging services to be provided by private community-based social service agencies, and establishing agreements with juvenile courts for processing status offenders.)

If one turns to programs providing alternatives to the correctional institution placement of juveniles, evaluations of client outcome again fail to demonstrate any clear, systematic superiority either for the institution or its alternative. Empey and Erickson (1972) report some reductions in recidivism achieved by an intensive, community-based, guided peer-group interaction program combined with supervised employment and help in school relationships; Palmer (1974) reports that community-based, intensive supervision and counseling appear to have been helpful with some psychological types but result in recidivism rates higher than those following institutional care for some other types. Coates, Miller, and Ohlin (1978), reporting on Massachusetts' dramatic closing of almost all its juvenile correctional institutions provide data suggesting that, as a whole, the provision of alternatives to institutionalization produced recidivism rates only slightly different than those following institutional care. However, in areas of the state in which programs had been developed

which emphasized the retention and strengthening of youths' positive ties to persons and institutions in the community, indications were that greater success was achieved. The very few other available reports are inconclusive (Empey and Lubeck, 1971; Murray, Thomson, and Israel, 1978). It should be noted that the absence of differential impact does not demonstrate no impact on the part of either system of care. In the absence of an untreated control group, one can only say that a systematic difference in impact upon recidivism rates cannot be demonstrated. However, if one favors intervening in youths' lives in the least intrusive way possible, the above findings suggest the preferability of alternative rather than justice system treatment for considerable proportions of America's youths coming to the attention of police and courts as a result of violative behavior. The deterrent or incapacitative functions of the formal system have not been shown to be more effective than referral to alternatives.

Although it is encouraging to find that at least some alternative programs have succeeded in achieving lower recidivism rates than have the justice system with which they have been compared, such findings are of only very general value to program planners. The necessary agenda for the future is inquiry into which programs produce desired results, with what sorts of youths. We are at the early stages of such an endeavor. For example, of the eleven California projects studied by Bohnstedt (1978), three seemed to so influence youths' behavior as to result in recidivism rates lower than those expected from justice system treatment. One offered extensive "service brokerage" making use of all available and pertinent community services but emphasizing such school-related components as tutoring and alternative school. A second was based largely on individual

counseling, usually provided by counselors sharing the socioeconomic and racial background of the client group served. The third emphasized family counseling by probation officers carefully trained in methods adhering to the Conjoint Family Therapy model (Satir, 1976). This model also served as the basis for the nationally-known Sacramento Diversion Project, declared an exemplary project by LEAA (Baron and Feeney, 1976). Conjoint Family Therapy is also reported to have been the strategy employed in at least two other California projects appearing to have succeeded in reducing recidivism (California Taxpayers Association, 1974).

Palmer (1973; 1975) speaks to the issue of which youths may be expected to profit from community rather than correctional institutional treatment. He reports on the California Youth Authority's Community Treatment Project, operating from 1961 until 1973.

Randomly selected groups from the population of youngsters committed by the state's juvenile courts to the Youth Authority were placed in small (12 boys or girls) caseloads and provided counseling by specially-trained parole agents, foster or group home placements as needed, the services of an accredited school operated in project quarters, and recreational experiences. Youths remained under care for a number of years if necessary. Intensive diagnostic studies were used to place youngsters into categories indicating personality type, based on diagnosed levels of "inter-personal maturity." Experimental group outcomes were compared with those of control groups having undergone the usual Youth Authority training-school-plus-parole program. The project achieved better success rates (measured by several measures of recidivism) with the most frequently-diagnosed type, the "Neurotics," than did the correctional, institutional-

parole program. Another type of youngster, labeled "Power-Oriented," tended to do substantially worse following community treatment than institutional care, while somewhat equivocal results were achieved with the third type studied, labeled "Passive Conformists."

Coates, Miller, and Ohlin (1978) note the program characteristics that seemed to be associated with reduced recidivism rates when juvenile correctional institutions in Massachusetts were closed and moved to a system of varied alternatives:

> The data generally support the notion that the more the quality of the program is enhanced by improving social climate, linkages with the community, and quality of those linkages, the less likely youngsters will be either to reappear in court or to receive a severe disposition if they do reappear. In other words, the more normalized the setting the better are the youngsters' chances of not recidivating. It should be remembered that in our analysis of program placement decisions some selectivity did occur--youths with more prior court appearances and youths who had previously been in DYS were more likely to be placed in programs yielding lower scores on the continuum. However, the seriousness of the current charge did not determine where a youngster would be placed. It seems probable that the availability of program slots and the program mix within specific regions played such an important part in determining where these youths were placed that the kind of selectivity referred to above does not entirely explain the differences in recidivism that we find across the continuum. . . . It seems reasonable to suggest that the department's reform efforts were going in the proper direction. But too few youths were appropriately placed in the more normalized settings to greatly affect the overall system recidivism rate.

2. Reduction in the relative numbers or rates of youngsters treated in the justice system rather than by alternative programs is reported in some but not all of the few studies for which data are available.

At the police and court-intake levels, Baron, Feeney, and Thornton (1973), for example, report upon the use of a family counseling program resulting in a very considerable reduction in the number of cases of status offenders handled officially by the Sacramento, California Juvenile Court. At the level of deinstitutionalization, the previously-noted national

project on the deinstitutionalization of status offenders reported an overall reduction of 24 percent in the number of youths placed in temporary detention centers located in the eight project states. There was a 51 percent reduction in placements in correctional institutions in the five sites for which data were appropriate or available. On the other hand, two sites reported an increase in rates of institutionalization during the period of operation of the deinstitutionalization program. All the programs served youths, some no doubt very successfully. But in many cases, apparently large proportions of the youths served would not have been incarcerated if the projects had not existed (Klein, 1979).

In sum, then, it has apparently been demonstrated that it is possible under some conditions for some alternative programs to operate in such a way that recidivism rates and/or the number of youngsters served by the formal justice system are reduced. Models are available providing very general information regarding the methodologies of some apparently successful ventures. But we are still at the beginning stages of the development of the ability to identify more precisely the combinations of socioeconomic and community conditions, organization of services, personalities of staff, and availability of resources that make for success. Program planners are inevitably left with enormous responsibility for the exercise of thoughtful and creative professional judgment in the design of programs properly adapted to the needs and resources of their own situations. The pressing need of the time is to move ahead with the task of adding to the available data base and to the "practice wisdom" without which data are meaningless.

Enduring Issues

It is clear that in recent years we have witnessed significant advances in attempts to provide alternatives to formal processing of juvenile offenders. Programs have been introduced throughout the nation that provide nonsecure care for youths who would otherwise be referred to court, placed in detention, or committed to a correctional institution. We have learned that careful and conscientious planning can result in programs that are sensitive to the needs of individual youths, administered by competent staff, and that are at least as effective, if not more effective, than secure, institutional programs. We have also learned, however, that the future of alternative programs may depend on the extent to which attention is paid to a number of enduring dilemmas.

1. Unintended consequences of alternative programs. Alternative programs are ordinarily established to provide social services to youths who would otherwise be handled formally by police, courts, and corrections. As we indicated earlier, however, well-intentioned programs can have unintended consequences that, in the long run, may run counter to and defeat the goals of the programs themselves. Three important and related unintended consequences that sometimes follow the implementation of alternative programs include the miscategorization of youths, an increase in the numbers of youths known to the court, and a decrease in the numbers of youths diverted from the juvenile justice system. The miscategorization of youths refers to changes in classification because of an agency's shift in policy based on an increase in the availability of services. For instance, miscategorization can refer to the relabelling of dependent or neglected youths as status offenders, or nondetainable youths as detainable youths, because

of a new program that makes services available to particular categories of youths. A recent evaluation of a statewide program designed to provide alternatives to detention to detainable status offenders found fewer status offenders released to the community (to parents, a community agency, or outright) following the beginning of the program than before; it appears that police were referring to the alternative program youths who otherwise would have been simply released because of the availability of service (Spergel and Reamer, 1980). Lerman has presented evidence that youths who have committed delinquent-type behavior are sometimes classified as "emotionally disturbed" to make them eligible for mental health services and programs (Lerman, 1979).

As reviewed earlier, there is also evidence that the creation of alternative programs can result in an increase in the number of youths known to court and formally processed. Spergel, et al. (1979) found that the introduction of an alternative to detention program actually increased the numbers of status offenders known to the juvenile court; in addition, the youths referred to the alternative program had significantly less severe offense histories than those in a comparison group of status offenders who had been placed in secure detention during the year preceding the start of the program. Bohnstedt (1978) also reports in his evaluation of eleven California diversion projects that only half of the participating youths were diverted from the juvenile justice system; the other half would not have been processed further if the projects had not been available.

2. Determining intake criteria for alternative programs. One way of minimizing the inappropriate recategorization of youths and a widening of the control net is to screen youths carefully before admitting them to

alternative programs. Unless intake criteria are carefully developed there is a high probability that youths who ordinarily would not have been processed formally will be referred to alternative programs. This is not necessarily an undesirable consequence; it is frequently, however, an unintended consequence and may be considered a misuse of alternative programs.

To date, the selection of juveniles to be referred to alternative programs is generally done by police, court intake or probation staff, or others, upon the basis of guidelines providing very broad direction but requiring complicated professional judgment. Available written policy usually stresses the selection of youngsters thought to present minimal danger of future serious violative behavior. Some consideration may also be given to the likelihood that a youth will benefit from the sort of help available from alternative programs. At the police level, for example, the diversion criteria developed by the Los Angeles County Sheriff's Department typify practice in many departments (Altschuler and Lawrence, 1979): (1) The juvenile is not on probation or otherwise involved in the juvenile justice system; (2) the juvenile's offense does not involve violence or other serious violations; the juvenile does not present a danger to others or self; (3) the juvenile does not have an extensive arrest record and is not involved in serious juvenile gang activity; (4) the seriousness of the crime, the juvenile's needs, or the family situation make it undesirable to simply release the juvenile to parental custody; and (5) the juvenile accepts responsibility for the violation and is willing to participate in diversion.

Some departments endeavor to further aid the necessarily judgmental decision by specifying in greater detail the factors to be considered and

providing some guidance as to how they are to be weighted. The San Francisco Police Department, for example, has developed a score sheet to be filed by the police officer with each juvenile arrest report in support of the officer's decision to "admonish and dismiss," "cite or book," or "divert." Each of a considerable list of assaultive crimes or those involving "sex perversion," dealing in drugs, incitement to riot, etc., is so weighted as to preclude diversion. Other classes of crimes committed (the infliction of injury to a victim, the amount of property stolen, and the nature of any prior record) are given weights which are totaled to determine eligibility for diversion with a semblance of mathematical precision (see Appendix A).

Written standards at the juvenile court intake level tend to focus upon the same basic variables but to provide somewhat longer lists of factors to be taken into consideration as having bearing upon the issues of potential danger to the community and amenability to help. These are usually listed not only as guides to diversion but as governing all aspects of the juvenile court intake decision. In spite of all attempts at specificity, the necessity for complex judgment remains. Thus, for example, the Milwaukee (Wisconsin) Children's Court Center promulgates a set of criteria (Appendix B) to be employed in determining whether or not a case must be brought into court or handled unofficially. Included are the degree of criminal sophistication the child is considered to exhibit, the "prospects of his rehabilitation," any history of past attempts to rehabilitate him, various considerations about the nature of his offense record, the existence of any family, physical or mental problems and, finally "any other circumstances which indicate that the filing of a petition is necessary to

promote the welfare and safety of the child or the protection of the public."

The American Bar Association's Institute of Judicial Administration (Appendix C) recommends that juvenile court intake disposition be governed by factors similar to those cited above but adds that, "A nonjudicial dismissal of the complaint should not be precluded for the sole reason that the complainant opposes dismissal" or that the juvenile "denies the allegations of the complaint." The ABA also notes that issues related to the juvenile's race, ethnic background, religion, sex, and economic status should not be relevant to the intake dispositional decision (American Bar Association, 1977).

A similar range of factors generally come into play at the post-adjudication level when referral to an alternative to institutional commitment is being considered. The California Community Treatment Project excluded from eligibility for such referral youths involved in offenses such as armed robbery, assault with a deadly weapon, or forcible rape. Not excluded from eligibility were youths with records of marked drug involvement, homosexuality, chronic or severe neurosis, occasional psychotic episodes, or suicidal tendencies (Palmer, 1973). Some alternative-to-incarceration projects have taken steps to assure that youngsters referred actually are those who would otherwise be committed to the correctional institution. Thus, for example, Illinois' large-scale Unified Delinquency Intervention Services project (UDIS) generally requires youngsters to have been adjudicated for very serious offenses or to have had a prior record of at least two delinquency adjudications.

The importance of specifying intake criteria can be thought about in a second way as well. The Juvenile Justice and Delinquency Prevention

Act of 1974, as amended, states that in order for a state to receive formula grants under the Act a plan must be submitted that provides that within three years "juveniles who are charged with or who have committed offenses that would not be criminal if committed by an adult . . . shall not be placed in juvenile detention or correctional facilities." As discussed earlier, many jurisdictions have responded to this mandate by developing alternative programs specifically for youths who have committed status offenses. One consequence of these widespread attempts to provide alternative programs for status offenders has been that distinctions have often not been made between youths who are primarily status offenders (i.e., youths whose offense histories include status offenses almost exclusively) and youths who are arrested for a status offense but whose offense histories include delinquent acts as well. In fact, there is strong evidence to suggest that the percentage of youths arrested for status offenses who are "pure" status offenders is small. Spergel, et al. (1979) found that most youths (as many as one-half to two-thirds) arrested for status offenses are mixed offenders, that is, youths who do not engage exclusively in either status offense or delinquent behavior. In the sample studied approximately one out of four youths arrested for status offenses had committed only status offenses. There is evidence, then, that a significant percentage of youths arrested for status offenses have committed delinquent acts in the past and may engage in delinquent acts in the future.

Thus, an important question for policy-makers and program administrators to consider is whether a youth should be considered eligible for an alternative program based on the type of the instant offense alone or

whether the youth's entire offense history should be considered as well. The current language of the Juvenile Justice and Delinquency Prevention Act specifies only that youths arrested for offenses that would not be crimes if committed by an adult should not be placed in detention or correction facilities. Administrators are not encouraged to distinguish between youths who are "pure" or primarily status offenders and those who are not. Whether or not administrators should make this distinction in their day-to-day practice is debatable.

The presence of some sort of intake criteria is important. They help both in setting limits on decision-making and in defining areas within which individuals are encouraged to exercise professional judgment. However, they operate in the face of almost omnipresent limits upon presently available expertise:

A. The prediction with any satisfactory surety of which youths will in the future repeat their violative behavior and which will not defies present technology.

The problem is exemplified by the fact that Wolfang, et al. (1972), found in their study of a birth cohort of 9,945 Philadelphia youths that 46 percent of all arrested youths ceased violations (as far as arrest records could indicate) after the first offense and an additional 35 percent ceased after a second arrest. Only 18 percent achieved records of five or more arrests, and were thus classed as "chronic recidivists"--and only 6.2 percent of their offenses were serious ones. The prediction of particularly "dangerous" or "violent" behavior is equally problematic. In following the careers of 4,000 California Youth Authority parolees, Wenk, et al. (1972) found that nineteen out of every twenty youths known to have committed a violent offense were not known to have committed a

second violent offense during the fifteen month parole period for which data were collected. Clinical predictions employing psychological or other personality inventories have generally achieved even more dismal results than have those based on the actuarial studies of past behavior. Thus, for example, Wenk, et al. (1972) observe that, "There have been no successful attempts to identify within . . . offender groups a sub-class whose members have a greater than even chance of engaging again in an assaultive act."

B. The prediction of which types of offenders will best respond to which sorts of treatment is also a precarious venture.

One major, well-documented effort to construct a typology of juvenile offenders useful in determining treatment needs was that of the previously-mentioned California Community Treatment Project. The project extended over some twelve years and included several thousand subjects. Clinical methods were employed to classify subjects according to their achieved level of ability to correctly perceive and respond to interpersonal and societal relationships. The offender typology that resulted did make possible the distinguishing of certain personality types somewhat most likely to succeed in community treatment programs and others more often appearing to require a period of institutional treatment before release to the community. However, the general utility of the methods developed is dubious: the predictive capacity of the methods employed was weak; the typologies developed took account only of the offender's personality traits and not of the forces brought to bear upon him by the social environment in which he operated; and the necessary diagnostic studies required the services of highly trained clinicians. The difficulties encountered by this project group are not unusual. In a Rand Corporation

study of various programs for the treatment of serious offenders, Mann (1976) notes that "The data adequate to support finely-grained judgments about the selective efficacy of the various treatment modalities does not exist."

C. Even if the offender group with a high potential for recidivism is identified, there is no assurance that referral for further juvenile justice system processing will reduce recidivism rates.

We have noted the failure of past studies to demonstrate a deterrent effect resulting from criminal justice processing.

In sum, attempts to date to predict either delinquency or amenability to interventive efforts suggest the wisdom of Monohan's (1978) recalling William James' admonition that we cannot hope to write biographies in advance. Nonetheless, some selection for referral to alternative programs is necessary and will take place. Our experience thus far suggests that guidelines for such selection should be written and administered with the following policy guides in mind:

(1) Only a small proportion of juvenile misbehavior warrants protracted official interventions either by the justice system or by alternatives to it.

Most youths--as many as 88 percent of all American adolescents, according to various careful studies (Williams and Gold, 1972)--engage in at least some violative behavior serious enough to result in referral to a juvenile court if detected and acted upon. Fortunately for its perpetrators--and perhaps for society--most such behavior does not result in official action. The justice system and its related programs cannot and must not assume general responsibility for the behavior of American youths. It is probably for the best that many youths known to the country's law enforcement agencies are dismissed at the police level, without further coercive intervention. The creation of service programs providing alternatives to court referral or other official processing should not serve as a signal to disturb this practice.

(2) At any stage in the juvenile justice process, referral for additional coercive treatment of the juvenile should be justified only if (a) an act has been committed which is in clear violation of the law and is statutorily defined as rendering the perpetrator liable to sanction, and (b) the necessity for protection of the community requires the exercise of continued control over the juvenile.

Referral for authoritative intervention should not take place as the result of judgments that "It will be beneficial to youths," or youths are "In need of treatment." Lacking the ability to assure positive results from coercively-introduced treatment, we should not use treatment goals to justify curbing normally-available rights and freedoms. (This does not mean that the youngster whom it has been found necessary to retain in order to protect the community should not have educational, vocational, medical, psychological, and other services made available to him. He should be committed to the correctional institution, for example, only for the protection of society. But once there, he should be given every possible help in working toward positive reintegration into society.)

(3) Referral to an alternative service program should take place only as a result of a voluntary agreement on the part of the youth and/or family referred.

The greatest possible professional skill and dedication can and should be employed in helping such youths and families perceive the nature of any problems confronting them, the various courses of action available to them, and the nature of any help available. They must then make the final decision as to whether or not to use such help.

(4) Alternative programs employed at the police disposition or juvenile court intake stages should be used as true alternatives to justice system processing.

Referral to them should ordinarily be accompanied by termination of justice system control. This will be considered by many to be a debatable point. It is true that some few youths who would otherwise terminate their relationship with a helping service may be deterred from doing so by "holding a club to their heads" in the form of the continued threat of court intervention. The general utility of such practice is questionable, however. Coerced attitudinal and behavioral change has proven so difficult to achieve and so fraught with dangers of worsening rather than improving youths' relationships with the broader society as to dictate that when authoritarian control must be maintained it should be administered only by agents of the justice system, subject to judicial review and with the conventional protections of due process.[1]

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[1] Restitution and community arbitration programs represent alternatives to police or court intake that may require some justice system control in order to enforce the agreements entered into. The involvement of the justice system in these instances should, however, be as unobtrusive as possible.

3. Community tolerance. Many programs designed as alternatives to formal processing are referred to as "community-based." As we saw earlier, this is a term that has many different meanings. However, current practice wisdom is that an alternative program, if it is to be truly community-based, must be of the community as well as in it. A community-based program is one that deliberately attempts to engage youths with community groups and activities and to muster support from community residents. The life of a program in a given community may in fact depend on residents' willingness to support it.

It is well-known, however, that community residents sometimes either resist or firmly oppose the presence of an alternative program. The argument most frequently cited is that youths served by such programs represent a danger to the surrounding neighborhood. Unfortunately, these claims are not always unfounded. Program administrators who are insensitive to the concerns and apprehensions of community residents may jeopardize the future of a program. Further, it is important to recognize that the attitudes of police toward alternative programs must be considered as well: "If a police officer is to divert youngsters, he can best do so on the assumption that there is someone or something 'out there' that will help prevent that youngster's reappearance. If he is to go beyond this and make an agency referral, he must know of agencies which he, the officer, finds acceptable" (Klein, 1976).

Attention to the community's willingness to support alternative programs is especially important in this current era, an era where, paradoxically, professional wisdom and Federal guidelines favoring the development of community-based alternative programs coincide with a

particularly acute sense of fear among citizens about crime and delinquency and the enactment of "get tough" statutes by state legislatures. Proponents of alternative programs cannot afford to regard these two sentiments as independent phenomena that require separate responses. The fear of crime and delinquency itself represents one of the most serious threats to the future of alternative programs. Thus, while Federal legislation should continue to encourage the development of alternatives to formal processing of juveniles, legislators and administrators cannot afford to ignore the concern of citizens that public safety should be guaranteed first and foremost. The tension between the shift toward deinstitutionalization and low community tolerance is a precarious one that demands thoughtful attention.

Among the most forceful thrusts toward maximum use of alternatives to the juvenile justice system is the pressing necessity to, at least, inflict minimal harm on the child. The uncertainty of our knowledge base, the frequent unavailability of optimum resources, and our dubious track record to date make quite uncertain any assumption that we can materially help or rehabilitate the erring child through authoritarian intervention by the legal system. But one thing we do know with considerable certainty: we can wreak grave suffering upon the child. The institutions to which we send him are almost of necessity less than humane. They involve deprivations not encountered by the diverted juvenile. Capricious, depersonalized, unknowing, and uncaring assembly-line handling of youngsters and the arbitrary exercise of power over them can all too readily generate resentment of and alienation from the legal system and all it represents. The

fundamental obligation of a democratic society extends at the very least to the promulgation of decency among people and in relationships between the child and the state. Such is not achieved by authoritarian invasions of liberty in the absence of reasonable surety that a worthy, societally defined goal can be achieved.

JUVENILE DIVERSION SCORE SHEET

(PRINT OR TYPE)

CHECK ONE ONLY ☐ ADMONISHED & DISMISSED | ☐ CITED OR BOOKED "J" NO. _____ | ☐ DIVERSION RECOMMENDED "D" NO. _____

TYPE OF REPORT | REPORTEE

ADDRESS/LOCATION (THIS REPORT) | DIST. | PLOT | DAY, DATE & TIME (THIS REPORTED INCIDENT)

MINOR (LAST NAME FIRST) | RACE | SEX | DATE OF BIRTH

HOME ADDRESS | DIST. | HOME PHONE

SCHOOL ATTENDING | GRADE | NAME OF PERSON NOTIFIED

ELEMENTS SCORED		SCORE
Offense committed this incident.		
MURDER, FORCIBLE RAPE, ARMED ROBBERY, ASSAULT TO MURDER, ASSAULT WITH CHEMICALS, ASSAULT AGAINST A POLICE OFFICER, ASSAULTING A PROBATION OFFICER, CRIME AGAINST A CHILD, SEX PERVERSION, CHILD BEATING, ARSON, RESISTING ARREST, SALE OF NARCOTICS, POSSESSION FOR SALE, POSSESSION OF HEROIN, POSSESSION FOR SALE, POSSESSION WITH A PRIOR, SALE OF CODEINE, POSSESSION FOR SALE, SALE OF DRUGS, INCITING RIOTS, CHILD NEGLECT, ESCAPE FROM Y G C, BENCH WARRANTS, TRAFFIC WARRANTS, TRAFFIC CITATION,	( ) X 20 =	
OTHER FELONIES	( ) X 15 =	
MISDEMEANORS AND/OR AUTO THEFT	( ) X 7 =	
DELINQUENT TENDENCIES (601)	( ) X 2 =	
Personal injury to victim this incident.		
WITH TREATMENT	( ) X 10 =	
WITHOUT TREATMENT	( ) X 5 =	
Property stolen or damaged this incident.		
OVER $200 (NON-VEHICULAR)	( ) X 10 =	
UNDER $200 (NON-VEHICULAR)	( ) X 5 =	
VEHICLE DAMAGED OR DESTROYED	( ) X 3 =	
Priors. ☐ Verified with Juvenile Bureau. ☐ Not verified.		
ON PROBATION OR PAROLE, CURRENT OR PRIOR DIVERSION CLIENT	( ) X 20 =	
FELONY (IES)	( ) X 13 =	
MISDEMEANOR (S)	( ) X 5 =	
DELINQUENT TENDENCIES (601)	( ) X 2 =	
SCORES: 0 - 4 should be admonished and dismissed; 5 - 19 are divertable; 20 and above should be cited or booked.	TOTAL	

☐ SCORE INDICATES OFFENDER SHOULD BE A DIVERSION CANDIDATE BUT HE/SHE IS ADMONISHED AND DISMISSED OR CITED/BOOKED. (EXPLANATION ON REVERSE SIDE)

☐ SCORE INDICATES OFFENDER SHOULD HAVE BEEN ADMONISHED AND DISMISSED OR CITED/BOOKED, BUT HE/SHE IS REFERRED TO THE POSITIVE DIRECTION PROGRAM AS A DIVERSION CANDIDATE. (EXPLANATION ON REVERSE SIDE)

	INITIALS	DAT
RECORDS CHECK		
LOCATOR CARDS		
STAFF OFF REVIEW		
STAFF OFF ASSIGNED		
PSO ASGD		
AGENCY		

ESTIGATING OFFICER (S) | UNIT | STAR | RECEIVED BY

RANK | STAR

Appendix B

POLICIES AND GUIDELINES FOR INTAKE WORKERS
MILWAUKEE COUNTY (WISCONSIN) CHILDREN'S COURT CENTER - 10/78

X. Petition Recommended

A. Discretionary

Professional judgement and discretion will require that in many cases court petitioning is necessary to properly assist the juvenile and to protect the community. The below listed factors are to be considered with an eye toward staff consistency:

1. The degree of criminal sophistication exhibited by the child.

2. Whether the child can be rehabilitated prior to the expiration of the court's jurisdiction.

3. Success of previous attempts by the court and its programs to rehabilitate the child.

4. The circumstances and gravity of the offense alleged to have been committed by the child.

5. Whether the alleged conduct would be a felony if committed by an adult.

6. Whether the alleged conduct involved physical harm or the threat of physical harm to a person or to property.

7. Whether the alleged condition or conduct is not itself serious, but the child has had serious problems in the home, school or community which indicate that formal court action would be desirable (i.e., a child in need of protection or services).

8. Where the alleged condition or conduct is not itself serious, whether the child is already under the supervision or a ward of the court.

9. Whether the alleged condition or conduct involves a threat to the physical or mental condition of the child.

10. Whether a chronic serious family problem continues to exist after other efforts to improve the problem have failed.

11. Whether the alleged condition or conduct is in dispute

and, if proven, a court ordered disposition appears desirable.

12. The attitude of the child and his or her parent or guardian.

13. The age, maturity and mentality of the child.

14. The status of the minor as a probationer or parolee.

15. The recommendation, if any, of the referring party or agency.

16. Consideration of any victim or affected person.

17. Whether any other referrals or petitions are pending.

18. Any other circumstances which indicate the filing of a petition is necessary to promote the welfare and safety of the child or the protection of the public.

B. Mandatory

Judicial policy requires that the following cases are to be referred to the District Attorney:

1. All cases of homicide, forcible sexual assaults, robbery and purse snatching.

2. All cases in which a juvenile is on probation (includes a stay of commitment) and is referred for a new delinquency.

3. All cases where a petition is pending but not yet adjudicated and the juvenile is referred for a new delinquency.

XI. Petition Filing

If a petition is to be filed, it shall be prepared, signed and filed by the District Attorney (delinquencies) or the DSS Legal Counsel (CHIPS). The petition will then be given to the Probation Officer for co-signing and obtaining a court date in cooperation with the Public Defender's office.

STANDARDS RELATING TO THE JUVENILE PROBATION FUNCTION

2.8 Disposition in best interests of juvenile and community.

A. If the intake officer determines that the complaint is legally sufficient, the officer should determine what disposition of the complaint is most appropriate and desirable from the standpoint of the best interests of the juvenile and the community. This involves a determination as to whether a judicial disposition of the complaint would cause undue harm to the juvenile or exacerbate the problems that led to his or her delinquent acts, whether the juvenile presents a substantial danger to others, and whether the referral of the juvenile to the court has already served as a desired deterrent.

B. The officer should determine what disposition is in the best interests of the juvenile and the community in light of the following:

1. The seriousness of the offense that the alleged delinquent conduct constitutes should be considered in making an intake dispositional decision. A petition should ordinarily be filed against a juvenile who has allegedly engaged in delinquent conduct constituting a serious offense, which should be determined on the basis of the nature and extent of harm to others produced by the conduct.

2. The nature and number of the juvenile's prior contacts with the juvenile court should be considered in making an intake dispositional decision.

3. The circumstances surrounding the alleged delinquent conduct, including whether the juvenile was alone or in the company of other juveniles who also participated in the alleged delinquent conduct, should be considered in making an intake dispositional decision. If a petition is filed against one of the juveniles, a petition should ordinarily be filed against the other juveniles for substantially similar conduct.

4. The age and maturity of the juvenile may be relevant to an intake dispositional decision.

5. The juvenile's school attendance and behavior, the juvenile's family situation and relationships, and the juvenile's home environment may be relevant to an intake dispositional decision.

6. The attitude of the juvenile to the alleged delinquent conduct and to law enforcement and juvenile court authorities may be relevant to an intake dispositional decision, but a nonjudicial disposition of the complaint or the unconditional dismissal of the complaint should not be precluded for the sole reason that the juvenile denies the allegations of the complaint.

7. A nonjudicial disposition of the complaint or the unconditional dismissal of the complaint should not be precluded for the sole reason that the complainant opposes dismissal.

8. The availability of services to meet the juvenile's needs both within and outside the juvenile justice system should be considered in making an intake dispositional decision.

9. The factors that are not relevant to an intake dispositional decision include but are not necessarily limited to the juvenile's

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