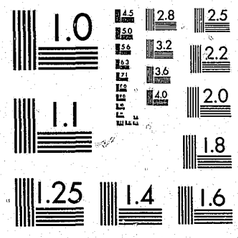

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Variations in Juvenile Law and Police Practice

Part I: A Survey of Pre-adjudicatory Statutes in Twenty States

by
Kathleen Shields

Part II: A Survey of Police Practice in Twenty States

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Section IV of the Final Report
of Grant 80-IJ-CX-0055-*:
Exploring Guidelines for Specific
Deterrence Theory: Early Sanctions
in the Juvenile Justice System

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Abstract

By expressing the intentions of the legislature and by prescribing the boundaries for police work, juvenile law functions as one of the major determinants of police practice. There is, however, room for variation in the implementation of legislation. Contrasting law with practice provides a valuable perspective for understanding police practice.

The legal research revealed a wide variation in the language of the laws, its rules and procedures and the roles of the major officials of the juvenile justice system. These differences reflect the individual strategies adopted by the states for balancing the two goals of care and protection of the juvenile and the correction of delinquent behavior. The variations between states are not paralleled by like differences between reported police practices. Across states, police appear more homogeneous in their practices. There is, however, a good deal of variation within states that seems to reflect the demands of particular organizational needs and individual communities.

Recently formulated legislation has both lightened the impact of the juvenile justice system on minor offenders and increased its impact on selected severe offenders. The police appear to see their role as less punitive. The single disposition option uniformly seen by police as punishing is the most severe, referral to court with detention.

Preface

An important part of the general examination of the topic of early sanctioning of juveniles by police is the determination of what in fact police do in their handling of juveniles, especially first-time offenders. A second, related task, is the determination of the reasons for the current practices. The research projects reported in this component of the final report constitute initial endeavors in these two areas of inquiry. The first is an analysis of pre-adjudicatory legal codes pertaining to the police processing of juveniles in the following twenty states: Arkansas, California, Colorado, Florida, Georgia, Indiana, Kentucky, Maine, Michigan, Mississippi, Missouri, Montana, Nebraska, New Hamphsire, New York, Ohio, Rhode Island, Texas, Washington and Wisconsin. The second is a survey of 365 police agencies from the above states on their practices in the area covered by the legal research. The law by its mandating, recommending and permitting a variety of police practices sets boundaries for the conduct of the police and, thereby, creates a space for police discretion. The law is one important context for police work and functions as one reason for existing practices. Therefore, a review of legal codes is a necessary beginning to an explanation or evaluation of police juvenile practices.

Consistent with our interest in the early police sanctioning of juveniles, both the legal and police surveys focused on police practices that occur up to the disposition decision and that are directly concerned with the sanctioning or punishing of juveniles

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or significantly related to the punitiveness of the treatment of juveniles. The research concentrated on the sanction or disposition options available to the police, how they are applied, if there are categories of juveniles singled out for special treatment, and especially if there is differential treatment of first-time and repeat offenders. As pilot work led to the final design of the study, the manageable scope of the study became clear and it was decided that the legal research would be restricted to the twenty states listed above and that the police survey would go to a ten percent sample of departments in these states. The details of the refinement of the study will be discussed in the sections that follow.

Part I

Juvenile Law: A Survey of Pre-ajudicatory Statutes in Twenty States

by

Kathleen Shields

Introduction

Part 1 is an analysis of pre-adjudicatory legal codes in the following twenty states; Arkansas, California, Colorado, Florida, Georgia, Indiana, Kentucky, Maine, Michigan, Mississippi, Missouri, Montana, Nebraska, New Hampshire, New York, Ohio, Rhode Island, Texas, Washington and Wisconsin. Part 2 reports a survey of 365 police jurisdictions in the twenty states listed, concerning the processing of juvenile offenders and, in particular, of the differential handling that may exist between the first-time and repeat juvenile offender.

The purpose of the legal research was two-fold. First, it was undertaken to provide the researchers with information about the constraints placed on police officers in their dealings with juvenile offenders. Additionally, it was our hope that the statutes would provide us with information about the differentiation made between first-time and repeat juvenile offenders. It was our hypothesis that the variations in the state legislated codes would be reflected in the manner in which the police handle the juvenile offender.

Background

The aim of the 19th Century juvenile justice reformers was to remove juvenile offenders from adult criminal court to more civil proceedings where the objectives of treatment and rehabilitation could be pursued. The Illinois Juvenile Court Act of 1899 was the first major legislation of this type, but by the year 1945, all states had enacted legislation to create separate juvenile court systems. Since the idea of a separate court system for juveniles was based on a concern for care, guidance and treatment of youthful offenders, little concern was placed on the legal rights of juveniles. Legal proceedings were informal compared to adult criminal court proceedings; due process safeguards were sidestepped, so that treatment could be tailored to the needs of the individual juvenile offender. Underlying this juvenile court legislation was the concept of parens patriae, which permitted the court to take the role of parent and use wide parental discretion when dealing with these offenders.

With the Gault decision of 1967, the juvenile courts were told that each juvenile offender was entitled to the same constitutional protections enjoyed by adult offenders. (1) This landmark decision was the moving force behind much legislative rethinking about processing juveniles, status offenders, non-offenders and delinquent offenders alike. With this ruling, the juvenile justice system began a new era, one that would see state legislators revising juvenile codes so that they would be more consistent with those of the adult criminal court system. The informal atmosphere that had characterized the juvenile

justice system was now being threatened with the imposition of formalities that have historically encumbered the adult court system. Granting legal rights to juveniles is a two-edged sword. On the positive side, each juvenile is guaranteed due process which was previously afforded only to his adult counterpart. However, when one examines the situation in greater detail, then some negative consequences appear. One such negative effect is the reduction in the court's ability to deal with the individual juvenile. At present, the juvenile may find himself caught between two systems. This marginal position was created by the fact that not all the constitutional safeguards enjoyed by adults in the criminal justice system have trickled down to the juvenile system. In addition, many of the benefits of informal and individualized methods of handling juveniles are no longer available.

The impetus behind recent legislation to revise the juvenile justice system has come from two camps: first, groups intent on insuring constitutional protections for juvenile offenders, and second, a crime-weary public who see the juvenile offender as a distinct personal threat. While much of this legislation was intended to provide due process for all juveniles and stiffer penalties for serious and repeat juvenile offenders, the system may have lost sight of the unsophisticated first-time or minor offender who is in danger of becoming lost in the morass of this changing system. If the trend to formalize the juvenile justice system continues unabated, the result could be the merging of the two independent systems. Created would be a new criminal justice

system that would handle adults and juveniles alike. The juvenile justice system would be reduced to a historical artifact.

Methodology

The purpose of this legal search was to provide information about the legal limitations mandated by each state legislature for the handling of juvenile offenders in the pre-adjudicatory stages of the juvenile justice system. Since the information obtained from this review was to serve as the basis for further investigation of police practices in the handling of juveniles, particularly, the possible differential handling that might exist between the first-time and repeat offender, it was important to obtain a sample of states that varied across relative dimensions of interest. The following criteria were employed for the selection of states to be included in this research:

(1) States that had recent serious juvenile offender legislation; these include California, Florida, New York, Kentucky, Indiana, Colorado, and Washington.

(2) States whose statutes address the issue of first-time juvenile offenders and repeat juvenile offenders with regard to differential handling; Texas and Rhode Island were two such states.

(3) States where previous research had indicated minimal latitude was given to police while taking a juvenile into custody; this included Georgia and Arkansas.

(4) States where there had been a recent (post 1974) overhaul in their juvenile codes.[1]

(5) Additional jurisdictions were selected to provide us with a regional balance within the continental United States, in order to detect possible regional similarities and differences in the legislative decision-making.[2]

The selection of jurisdictions based on criterion (1) was done to ascertain whether this particular "get tough" policy for repeat and serious offenders would have an opposite affect (i.e., "a slap on the wrist" policy for the first-time and minor offender).

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1 Maine, Mississippi, Missouri, Montana, New Hampshire and Wisconsin. While other states in the sample, e.g. California, Colorado and Washington, etc., have had recent major overhauls in their juvenile codes their selection was based on the above criteria.

2 Michigan, Nebraska, Ohio.

Review

Our review of the juvenile statutes in the selected states indicates that there is limited consensus among these states about the handling of juveniles in the pre-adjudicatory stages in the juvenile justice system. This report will address those variations in the juvenile codes in the following general areas:

(1) classification of delinquent and status offenders,
(2) minimum and maximum age for juvenile court jurisdiction,
(3) custody,
(4) basic rights of juveniles,
(5) intake,
(6) detention,
(7) the role of the district attorney,
(8) differential processing of first-time and repeat offenders,
(9) waiver from juvenile court,
(10) diversion and informal disposition.

In addition to the above areas of interest, we have included in our comparison of legal codes the philosophy underlying the juvenile court acts of each jurisdiction. These legislative statesment are included because they provide an indication of the purpose and direction of the individual juvenile statutes.

Philosophy Underlying Juvenile Court Acts

It was the intent of the Uniform Juvenile Court Act of 1968 to effectuate the following:(2)

(1) "to provide for the care, protection and wholesome moral, mental and physical development of children coming within its provisions,

(2) to remove children committing delinquent acts from the taint of criminality and the consequences of criminal behavior and to substitute a program of treatment, training, and rehabilitation,

(3) to achieve the foregoing purposes in a family environment whenever possible, separating the child from his parent only where necessary for his welfare or in the interests of public safety,

(4) to provide a simple judicial procedure through which this Act is executed and enforced and in which the parties are assured a fair hearing and their constitutional and other legal rights recognized and enforced, and

(5) to provide simple interstate procedures which permit resort to cooperative measures among the juvenile courts of several states when required to effectuate the purpose of this act."

Of the jurisdictions sampled, most have followed the guidelines set forth in the Uniform Juvenile Court Act for devising their own juvenile statutes. In fact, many of the states have employed terminology similar to that used in the Act. Table 1 is provided for reference.

Table 1
Philosophy Underlying Juvenile Court Acts

State	Not treated as a Criminal	Care and Guidance	Protect the Public	Impose Responsi-bility	Preserve Family Unit	Treat Rehabilitate Protect	Insure Legal Rights	Punish	Remove Taint of Criminality	Insure Restitution	Treat
Arkansas	X	X			X						
California		X	X	X	X						
Colorado		X			X						
Florida [1]			X			X	X			X	X
Georgia		X			X						
Indiana		X	X		X	X	X				
Kentucky		X			X	X	X				X
Michigan		X			X						
Maine		X	X		X		X	X			
Mississippi		X			X						
Missouri		X			X						
Montana [4]		X	X		X	X	X				
Nebraska [4]		X	X		X		X				
New Hampshire		X			X	X	X		X		
New York [3]			X				X				
Ohio		X	X		X	X	X		X		
Rhode Island		X	X		X						
Texas		X	X		X	X	X		X		
Washington [2]			X	X	X	X	X	X		X	
Wisconsin [4]		X	X		X	X	X				

1 Florida stipulates that sanction should be applied consistent with each individual case.

2 Washington provides for the development of standard goals for funding and evaluation for all components of the juvenile justice system.

3 New York stipulates that when dealing with juveniles a balance must be met between their best interest and the best interests of society.

4 Additionally, Montana, Nebraska and Wisconsin statutes state that a child shall be removed from the juvenile justice system for social services whenever possible.

While care and guidance,[1] public safety,[2] perservation of the family unit,[3] rehabilitation and treatment,[4] and the insurance of constitutional and legal rights[5] appear to be the main objectives of the majority of states sampled, a few jurisdictions explicitly state the purpose of their juvenile code is to punish the adjudicated,[6] insure restitution[7] and impose responsibility on the juvenile.[8]

In addition, Arkansas, Indiana, Montana, New Hampshire, Ohio, and Wisconsin all stipulate in their juvenile statutes that the juvenile not be treated as a criminal. The potential for "tailoring justice" for the juvenile is implicitly suggested in certain juvenile statutes. Two examples of this individualized handling can be seen in the New York code which states that when dealing with juveniles "a balance must be met between the juvenile and the best interests of society," and the Florida code which calls for "the application of sanctions which are consistent with the seriousness of the offense."

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1 Arkansas, California, Colorado, Georgia, Indiana, Kentucky, Michigan, Maine, Mississippi, Missouri, Montana, Nebraska, New Hampshire, Ohio, Rhode Island, Texas, and Wisconsin
2 California, Florida, Indiana, Maine, Montana, Nebraska, New York, Ohio, Rhode Island, Texas, Washington, and Wisconsin
3 Arkansas, California, Colorado, Georgia, Indiana, Kentucky, Michigan, Maine, Mississippi, Missouri, Montana, Nebraska, New Hampshire, Ohio, Rhode Island, Texas, Washington, and Wisconsin
4 Florida, Indiana, Kentucky, Maine, Montana, Nebraska, New Hampshire, Ohio, Texas, Washington, and Wisconsin
5 Florida, Indiana, Kentucky, Montana, New Hampshire, New York, Ohio, Washington, and Wisconsin
6 Maine and Washington
7 Florida and Washington
8 California and Washington

Classification of Delinquency and Status Offenses

In an attempt to destigmatize conduct of a non-criminal nature, most juvenile statutes limit the classification of delinquency to violations of state and federal laws, and classify status offenses as violations that would not constitute a criminal act if they were committed by adults. While sixteen of the jurisdictions sampled employ the term delinquent in their juvenile codes,[1] the remaining four jurisdictions either refer to the youthful law violator as offender[2] or ward of the court,[3] or label the "act", not the violator.[4]

The majority of states in the sample maintain a separate classification for status offenders. Maine and Missouri, however are exceptions. In fact in 1978, Maine abolished the status offense jurisdiction and only under limited circumstances does the court maintain jurisdiction over "runaways" or those who are neglected or at risk. Eleven of the states sampled include "unruly" in their classification of status offenses.[5] In contrast to the Michigan classification of runaway as a delinquent, the codes in Colorado, Florida, Georgia, Maine, Mississippi, Nebraska, New Hampshire, Ohio, Rhode Island, Texas, Washington, and Wisconsin list the violation under the

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1 Arkansas, Colorado, Florida, Georgia, Indiana, Kentucky, Mississippi, Missouri, Montana, Nebraska, New Hampshire, New York, Ohio, Rhode Island, Texas, Wisconsin
2 Washington
3 California
4 Maine and Michigan
5 California, Colorado, Florida, Georgia, Kentucky, Michigan, Mississippi, Nebraska, New York, Ohio, and Wisconsin

category of status offense.[6] While truancy and other school related offenses are considered delinquent acts in Indiana and Michigan, they are categorized as status offenses in fourteen of the jurisdictions sampled.[7]

Figure 1

Classification of Delinquent and Status Offender

Terminology Employed	State
Delinquent	Arkansas, Colorado, Florida, Georgia, Indiana, Kentucky, Missouri Mississippi, Montana, Nebraska, New Hamshire, New York, Ohio, Rhode Island, Texas, Wisconsin
Offender	Washington
Ward of the court	California
"act" termed delinquent, not the violator	Michigan, Maine
Maintenance of a separate classification for status offenders	Arkansas, California, Colorado, Florida, Georgia, Indiana, Kentucky Mississippi, Montana, Nebraska, New Hampshire, New York, Ohio, Rhode Island, Texas, Washington, Wisconsin
No maintenance of a separate classification for status offenders	Maine and Missouri

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6 Florida, Kentucky, Nebraska, New Hampshire, Ohio, and Wisconsin require habitual action.

7 Arkansas, California, Florida, Georgia, Kentucky, Mississippi, Montana, Nebraska, New Hampshire, New York, Ohio, Rhode Island, Texas, and Wisconsin

Minimum and Maximum Age of Juvenile Court Jurisdiction

The designation of a minimum age for juvenile court jurisdiction provides standards for determining criminal responsibility for children. This provision has been adopted by several of the states in our sample. New York maintains the lowest minimum age, which is set at seven. Colorado, Mississippi, and Texas all designate 10 as their minimum age for juvenile court jurisdiction. The remaining states either have a common law presumption (3) or no specification.

Figure 2a

Minimum Age for Juvenile Court Jurisdiction	State
7 years	New York
10 years	Colorado, Mississippi, Texas
Common Law or No specification	Arkansas, California, Florida Georgia, Indiana, Kentucky Maine, Michigan, Missouri, Montana, New Hampshire, Nebraska, Ohio, Rhode Island Washington and Wisconsin

The maximum age provision is based on the assumption that "'specific treatment' options available to the juvenile court may be counterproductive when applied to an individual sufficiently mature to warrant treatment as an adult".(4) Of all the jurisdictions sampled, New York state alone sets the maximum age for juvenile court jurisdiction at 16 years. Five jurisdictions--Georgia, Maine, Michigan, Missouri and Texas -- set the maximum at age 17, and the remaining states set their maximum at 18 years of

age. It is generally the case, however, that juvenile courts have jurisdiction to age 16 for cases involving serious offenses and up to the age of 18 for all other offenses.

Figure 2b

Maximum age for Juvenile Court Jurisdiction	State
16 years	New York
17 years	Georgia, Maine, Michigan Missouri and Texas
18 years	Arkansas, California, Colorado, Florida, Indiana, Maine, Mississippi, Montana, Nebraska, New Hampshire, Ohio, Rhode Island, Washington, Wisconsin and Kentucky

Custody

The use of the phrase "taking into custody" instead of the term "arrest" is an additional attempt, on the part of the legislators, to avoid the stigmatizing effects associated with the latter term. The Uniform Juvenile Court Act (1968) recommended that "a child may be taken into custody pursuant to the laws of arrest, but the taking of a child into custody is not an arrest, except for the purpose of determining its validity under the constitution of the state or of the United States". (5) Nine jurisdictions in our sample have followed the guidelines of the Act by stipulating in their codes that "the taking of a juvenile into custody is not deemed an arrest".[1] (6) The Colorado statute goes beyond the Court Act recommendation by stipulating that "custody is not considered an arrest nor does it constitute a police record".

Juvenile codes in California, Indiana, Michigan, and Washington provide for the "taking into custody", but they do not specify whether or not this act constitutes an arrest. (7) While statutes in Missouri, Rhode Island, Arkansas, Maine and New Hampshire clearly provide for the arrest of a child, the New York statute permits a police officer to take a person under the age of 16 years into custody without a warrant in cases in which he may arrest an adult, but clearly prohibits the officer from taking a juvenile into custody for non-criminal behavior without

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1 Georgia, Florida, Kentucky, Mississippi, Montana, Nebraska, Montana, Wisconsin and Texas

a warrant. The New York statute alone seems to be clear on the issue that juveniles should be taken into custody only if the acts committed would be considered criminal acts if committed by an adult.

Figure 3

Custody versus Arrest	State
Taking into custody is not deemed an arrest	Colorado, Georgia, Florida, Mississippi Kentucky, Ohio, Nebraska, Montana, Wisconsin and Texas
Use of the term custody as opposed to arrest, but does not stipulate if custody is deemed an arrest	California, Indiana, Michigan and Washington
Utilization of the term arrest	Arkansas, Maine, Missouri, New Hampshire and Rhode Island
Other	New York

Stipulations Surrounding The Taking of a Juvenile into Custody

While juvenile codes in every state provide for the taking into custody of juveniles pursuant to the laws of arrest for adults, many state codes have provisions for the taking of juveniles into custody that would not be applicable in the adult situation. This somewhat differential standard, coupled with the lack of maturity of these offenders, has led to the inclusion of certain provisions in the juvenile statutes that are unique to the juvenile offender. Each state stipulates the various procedures that the police officer must observe following the actual taking into custody of a juvenile.

The majority of states surveyed require that the arresting officer immediately notify the child's parents or guardian about the circumstances surrounding custody[1]. In addition to notifying the parents, most codes permit the release of the juvenile into the custody of the parents or guardian with the provision that the juvenile will appear at a preliminary hearing, if necessary. The statutes in Missouri and Arkansas stipulate that the juvenile be immediately transported to court after he has been taken into custody by the police officer. The California statute requires if a child is not released, then the county juvenile probation department must be notified. Similarly, the Maine and Arkansas statutes require notification of the court intake officer and the prosecuting attorney, respectively.

In addition to these general requirements, some state codes

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1 Colorado, Kentucky, Michigan, Mississippi, Missouri, Nebraska, New York, Washington, and Wisconsin

provide their law enforcement officers with greater flexibility when taking juveniles into custody. For example, the Maine statute permits an officer to maintain custody of a juvenile for a period of time up to two hours, if the officer believes that a juvenile crime has been committed. (8) This time period is permitted for the verification of the youth's name and address. The New York Family Court Act permits the officer to question the child in a facility designated by the appellate division of the Supreme Court, and to question him for a reasonable length of time. (9)

Figure 4 a

Stipulations for taking a juvenile into custody	State
Immediate Notification of Parents, guardian or custodian	Colorado, Kentucky, Michigan, Mississippi, Missouri, Nebraska, New York, Washington, Wisconsin
Release	California, Mississippi*, Nebraska*
Release to parents	Colorado, Florida,* Georgia, Indiana Michigan, Missouri, New Hampshire Montana,** New York, Ohio,** Rhode Island, ** and Texas ** [1]
Take Immediately to Court	Arkansas,[2] Missouri*
Notification of Intake worker/court	Maine, Rhode Island,* Texas* and Wisconsin
Notification of Probation Department	California*
Notification of Prosecuting Attorney	Arkansas[3]
Does not stipulate	Montana[4]

* Previous stipulations adhered to first.
** With promise to appear for a hearing if necessary.
1 This may be done without court referral and may also refer to diversion programs with parental consent.
2 This refers to arrest with a warrant.
3 This refers to arrest without warrant.
4 While the Montana statute does not stipulate exactly what the arresting officer must do with the child once he has been taken into custody, it does stipulate that a youth may not be detained prior to a detention hearing except under the most extreme conditions.

Figure 4b

Stipulations surrounding the taking of a juvenile into custody, if the child is not released to a parent or guardian	State
Immediately taken to court or the court notified about the custody	Colorado, Georgia, Michigan, Mississippi, Nebraska, [1] New Hampshire, Ohio, Rhode Island and New York
Divert (to the community) with permission of a parent or guardian	Kentucky and Washington
Taken to probation officer	California
Juvenile Code does not specify	Florida, Indiana, Maine, Missouri, Montana, Texas and Wisconsin

1 If not released within 4 hours after being taken into custody.

Intake Procedures

Intake procedures are primarily responsible for "screening out" cases which should not remain under the jurisdiction of the juvenile court. Generally, intake personnel act on cases which are not sufficiently serious to warrant official court intervention, or those where the insufficiency of evidence would prevent successful prosecution. When the case does not warrant court intervention, it is the duty of the intake officer to refer the case to community agencies or otherwise assist the juvenile and the family with the matter that brought the juvenile to the attention of the court system. Since about one-half of all referrals to the juvenile court never proceed beyond the intake stage, this stage serves as an economical and productive means of processing alleged juvenile offenders. However,it also holds the potential for cajoling alleged offenders into informal probation programs without determining whether or not they are in fact guilty of the delinquent act as charged.

The responsibility for the initial intake decisions varies among jurisdictions, but usually intake decisions are made by probation officers.[1] In some jurisdictions, courts or the prosecuting attorney are responsible for intake decisions.[2]

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1 Georgia, Montana, New Hampshire, Washington, Nebraska, California, and New York

2 In Rhode Island, Missouri and Kentucky the court has the responsibility for making preliminary investigations. Missouri and Kentucky grant additional power to the district attorney to make informal adjustments. Indiana and Colorado grant the prosecuting attorney the power of intake in delinquency case.

In Florida, the Department of Health and Rehabilitative Services serves the primary intake function. In the remaining jurisdictions, intake procedures are well defined in the juvenile statutes, but the agencies responsible for intake are not specified.3

Figure 5

Initial Intake Decision Agency	State
Juvenile Probation Department	California, Georgia, Montana, Nebraska New Hampshire, New York and Washington
Juvenile Court	Kentucky, Missouri and Rhode Island
Prosecuting Attorney	Colorado[1] and Indiana[2]
Other or Unspecified	Arkansas, Wiscopsin, Maine, Texas[3] Michigan[4], Ohio[5], Mississippi, Florida

1 While the district attorney in Colorado initally handles the intake decision, he may refer it to the probation office for investigation and other intake procedures.
2 The prosecutor decides to file in criminal delinquency cases, but in the cases of CHINS an intake officer makes the preliminary inquiry and may recommend informal adjustment.
3 Law enforcement officers may refer cases to the court or to intake workers or probation officers or may dispose of the case without referral to court.
4 Does not specify which arm of the juvenile justice system shall make preliminary inquiry.
5 Provides for intake on decisions for detention and not in cases of whether or not a petition is filed.

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3 Maine, Wisconsin, Arkansas, Texas, Michigan, and Ohio.

Basic Rights of Juveniles

The Supreme Court decision Miranda vs. Arizona (1966) provided every accused individual with:

(1) the right to remain silent
(2) a warning that any statement he/she makes may be used against the accused in a court of law,
(3) the right to be represented by a counsel and to have a counsel present during any questioning; and
(4) a court appointed counsel, if a private counsel cannot be afforded.

Although the Supreme Court never declared whether or not these basic rights applied to juveniles, eleven of the states sampled explicitly provide for these rights in their juvenile codes.[1] Other jurisdictions provide for other individual safeguards; for example, the Mississippi code provides for a telephone call to parents, counsel, guardian ad litem or authorized personnel of the juvenile court. In addition, it states that "no person shall interview or interrogate a child who is in detention or a shelter facility unless judicial approval has been obtained." The Missouri code stipulates that once a child is taken into custody, "all admissions, confessions, and statements made by the child to the juvenile officer or juvenile court personnel are not lawful or proper evidence against the child and shall not be used for any purpose whatsoever in any proceeding, civil, criminal....."

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1 California, Colorado, Florida, Indiana, Kentucky, Maine, Montana, Nebraska, Ohio, Texas, and Washington

Although the statutes in Arkansas,[2] New Hampshire, Rhode Island, New York, and Michigan do not expressly stipulate the juvenile's legal guarantees, the Michigan Court of Appeals in 1966 decided that while it is a legal right to question a juvenile suspect under certain protective circumstances in a police station, compliance with constitutional and statutory safeguards is absolutely necessary when the "search for knowledge turns from investigation to accusation."

In addition to providing for the right to counsel as does the Wisconsin statute, the Georgia act guarantees the right against self-incrimination and the admissibility of extra judicial statements which were illegally obtained. Furthermore, confessions made outside the courtroom are insufficient unless corroborated in whole or part by additional evidence. The above provisions indicate that, while the states are not unanimous with regard to the legal rights extended to juveniles, these juvenile justice systems are moving in the direction of providing the juvenile offender with constitutional safeguards comparable to adult criminal court settings.

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2. Arkansas juvenile code stipulates that juveniles are to be guaranteed all the protection of due process.

Figure 6

Rights of Juveniles	State
Miranda applied when the juvenile is taken into custody	California, Colorado, Florida Indiana, Maine and Montana
Basic rights given when appearing in court or detention facility	Kentucky[1], Nebraska[2], Ohio[3], Texas[4] and Washington[5]
Juvenile code does not stipulate	Arkansas[6], Michigan, New Hampshire, New York and Rhode Island
Other	Georgia, Missouri, Mississippi and Wisconsin

1 Kentucky provides for these basic rights when the court determines that formal proceedings are required.
2 Nebraska's statute provides for these rights at hearings.
3 The Ohio statute provides for these rightsprior to detention hearings.
4 The Texas code provides for these rights when a child is in a detention facility.
5 Washington provides for these rights when a child appears in court.
6 Arkansas' code states that"juveniles are to be guaranteed all the protection of due process".

Diversion and Informal Disposition

There are several channels through which a juvenile may be diverted from the juvenile justice system. First, he may be placed on informal probation or informal supervision. This type of disposition, which can be handled by either police or probation departments, is generally given in cases where the offender has committed only a minor offense. Its main purpose is prevent further penetration into the justice system. The rationale behind this type of disposition is two-fold: (1) to eliminate the possibility of a formal record and (2) to provide the judge with more time to deal with the serious offender. Generally, if the youth cooperates with his probation officer or the police officer in charge of his supervision and avoids any additional confrontations with the law, his record will be expunged. Several jurisdictions directly address the issue of informal probation in their juvenile codes. For example, both New York and California include a very general provision for the use of informal probation as a disposition, while the Wisconsin and Montana codes are somewhat more specific by including a provision that requires consent for this type of adjustment prior to the filing of a petition. In contrast to the above states, the Indiana statute provides for the use of informal probation after the close of evidence and before a judgment is entered.

A second means of avoiding further penetration into the juvenile justice system is through in-house or community based diversion programs. These programs vary in commitment and degree with the size and texture of the police department and the

surrounding community. They can range from highly structured formal arrangements to very informal operations.(10) Most of the jurisdictions in our sample had provisions in their juvenile code which provided for the use of some type of diversion,[1] either through the police department, probation department, or through juvenile court. Only Michigan, Nebraska, and Ohio did not explicitly provide for diversion in their statutes.

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1 California, Colorado, Florida, Georgia, Indiana, Kentucky, Maine, Mississippi, Montana, New Hampshire, New York, Texas, Washington, and Wisconsin.

Figure 7

Informal Disposition	State
Informal Probation	California, Indiana, New York, Montana and Wisconsin
Informal Adjustment/ Diversion	California, Colorado, Florida,[1] Georgia, Indiana, Kentucky, Maine, Mississippi, Missouri, Montana New Hampshire,[2] New York,[3] Texas Washington and Wisconsin
Informal Adjustment not specified	Michigan, Nebraska, Ohio and Rhode Island

1 Court may make informal adjustment.
2 Police or probation officer may refer to court approved diversion program, court may order diversion (with consent) after an arraignment and prior to adjustment.
3 New York juvenile statute does not provide for diversion in the form of community treatment programs; the only type of informal disposition is informal probation.

Detention Hearing

In an attempt to protect the juvenile against the potential harmful effects of a prolonged stay in a police facility, most states have followed the guidelines set forth in the Uniform Juvenile Court Act (1968) regarding the circumstances that would necessitate the detention of a child. The Act states that a child shall not be detained unless:

(1) his detention or care is required to protect the person or property of others or of the child, or
(2) because the child may abscond or be removed from the jurisdiction of the court, or
(3) because he has no parent, guardian, or custodian, or other person able to provide supervision and care for him and return him to the court when required, or
(4) an order for his detention or shelter care has been made by the court pursuant to the Act.(11)

In addition to the incorporation of these guidelines into their statutes, juvenile codes in most of the jurisdictions sampled specifically stipulate a maximum length of time a child may be held in custody before he is given a detention hearing. While this time limit varies between the states from 24 hours to 96 hours, the majority of the states sampled defined the time for a detention hearing to be within the range that does not exceed 48 hours excluding Saturdays, Sundays, and holidays. Montana and Nebraska are the only states where a child must be released within 48 hours unless a petition or criminal complaint is filed and a court order continuing jurisdiction is entered by the juvenile court. The Montana statute simply states that a court order or hearing is not required for the detention of a child,

although a petition to detain must be filed within 5 days after the child has been taken into custody.

Figure 8

Detention Hearing Held Within	State
24 hours	Florida, Missouri*, New Hampshire Rhode Island and Wisconsin**
48 hours	Colorado, Indiana,[1] Maine,[2] Michigan Mississippi,[3] Texas
72 hours	California[4], Georgia, Kentucky, New York,[5] Ohio and Washington
96 hours	Arkansas
Not required	Montana and Nebraska

1 24 hours if CHINS.
2 24 hours following a Saturday, Sunday or legal holiday which occurs after placement.
3 Within 24 hours if no court order is obtained.
4 Petition must be filed within 48 hours.
5 Within 72 hours or the next day the court is in session which ever is sooner.
* Child can only be detained if there is a court order, if it is a Sunday or holiday or it is impractical to obtain a written order from the court, then the child may be detained up to 24 hours.
** Delinquent or wayward child may not be detained in custody more than 24 hours without being referred to the family court for consideration.

Secure Facilities

Pre-trial detention of juveniles has three primary objectives:

(1) to ensure that the child will be available for his court appearance;
(2) to ensure that the juvenile does not commit any additional offenses while he is awaiting adjudication (this is generally refered to as preventive detention);
(3) to remove the child from his present surroundings when the court views them as a potential danger to the child (therapeutic detention).

When it becomes necessary to place a child in detention, the designers of the Juvenile Justice and Delinquency Prevention Act of 1974 recommend that "no child alleged to be within the jurisdiction of the juvenile court shall be held in a facility where he would have regular contact with accused or convicted adult offenders." (12) Of the sampled jurisdictions, only Arkansas, California, Indiana, Maine, New Hampshire, New York, Washington, and Wisconsin appear to be in compliance with this recommendation. (Section 223(a) 13)

Section (a)(12)(a) of this Act requires that "juveniles who are charged with or who have committed offenses that would not be criminal if committed by an adult, or non-offenders such as dependent or neglected children shall not be placed in juvenile detention or corrective facilities." While only eight of the jurisdictions sampled were in compliance with section 223(a) 13,

we noted that twelve jurisdictions complied with section (a)(12)(a). This suggests that legislators seem to be more responsive to the needs of status and non-offenders than they are to the juvenile who violates the law. This responsiveness may stem from the financial incentives provided by the federal government.

Figure 9

Secure Detention Compliance with	State
Section 223(a)(13)	Arkansas, California, Indiana Maine, New Hampshire, New York Washington and Wisconsin
Section (a)(12)(a)	Arkansas, California, Florida, Georgia Indiana, Missouri, New Hampshire New York, Ohio Texas, Washington and Wisconsin

The Role of the District Attorney

While the precise role of the district/prosecuting attorney is not clearly defined in most of the jurisdictions sampled, two functions of the office are most frequently stipulated:

(1) to make the final decision whether or not to file the complaint; and

(2) to act as a representative of the state at the juvenile court proceeding.

Figure 10

Role of the District Attorney	State
Appear and Assist	Arkansas, Indiana, [1] Michigan, Mississippi, Ohio, Rhode Island, Texas, [2] Washington [3] and Wisconsin
Determine if action is to be taken on the case	California, Colorado, [4] Florida, Georgia, [5] Maine, Montana, Nebraska, New Hampshire and New Yrok
Does not specifically stipulate	Kentucky [6]
Aid juvenile officer	Missouri

1 If prosecutor requests that the juvenile court authorize the filing of a petition alleging that a child is delinquent, then he must represent the interests of the state at all subsequent proceedings on this petition.
2 Prosecuting attorney files a petition for an adjudication or transfer hearing of a child alleged to have engaged in delinquent conduct indicating need of supervision.
3 While the county prosecuting attorney shall be party to all juvenile court proceedings involving juveniles, he may after giving appropriate notice decline to represent the state in juvenile court matters, except felony cases unless requested by the state at an adjudicatory hearing.
4 He may refer matter to probation.
5 The district attorney or a member of his staff must conduct the proceedings on behalf of the state if requested to do so by the juvenile court at least 96 hours prior to the proceedings.
6 County attorney has the authority to modify or terminate an order of commitment, protective supervision, or probation at any time prior to its expiration.

Transfer to Adult Court

The Juvenile Court's option of waiving its jurisdiction over a juvenile and transferring the case to criminal court is generally based on the following considerations: (1) the juvenile's age, (2) the offense committed, (3) amenability of the juvenile to the court's treatment options and (4) what is in the best interest of the public. The philosophy underlying transfer of juvenile cases to adult court is two-fold: first, unless the juvenile court has certain boundaries for the age of the individual it processes, it will not be effective in processing any of its clients; and second, there exists a certain subset of juveniles who either because of age or alleged offense will not be properly served by the juvenile court.

Since the main purpose and function of the juvenile court is care and guidance of juvenile offenders, it is necessary to restrict jurisdiction to those individuals who would be most amenable to this type of handling. Of the jurisdictions in our sample, only New York and Nebraska do not provide for the waiver of juvenile court jurisdiction in their codes. While age and offense restrictions vary among the states, we noted that the most frequently stipulated age for transfer to adult court was 16 years[1]. The Indiana juvenile statute provides the lowest age for transfer from juvenile court with their minimum age set at 10 years[2]. This is followed by Mississippi and Georgia which

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1 Arkansas, California, Indiana, Kentucky, Montana, Rhode Island, Washington, and Wisconsin
2 A 10 year old may be transferred for the alleged commission of a murder in the first-degree.

stipulate 13 years of age for transfer to adult court.[1] Several states included in their codes various age/offense combinations which provide sufficient cause for waiver of jurisdiction; Missouri, Washington, and Indiana are among those in our sample which offer the most complex arrays of restrictions of this type.

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1 A 13 year old may be transferred to adult court for an offense punishable by death or life imprisonment.

Figure 11

Transfer to Adult Court Age Restriction	State
17 - 21	Missouri[1]
16	Arkansas,[2] California, Indiana,[3] Kentucky,[4] Montana, Rhode Island, Washington,[5] and Wisconsin
15	Georgia,[6] Michigan, Ohio and Texas
14	Colorado and Florida
13	Mississippi
No age restrictions	Maine and New Hampshire
No waiver	Nebraska[7] and New York

1 Missouri varies its age restrictions depending on offense alleged to have been committed-14 or more for a traffic or felony violation and 17-21 for the violation of any state law or ordinance if the child is already within the court's extended jurisdiction.
2 Arkansas will waiver a juvenile age 15, 16 or 17 years to criminal court for felony or misdemeanor violations.
3 According to the Indiana statute a juvenile aged 14 or more can be waived to criminal court for the commission of a heinous or aggravated act, or part of a repetitive pattern of less serious delinquent offenses. A 10 year old can be waived for first-degree murder and a 16 year old for a Class A or B felony or murder.
4 A juvenile under the age of 16 can be transferred to adult court for a capital offense or a Class A felony.
5 Washington permits a transfer to adult court for a 16 or 17 year old who has been alleged to have committed a Class A felony; and a 17 year old who has been alleged to have committed the following offenses; second degree assault, first degree extortion, indecent liberties, second degree kidnapping, second degree rape and second degree robbery.
6 Georgia will transfer a 13 year old to adult court for an offense punishable by death or life imprisonment.
7 There is no waiver in Nebraska--the Juvenile and Criminal courts have concurrent jurisdiction and the prosecutor decides where to file the case.

First-time and Serious Juvenile Offender Legislation

In recent years, a number of states have enacted legislation to institute special language, rules, procedures, and sanction possibilities to be applied to special categories of juvenile offenders. These categories include first-time offenders and serious or habitual juvenile offenders. It is useful to view both of these types of distinctions as complementary issues. Both stem from the original philosophy of the juvenile justice system which recognized the special problems and needs of juvenile offenders. The first-time offender statutes are intended to minimize contact with the juvenile justice system for juveniles who fall into this category. Habitual or serious offenders statutes identify those juveniles whose criminal acts or history of misconduct disqualify them from the special treatment afforded other juvenile offenders.

Several of the jurisdictions in our sample include provisions in their juvenile codes which differentiate between these two classes of offenders. Often the first-time offender distinction provides some latitude in the actual classification of delinquent. For example, the Texas juvenile statute will permit three or more misdemeanor offenses before affixing the label of delinquent to a juvenile.[1] The Rhode Island code will permit the application of the term delinquent to a child only if he has committed a felony or on more than one occasion violates any state or federal law other than a traffic violation. In contrast

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1 This refers to a misdemeanor which is punishable by a fine only.

to Rhode Island and Texas, the Washington statute is precise in the classification of minor or first-time offender. The code provides a list of offense combinations that are to be used in assessing whether a juvenile offender falls within this category.[1]

Several jurisdictions in our sample have recently amended their juvenile codes to include serious and habitual offender provisions. This classification can have two consequences, waiver to adult court, or mandatory sentencing, or both. New York's recent legislation provides for automatic exclusion from Family Court jurisdiction for any youth age 13-15 who has committed one of a series of specified violent offenses (e.g. rape, murder). Similarly, Florida's juvenile code now includes a mandatory waiver hearing for individuals age 13-15 who commit one of a series of specified felonies. In addition, the statute provides for the exclusion from juvenile court jurisdiction of any youth over the age of 16 years who had been previously adjudicated a delinquent for a felony or two times adjudicated misdemeanant. Additional examples of this "get tough"

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1 Minor or first-time offender means a person 16 years of age or younger whose current offense(s) and criminal history fall entirely within one of the following categories: (1) four misdemeanors, (2) two misdemeanors and one gross misdemeanor, (3) three gross misdemeanors, (4) one class C felony and one misdemeanor or gross misdemeanor, (5) one class B felony.

legislation can be seen in California[1], Indiana[2], and Rhode Island[3].

Colorado and Washington are the only states in our sample to have included mandatory sentencing laws in their juvenile statutes. The Washington code imposes a minimum sentence on juveniles who have committed serious felonies, while the Colorado statute requirement is imposed on the repeat or violent offender.

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1 California WIC 707 created a presumption in favor of waiving to adult court for the commission of one of 11 targeted offenses for 16 and 17 year olds.

2 Indiana's provision for waiving to criminal court includes: (1) heinous or aggravated act, (2) repetitious pattern of delinquent acts, (3) beyond rehabilitation.

3 The Rhode Island code notes that if a child is 16 or over and found delinquent for two offenses after turning 16, he will be prosecuted in adult court for any subsequent offense.

Conclusion

From our review of juvenile codes in twenty selected jurisdictions, we have observed wide variation in the language of the law, its rules and procedures, and the role of the police, probation,and prosecution officials in the juvenile justice system. These variations reflect the states' attempt to deal with the twin concerns of the juvenile justice system, the care and protections of juveniles and their correction or punishment. These conflicting aims inherent in the juvenile justice system can be seen to account for the recent proliferation of rules for separating different types of juveniles for differential processing.

Discretion exercised by police can extend beyond the mere act of "taking into custody". The laws of our twenty sampled jurisdictions allow the police officer substantial effect on the final disposition of the alleged juvenile offender. This police power certainly exceeds the similar effect that police have over the disposition of adult arrestees.

This legal review has provided us with knowledge about the legal parameters within which police officers must function. The following section will investigate the manner, attitudes and self-reported practices pertaining to the police handling of juvenile offenders.

REFERENCE NOTES FOR PART 1

(1) In re Gault, 387 U.S. 1 (1967), The Supreme Court held that fact-finding adjudicatory hearings were to be measured by due process standards. In all cases due process requires adequate, timely, written notice of the allegations against the respondent. Juveniles, in all cases in which they are in danger of loss of liberty because of commitment, are to be accorded, on due process grounds, the right to counsel, the privilege against self-incrimination, and the right to confront and cross-examine opposing witnesses under oath.

(2) The Uniform Juvenile Court Act of 1968 was drafted by the National Conference of Commissioners on Uniform State Laws. "The Act provides for judicial intervention when necessary for the care of deprived children and for the treatment and rehabilitation of delinquent and unruly children, but under defined rules of law and through fair and constitutional procedures." The Commissioners called for the general adoption of this Act citing the need for uniformity in law among states as an important issue.

(3) Common law presumption is that children under the age of 7 years are not mature enough to understand the consequences of their acts; therefore it is not reasonable to charge them with an offense.

(4) Comparative Analysis of Standards and State Practices, National Institute for Juvenile Justice and Delinquency Prevention, Law Enforcement Assistance Administration, U.S. Department of Justice, 1977.

(5) Ibid, Section 13(a)

(6) Ibid, Section 13(b)

(7) See Klein, Malcolm, Susan Labin Rosensweig, and Ronald Bates, "The Ambiguous Juvenile Arrest", Criminology, 13 (May) 1975: 78-89.

(8) According to section 3101 of the Maine Juvenile Code, the term juvenile crime shall include:
(a) conduct which if committed by an adult would be defined as criminal
(b) possession of a usable amount of marijuana,
(c) offenses involving intoxicating liquor.

(9) In determining what is a reasonable length of time for questioning a child, the child's age and the presence or absence of his parents shall be included among the relevant considerations.

(10) See Klein, Malcolm and Kathie S. Teilmann, "Pivotal Ingredients of Police Juvenile Diversion Programs", National Institute of Juvenile Justice and Delinquency Prevention, Law Enforcement Assistance Administration, U.S. Department of Justice, May 1976.

(11) Op cit, Uniform Juvenile Court Act.

(12) One purpose of the Juvenile Justice and Delinquency Prevention Act of 1974 was to encourage the adoption of national standards on juvenile justice. The act provided recommendations for administrative, budgetary and legislative action at the federal, state and local level to facilitate the adoption of the recommended standards.

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Part II

Juvenile Law Enforcement: A Survey of Police Practice in Twenty States

by

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and

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Introduction

This section consists of the analysis of the 365 returns from a mail survey of 452 individual police units randomly sampled from the twenty states that were the subjects of the intensive analysis of juvenile statutes. The goal of the police questionnaire was to obtain information on what dispositions or sanctions are employed by the police, what factors determine their use in particular cases and, in particular, how police treat first-time offenders differently from repeat offenders. Information on the structure of the department was also obtained in order to be able to examine how the size and organization of the department might relate to use of sanctions.

METHOD

The sampling of police agencies

For each of the states in the survey a list of all police and sheriff agencies was drawn up. Information for these lists were obtained from the National Directory of Law Enforcement Administrators (1980) and, in the case of California, The Directory of California Justice Agencies Serving Juveniles and Adults(1981). Because of our interest in the operations of the police personnel who have direct and immediate contact with juveniles, it was judged that the most valid informant would be someone working at that level. In addition, the overwhelming number of small agencies compared to large agencies raised the concern that large agencies would not be adequately represented in the random sample. For these two reasons it was decided in

the case of multi-station agencies to treat each station as a separate sampling unit rather than sample the entire department and enlist a central office staff member as a respondent. Employing this strategy would increase the probability of securing a knowledgeable respondent and would permit a representative picture of the larger departments that process the bulk of the juveniles. A ten per cent random sample of police units was drawn from each state with the exceptions of Rhode Island and Maine. These two states had so few agencies and were of such importance because of their particular approaches to juvenile legislation, that more than a ten per cent sample was taken. This sampling scheme produced a total sample of 452 police agencies.

The distribution of questionnaires

The address for each police agency sampled was obtained from either the National Directory of Law Enforcement Administrators or the Directory of California Justice Agencies Serving Juveniles and Adults. Except for California, which had agency telephone numbers listed in the state directory, directory assistance was called in the sampled cities and counties in order to obtain the agencies' telephone numbers. A letter was sent to the police chief or sheriff indicating the nature of our research, requesting his cooperation for the study and stating that we would be calling him to confirm his reply. Within two weeks of the mailing of the initial letter, a call was placed to the head of the agency by a member of our staff. The police official contacted was reminded of the letter, offered an opportunity to

ask questions about the research and asked if he would arrange for someone in the department to complete a questionnaire. Where possible, the name of a respondent indicated by the head of the agency was recorded. A questionnaire along with a second explanatory letter and a stamped self-addressed envelope was sent to each respondent. If the questionnaire was not returned within six weeks, a second call was placed. This procedure was followed in the majority of cases. Lost mail and changes in personnel required additional communications. Very small departments in which the head of the agency was to fill out the questionnaire required a shorter version of the second letter.

The construction of the questionnaire

After an examination of the preliminary review of the juvenile law in several target states and after a discussion of the pertinent aspects of early police sanctioning of juveniles which could be studied with a questionnaire, a preliminary version of the questionnaire was constructed. Five officers at three different agencies then reviewed the questionnaire with one of our staff members. A penultimate version of the questionnaire was sent to two agencies randomly selected from each of the twenty targeted states. At the same time, the proposed method of contacting prospective agencies was tested.

In addition to the considerations of content determined by the goals of our overall project, the final questionnaire is sensitive to the limited time available to respondents and to the range of information that the average respondents would be able to provide. The final questionnaire (see appendix 1) requires

approximately twenty minutes to fill out. The first seven questions concern the structure of the police department, the background of the respondent, the degree of juvenile specialization in the department, the size of the department, the amount of contact with juveniles and the hierarchy of personnel followed in the processing of juveniles. Four questions concern the dispositions available to the police, their bases for selecting among them and which dispositions are used more frequently for first-time or repeat offenders. At the end of the questionnaire there are places for the respondent to indicate if there are any laws, case decisions or departmental policies specifically concerned with first-time offenders. Finally there is a space for the respondent to describe the typical sequence of events in the processing of two types of offenders.

ANALYSIS

The results of the survey are organized in terms of several general questions and concerns. First, we shall present a brief statistical description of the nature of the obtained sample of police respondents and the nature of their departments. The next section describes the functioning of the policing units. Here, we detail the structure of the department's juvenile policing activities. Included is the presentation of results concerning the use of various types of dispositions and a series of attitudinal questions about the level of punishment associated with the various options. The final section contains a comparative analysis of jurisdictions grouped by size, structure, and state.

PROFILE OF RESPONDENTS

The final sample consisted of completed questionaires from 365 police agencies. These responses were distributed across the twenty states selected for our investigation as shown in Table 1. As can be seen, six states account for over half of the total responses.

TABLE 1

STATE OF RESPONDENT

	FREQUENCY	PERCENT
Arkansas	9	2.5
California	37	10.1
Colorado	9	2.5
Florida	29	7.9
Georgia	15	4.1
Indiana	15	4.1
Kentucky	18	4.9
Maine	9	2.5
Michigan	37	10.1
Mississippi	10	2.7
Missouri	15	4.1
Montana	3	0.8
Nebraska	9	2.5
New Hampshire	6	1.6
New York	43	11.8
Ohio	30	8.2
Rhode Island	8	2.2
Texas	33	9.0
Washington	11	3.0
Wisconsin	19	5.2
TOTAL	365	100.0 (1)

TABLE 2

SIZE OF RESPONDENT'S DEPARTMENT

	FREQUENCY	PERCENT
NUMBER OF SWORN PERSONNEL:		
Less than 10	112	36.1
10 to 24	87	28.1
25 to 99	85	27.4
100 or more	26	8.4
Missing	55	-
Total	365	100.0

Table 2 presents a frequency distribution of the size of departments from which responses were received. It should be noted that since respondents were sampled from a population of policing units that were themselves smaller than a total police department, the figures presented here represent both total agency size for departments with only one station, and the size of police substations for police departments that have more than one precinct.

TABLE 3

DEPARTMENTAL STRUCTURE FOR JUVENILE PROCESSING

	FREQUENCY	PERCENT
No specialized juvenile unit or officer	155	42.5
A sworn officer who acts in the capacity of a part-time juvenile officer	59	16.2
Full-time juvenile officer but no formal or centralized juvenile unit	45	12.3
Full-time local or centralized juvenile unit	105	28.8
TOTAL	364	100.0

Table 3 displays frequencies for respondents based on a classification of juvenile specialization. Here we can see that 42.5 percent of the respondents in the sample work for departments that do not have specially defined juvenile units. These respondents, then, are officers who spend only part of their time dealing with juveniles. Many of the departments in this category are quite small, consisting of fewer than 10 sworn officers. Following the percentages shown in Table 3 we may observe that 16.2 percent of the responses come from departments with at least one sworn officer who is designated as a juvenile officer on a part time basis. Thus almost 60 percent of the departments are without full-time juvenile specialization.

Table 4 underscores the relationship between juvenile specializaton and the distribution of initial contacts with juveniles by different types of officers. In the more specialized departments, the proportion of initial contacts made by patrol officers is lower. Nevertheless, for all types of departmental structures, patrol officers have the majority of initial contacts with juveniles: an average of 75 per cent across departments.*

TABLE 4

DISTRIBUTION OF INITIAL CONTACT BY TYPE OF OFFICER BY DEPARTMENTAL STRUCTURE

	NO JUVENILE OFFICER OR UNIT	PART-TIME JUVENILE OFFICER	FULL-TIME JUVENILE OFFICER	LOCAL OR CENTRAL JUVENILE UNIT	TOTAL
Full time juvenile officers	-	-	33.4	35.0	-
Part-time juvenile officers	-	24.0	-	-	-
Regular patrol officers	92.3	70.9	63.3	59.0	75.7
Other sworn personnel	4.5	2.5	2.9	3.5	3.7

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*Note that this does not reveal who initiated these contacts. Many result from calls and referrals by parents, school officals, victims, witnesses, and so on.

JUVENILE ARREST DISPOSITIONS

Figure 1 presents an ordered list of factors considered to be important to the process of making decisions about the disposition of juvenile arrestees. The order shown is found to be consistent across police departments of various size categories, structures and geographic locations. Striking and consistent with past research, is the fact that legal factors are found to be most important. Both offense seriousness and prior record were observed to be the nearly unanimous choice for the number one and two rankings. These facts are identical to those most often considered in the adult court system.(2) Notice, however, that the admissibility of evidence is not as highly considered as would be the case for adult arrestees. This is consistent with what we might expect because the adjudication of juvenile arrests is less highly dependent on the formal rules of evidence.

FIGURE 1

FACTORS IMPORTANT TO DISPOSITION DECISIONMAKING

1. Offense Seriousness
2. Prior Record
3. Attitude of Juvenile
4. Age of Juvenile
5. Attitude of Parents
6. Admissibility of Evidence
7. Helpful Home Environment
8. Gender

TABLE 5

THE USE OF SELECTED ARREST DISPOSITIONS
(PERCENT OF RESPONSE)

	COMMONLY USED	SELDOM USED
Release only	67.1	32.9
Release and official report	86.8	13.2
Referral to outside agency	58.5	41.5
Informal probation	53.5	46.5
To court without detention request	75.1	24.9
To court with detention request	50.5	49.5

Table 5 is the first of a series of analytic displays that deals with types of police dispositions available for juvenile arrestees. For purposes of these analyses, six possible juvenile dispositions have been chosen. These range from outright release to court referral with a specific request for detention of the juvenile arrestee. This table illustrates the extent to which these dispositional options are commonly or seldom employed in the respondents' departments. Note that these dispositions are the potential outcomes of arrest events that may include transporting a juvenile to a police station. Notice also that a release with no further action is reported as a common occurrence by 67.1 percent of the respondents but that a release with an

official report is more commonly used in 86.8 percent of the respondents' jurisdictions. These two release dispositions are seen to be more common than referral to the formal court system or the two diversion dispositions, referral to an outside agency or the use of informal probation. With specific regard to referral to outside agencies, we have investigated and will later report the details of state jurisdictional differences in the use of these dispositions. These analyses suggest that outside agency dispositions are more commonly used in the New England states, California and the state of Washington, and are less common in southern states. This finding may be explained by the availability of relevant outside agencies in less populous jurisdictions.

TABLE 6

OPINIONS ABOUT THE PUNISHMENT STATUS
OF SELECTED ARREST DISPOSITIONS
(PERCENT OF RESPONSE)

	YES	NO
Release only	2.6	97.4
Release and official report	24.4	75.6
Referral to outside agency	44.7	55.3
Informal probation	65.2	34.8
To court without detention request	72.9	27.1
To court with detention request	92.5	7.5

Table 6 presents the results of a series of attitudinal questions that investigate whether or not the respondents believed that each of the six dispositions constitute punishment. This has direct relevance to the issue of sanctioning effectiveness. Only 2.6 percent of the respondents considered an outright release to be punishment of any sort. The addition of an official report increased the proportion to over 24 percent. As we would expect, referral to court is considered punishment by the majority of respondents. In addition, the presence of a detention request increased the assessment of punishment from 72 to 92 percent.

The dispositions, referral to outside agency and informal probation, fall between the release and the court referral dispositions. Informal probation was considered to be punishment by 65 percent of the respondents, a higher proportion than that observed for agency referral, 44 percent. This finding may be explained by the amount of control relinquished when the juvenile is referred to an agency outside of the formal juvenile justice system.

Table 7, the final element of the dispositional analyses, reports on a series of questions about the equal application of the six dispositions to first-time or repeat juvenile offenders. Considering the two release dispositions, we may observe that in more departments first-time offenders are more likely to receive outright release without an official report than are repeat offenders. Similarly, considering the court referral dispositions, we may observe that in more departments first-time

offenders are far less likely to be referred with an accompanying detention request.

As previously shown in Table 6, referral to an outside agency is considered to be less punishing than informal probation. Surprisingly, Table 7 shows that in more departments it is also less likely to be a disposition for first-time offenders. Forty-five percent of the respondents identify informal probation as a common disposition for first-time offenders, which compares to 23 percent of the respondents who identify outside agency referral as more appropriate for first-time offenders.

TABLE 7

APPLICATION OF SELECTED ARREST DISPOSITIONS FOR FIRST-TIME VERSUS REPEAT OFFENDERS (PERCENT OF RESPONSE)

	FIRST-TIME OFFENDER	REPEAT OFFENDER	EQUALLY APPLIED
Release only	90.7	0.0	9.3
Release and official report	57.3	11.2	31.5
Referral to outside agency	23.6	33.1	43.3
Informal probation	45.6	23.3	31.1
To court without detention request	21.6	43.8	34.6
To court with detention request	0.09	87.1	12.8

TABLE 8

EQUAL TREATMENT FOR FIRST-TIME AND REPEAT OFFENDERS FOR SELECTED CRIMES (PERCENT OF RESPONSE)

	DIFFERENT TREATMENT	EQUAL TREATMENT
Truancy	63.0	37.0
Malicious mischief	65.0	35.0
Marijuana use	56.9	43.1
Joy riding	45.0	55.0
Assault and battery	36.0	64.0
Armed robbery	31.7	68.3

Table 8 also addresses the issue of differential treatment for first-time and repeat offenders. Here, the dispositional treatments of these two categories of juvenile offenders are compared for a list of six types of offenses. From this table we may conclude that as offense seriousness increases, disparity in the treatment of first-time and repeat offenders decreases. This conclusion is consistent with the finding previously reported in connection with Figure 1, the ranked list of factors generally considered during dispositional decisionmaking. Notice that in Table 8, differential treatment for truants is predicted by over 60 percent of the respondents. In contrast, only 36 percent would predict differential treatment for first-time offenders accused of assault and battery. Thirty-one percent of the respondents predict differential treatment for the more serious offense,

armed robbery. For crimes as serious as this, the prediction of differential treatment may be based on the expectation of enhanced punishment for the repeat offender, rather than lenient treatment for the first-time juvenile offender.

DEPARTMENT DIFFERENCES IN THE APPLICATION OF JUVENILE DISPOSITIONS

As illustrated in Table 9, the disposition most often reported to be commonly used for police departments of all sizes and structures is release with official report, followed by court referral without a detention request. It can be observed from this table that departments with formal or centralized juvenile units or departments with a full-time juvenile officer appear to utilize the court dispositions request more readily than the smaller, less specialized departments. Perhaps the most notable differentially used disposition is referral to an outside agency.

TABLE 9

DISPOSITIONS COMMONLY USED
BY DEPARTMENTAL STRUCTURE

	NO JUVENILE OFFICER OR UNIT	PART TIME JUVENILE OFFICER	FULL TIME JUVENILE OFFICER	LOCAL OR CENTRAL JUVENILE UNIT	TOTAL
Release only	70.6	60.4	69.8	65.2	67.1
Release with report	86.6	90.7	87.8	87.0	86.8
Referral to agency	44.3	53.1	71.4	71.3	58.5
Informal probation	53.2	51.4	46.7	58.6	53.5
To court without detention	71.8	66.7	74.4	84.2	75.1
To court with detention	45.5	48.1	46.2	59.8	50.5

From the two categories of less specialized departments, 44.3 and 53.1 percent of the respondents report this disposition to be commonly used, while respondents from the larger and more specialized departments reported common use at a significantly higher rate, 71.4 and 71.3 percent. More frequent common use of referral to outside agencies by larger departments may have several explanations: (1) an indication that juvenile units or larger departments make a conscious effort to divert youngsters away from the formal justice system or, (2) it may reflect a lack of available community based options for police in the smaller departments.

TABLE 10

PUNISHMENT STATUS OF SELECTED DISPOSITIONS
BY DEPARTMENTAL STRUCTURE

	NO JUVENILE OFFICER OR UNIT	PART-TIME JUVENILE OFFICER	FULL-TIME JUVENILE OFFICER	LOCAL OR CENTRAL JUVENILE UNIT	TOTAL
Release only	2.1	3.7	2.3	3.1	2.6
Release with report	25.9	29.6	20.5	21.2	24.4
Referral to agency	50.0	50.0	41.9	35.7	44.7
Informal probation	62.9	75.0	67.4	62.1	65.2
To court without detention	80.0	72.2	60.5	68.4	72.9
To court with detention	95.9	92.6	88.1	89.2	92.5

Table 10 displays a range of arrest dispositions and the respondent's opinion about whether or not each disposition constitutes punishment. While all types of departments view these dispositions as an ordered scale of severity, there are some interesting differences between the structure of the department and percent of respondents who view referral to outside agency and the court referral options as punishment. In each case, presence of juvenile units is associated with lower assessment of punishment. For the referral to outside agency option in particular, 50 percent of the smaller departments as opposed to 41.9 and 35.7 of the respondents from larger departments consider this disposition to be a form of punishment. This is an interesting finding in light of the fact that these larger departments responded that they utilized this type of disposition more commonly than the smaller departments.

Tables 11a, b, and c display the differential use of available dispositions for first-time and repeat offenders by the structure of the department.

As can be noted from Table 11a, the overwhelming majority of respondents from all types of departments employ release only more frequently for the first-time offender as opposed to the repeat offender. As can be observed from this table, while an average 11.2 percent of the respondents replied that they used release with official report more frequently for repeat offenders, only 8.7 and 7.4 percent of the respondents from the smaller, less specialized departments replied that they used this disposition more frequently for the repeat offender.

TABLE 11a

DIFFERENTIAL TREATMENT FOR FIRST-TIME VERSUS REPEAT OFFENDERS BY DEPARTMENTAL STRUCTURE

	NO JUVENILE OFFICER OR UNIT	PART-TIME JUVENILE OFFICER	FULL-TIME JUVENILE OFFICER	LOCAL OR CENTRAL JUVENILE UNIT	TOTAL
RELEASE ONLY:					
First-time offender	90.8	87.3	92.9	90.7	90.4
Repeat offender	0.7	0.0	0.0	0.0	0.3
No difference	8.5	12.7	7.1	9.3	9.3
RELEASE WITH OFFICIAL REPORT:					
First-time offender	58.0	63.0	50.0	55.7	57.1
Repeat offender	8.7	7.4	14.3	15.5	11.2
No difference	32.6	29.6	35.7	28.9	31.4

TABLE 11b

DIFFERENTIAL TREATMENT FOR
FIRST-TIME VERSUS REPEAT OFFENDERS
BY DEPARTMENTAL STRUCTURE

	NO JUVENILE OFFICER OR UNIT	PART-TIME JUVENILE OFFICER	FULL-TIME JUVENILE OFFICER	LOCAL OR CENTRAL JUVENILE UNIT	TOTAL
REFERRAL TO OUTSIDE AGENCY:					
First-time offender	15.4	16.7	23.8	37.6	23.5
Repeat offender	32.3	35.2	38.1	30.7	33.0
No difference	51.5	48.1	38.1	31.7	43.1
INFORMAL PROBATION:					
First-time offender	44.8	52.2	45.7	46.3	46.6
Repeat offender	21.6	21.7	22.9	28.8	23.8
No difference	32.8	26.1	31.4	23.8	28.9

From Table 11b we can observe the most significant variation in the use of differential treatment for first-time and repeat offenders. Less specialized departments are more likely to use referral to outside agency equally for these two types of offenders, 51.5 and 58.1 percent of the time as opposed to 38.1 and 31.7 percent of the time for the more specialized departments.

TABLE 11c

DIFFERENTIAL TREATMENT FOR
FIRST-TIME VERSUS REPEAT OFFENDERS
BY DEPARTMENTAL STRUCTURE

	NO JUVENILE OFFICER OR UNIT	PART-TIME JUVENILE OFFICER	FULL-TIME JUVENILE OFFICER	LOCAL OR CENTRAL JUVENILE UNIT	TOTAL
TO COURT WITHOUT DETENTION REQUEST:					
First-time offender	23.2	23.6	19.0	19.4	21.6
Repeat offender	39.1	36.4	45.2	53.4	43.8
No difference	37.7	40.0	35.7	27.2	34.6
TO COURT WITH DETENTION REQUEST:					
First-time offender	1.4	1.8	0.0	0.0	0.9
Repeat offender	84.1	82.1	87.8	93.9	87.1
No difference	14.5	16.1	12.2	6.1	12.0

Table 11c illustrates the differential/equal application of the requested court sanctions for first-time and repeat offenders. As can be observed, for all types of departments these dispositions are more likely to be applied to the repeat offender. However, the more specialized departments seem to be less inclined to use these court dispositions for a first-time offender.

TABLE 12

DIFFERENTIAL TREATMENT FOR SELECTED OFFENSES
BY DEPARTMENTAL STRUCTURE
(PERCENT AFFIRMATIVE)

	NO JUVENILE OFFICER OR UNIT	PART-TIME JUVENILE OFFICER	FULL-TIME JUVENILE OFFICER	LOCAL OR CENTRAL JUVENILE UNIT	TOTAL
Truancy	60.9	75.9	52.3	63.6	63.0
Malicious mischief	64.6	63.2	56.8	70.2	65.0
Marijuana use	54.9	52.6	54.5	63.1	56.9
Joy riding	41.3	56.1	34.1	48.5	45.0
Assault and battery	34.3	28.6	43.2	39.4	36.0
Armed robbery	32.2	26.8	31.8	33.7	31.7

Examining selected offenses, Table 12 indicates for which types of offenses first-time and offenders are treated differentially. As can be observed for each type of offense, there is a consistency in the percentage of departments that indicated differential treatment. However, there is no clear pattern to suggest that these two types of offender will be handled in a different manner in departments which have a specialized juvenile unit as opposed to departments which do not.

STATE DIFFERENCES IN THE APPLICATION OF JUVENILE DISPOSITIONS

Tables 13 and 14 illustrate the commonly used dispositions and the respondents' opinions about whether or not these dispositions constitute some form of punishment, as related to the state where the police department is located.

Several interesting observations can be noted from these tables. The disposition most frequently marked as commonly used in all twenty states is release with official report. An average of 86.1 percent of the respondents reported the common use of this option. This is an interesting finding in light of the fact that only 25 percent of the respondents view this disposition as a form of punishment. This may suggest that the police responses to juveniles are guided by the philosophy which underlies the entire juvenile justice system: care, guidance and treatment. A striking example of this light handed approach to these offenders is illustrated by the New Hampshire response to the use of informal probation and the perception of this disposition as punishment.

While 100 percent of the respondents from this state reported that they commonly used informal probation as a disposition, only 16.7 percent of them viewed it as a form of punishment. While diversion as a dispositional option is addressed in the juvenile codes in all but four of the selected states (Ohio, Nebraska, Rhode Island and Michigan), 50 percent of the respondents from these states reported the common use of these options as opposed to 58.5 percent of the respondents from states which specifically

TABLE 13

COMMONLY USED DISPOSITIONS BY STATE
(PERCENT REPORTING COMMON USE)

	...RELEASE... ONLY	WITH REPORT	....DIVERSION..... OUTSIDE AGENCY	INFORMAL PROBATION	..TO COURT... WITH DETENTION	WITHOUT REQ
Arkansas	50.0	87.5	50.0	57.1	87.5	75.0
California	63.6	84.4	70.0	82.4	69.0	64.5
Colorado	57.1	85.7	85.7	14.3	85.7	37.5
Florida	50.0	92.0	76.2	16.7	77.8	83.3
Georgia	70.0	83.3	25.0	40.0	84.6	69.2
Indiana	58.3	100.0	66.7	87.5	92.9	41.7
Kentucky	76.9	61.5	69.2	57.1	78.6	66.7
Maine	71.4	100.0	85.7	100.0	66.7	66.7
Michigan	81.8	93.9	51.7	59.1	67.6	30.3
Mississippi	71.4	85.7	0.0	50.0	77.8	28.6
Missouri	57.1	92.3	44.4	62.5	93.3	72.7
Montana	100.0	100.0	0.0	100.0	66.7	33.3
Nebraska	75.0	75.0	37.5	14.3	57.1	33.3
New Hampshire	50.0	100.0	66.7	100.0	83.3	33.3
New York	68.6	80.0	55.6	34.6	61.8	30.0
Ohio	72.0	87.5	55.0	56.3	91.3	66.7
Rhode Island	66.7	83.3	66.7	66.7	85.7	33.3
Texas	66.7	84.6	39.1	52.6	55.2	40.7
Washington	90.0	77.8	90.0	100.0	85.7	42.9
Wisconsin	57.9	94.4	66.7	36.4	83.3	31.3
TOTAL	67.1	86.1	58.5	53.5	75.1	50.5

TABLE 14

VIEW OF DISPOSITION AS PUNISHMENT BY STATE
(PERCENT AFFIRMATIVE)

	...RELEASE... ONLY	WITH REPORT	....DIVERSION..... OUTSIDE AGENCY	INFORMAL PROBATION	..TO COURT... WITH DETENTION	WITHOUT REQ
Arkansas	0.0	12.5	71.4	62.5	87.5	100.0
California	8.1	27.0	45.9	75.7	81.1	91.9
Colorado	0.0	22.2	22.2	88.9	55.6	77.8
Florida	3.6	13.8	35.7	44.4	75.0	100.0
Georgia	0.0	30.8	30.8	61.5	76.9	92.9
Indiana	7.1	28.6	76.9	64.3	71.4	92.9
Kentucky	0.0	33.3	55.6	66.7	72.2	94.4
Maine	12.5	14.3	28.6	71.4	75.0	87.5
Michigan	2.7	29.7	59.5	55.6	81.1	94.6
Mississippi	0.0	55.6	22.2	55.6	77.8	100.0
Missouri	0.0	14.3	50.0	76.9	78.6	100.0
Montana	0.0	33.3	50.0	100.0	100.0	100.0
Nebraska	11.1	22.2	66.7	77.8	55.6	88.9
New Hampshire	0.0	16.7	66.7	16.7	83.3	83.3
New York	0.0	13.2	38.5	62.9	76.3	94.7
Ohio	3.8	23.1	20.0	74.1	70.4	100.0
Rhode Island	0.0	14.3	71.4	60.0	71.4	87.5
Texas	0.0	42.9	56.0	79.3	59.3	89.7
Washington	0.0	11.1	33.3	62.5	66.7	77.8
Wisconsin	0.0	21.1	26.3	55.6	52.6	70.6
TOTAL	2.6	24.4	44.7	65.2	72.9	92.5

addressed this issue. This may suggest that state legislatures set the tone of the law, but that police departments evidence wide variation in their interpretation and implementation of the law. The least used disposition and the one most repondents (92.5 percent) considered punishment was referral to court with request for detention.

Tables 15a,b, and c display the differential treatment applied to first-time versus repeat offenders according to the state in which the respondent's police department is located.

Table 15a illustrates that release only is a disposition primarily reserved for the first-time offender; 90.4 percent of the respondents replied that they were more likely to use this disposition for the first-time offender. The release with official report option is more likely to be used for the first-time offender but much less so than an outright release. For this disposition we see that one-third of the respondent from the majority of states report an equal application of this disposition. Only 11 percent of the respondents from California and 12.5 percent of the respondents from Maine report equal application of this disposition.

As can be observed from Table 15b the disposition most often equally applied across states is referral to outside agency. This is evidenced by the fact that 43.1 percent of the respondents report the equal application of this disposition. While the majority of states clearly view informal probation as primarily a first-time offender disposition, only 19.2 percent of the respondents from Texas, 29.4 percent from New York and 25

TABLE 15a

DIFFERENTIAL TREATMENT OF FIRST-TIME VERSUS REPEAT OFFENDERS FOR SELECTED DISPOSITIONS, BY STATE (PERCENT OF APPLICATION)

	.....RELEASE ONLY.....			....RELEASE WITH REPORT...		
	1ST TIME	REPEAT	EQUALLY	1ST TIME	REPEAT	EQUALLY
Arkansas	100.0	0.0	0.0	57.1	14.3	28.6
California	94.4	0.0	5.6	77.8	11.1	11.1
Colorado	62.5	0.0	37.5	57.1	0.0	42.9
Florida	88.5	0.0	11.5	61.5	3.8	34.6
Georgia	85.7	0.0	14.3	50.0	0.0	50.0
Indiana	80.0	0.0	20.0	57.1	7.0	35.7
Kentucky	88.9	0.0	11.1	58.8	11.8	29.4
Maine	77.8	0.0	22.2	87.5	0.0	12.5
Michigan	91.7	0.0	8.3	63.9	5.6	27.8
Mississippi	88.9	11.1	0.0	50.0	25.0	25.0
Missouri	100.0	0.0	0.0	38.5	23.1	38.5
Montana	100.0	0.0	0.0	66.7	0.0	33.3
Nebraska	88.9	0.0	11.1	62.5	12.5	25.0
New Hampshire	100.0	0.0	0.0	66.7	0.0	33.3
New York	92.3	0.0	7.7	47.5	15.0	37.5
Ohio	92.6	0.0	7.4	53.6	10.7	35.7
Rhode Island	100.0	0.0	0.0	66.7	0.0	33.3
Texas	85.2	0.0	14.8	39.3	32.1	28.6
Washington	100.0	0.0	0.0	66.7	0.0	33.3
Wisconsin	94.7	0.0	5.3	41.2	11.8	47.1
Total	90.4	0.3	9.3	57.1	11.2	31.4

TABLE 15b

DIFFERENTIAL TREATMENT OF FIRST-TIME VERSUS REPEAT OFFENDERS FOR SELECTED DISPOSITIONS, BY STATE (PERCENT OF APPLICATION)

	REFERRAL TO OUTSIDE AGENCY			INFORMAL PROBATION		
	1ST TIME	REPEAT	EQUALLY	1ST TIME	REPEAT	EQUALLY
Arkansas	14.3	28.6	57.1	57.1	0.0	42.9
California	36.1	25.0	38.9	50.0	32.1	17.9
Colorado	12.5	25.0	62.5	42.9	14.3	42.9
Florida	20.0	20.0	60.0	60.0	20.0	15.0
Georgia	15.4	15.4	69.2	50.0	0.0	50.0
Indiana	23.1	46.2	30.8	66.7	16.7	16.7
Kentucky	27.8	33.3	38.9	25.0	37.5	37.5
Maine	25.0	25.0	50.0	37.5	12.5	50.0
Michigan	24.3	35.1	37.8	44.4	22.2	29.6
Mississippi	25.0	37.5	37.5	62.5	12.5	25.0
Missouri	41.7	41.7	16.7	63.6	18.2	18.2
Montana	0.0	0.0	100.0	0.0	0.0	100.0
Nebraska	12.5	62.5	25.0	57.1	14.3	28.6
New Hampshire	0.0	50.0	50.0	33.3	33.3	33.3
New York	12.2	46.3	41.5	29.4	32.4	38.2
Ohio	38.5	23.1	38.5	68.0	12.0	20.0
Rhode Island	28.6	28.6	42.9	60.0	20.0	20.0
Texas	16.7	45.8	37.5	19.2	38.5	42.3
Washington	33.3	0.0	66.7	60.0	40.0	0.0
Wisconsin	21.1	36.8	42.1	53.3	33.3	13.3
TOTAL	23.5	33.0	43.1	46.6	23.8	28.9

TABLE 15c

DIFFERENTIAL TREATMENT OF FIRST-TIME VERSUS REPEAT OFFENDERS FOR SELECTED DISPOSITIONS, BY STATE (PERCENT OF APPLICATION)

	TO COURT WITHOUT DETENTION			TO COURT WITH DETENTION		
	1ST TIME	REPEAT	EQUALLY	1ST TIME	REPEAT	EQUALLY
Arkansas	42.9	0.0	57.1	0.0	100.0	0.0
California	17.1	54.3	28.6	0.0	93.9	6.1
Colorado	12.5	50.0	37.5	0.0	87.5	12.5
Florida	28.6	32.1	39.3	3.6	89.3	7.0
Georgia	33.3	20.0	46.7	7.1	78.6	14.3
Indiana	33.3	40.0	26.7	0.0	86.7	13.3
Kentucky	18.8	37.5	43.8	0.0	88.9	11.1
Maine	37.5	50.0	12.5	0.0	88.9	11.1
Michigan	19.4	52.8	27.8	0.0	86.5	13.5
Mississippi	11.1	66.7	22.2	12.5	87.5	0.0
Missouri	21.4	42.9	35.7	0.0	78.6	21.4
Montana	0.0	66.7	33.3	0.0	66.7	33.3
Nebraska	25.0	37.5	37.5	0.0	87.5	12.5
New Hampshire	16.7	50.0	33.3	0.0	100.0	0.0
New York	15.0	47.5	37.5	0.0	80.0	20.0
Ohio	21.4	32.1	46.4	0.0	89.3	10.7
Rhode Island	14.3	57.1	28.6	0.0	100.0	0.0
Texas	31.0	44.8	24.1	0.0	83.3	16.7
Washington	0.0	28.6	71.4	0.0	75.0	25.0
Wisconsin	15.8	57.9	26.3	0.0	94.1	5.9
TOTAL	21.6	43.8	34.6	0.9	87.1	12.0

percent from Kentucky report that this dispostion would be most likely employed for a first-time offender.

Table 15c shows a clear trend for the differential application of the referral to court with detention request for repeat offenders. Eighty-seven percent of the respondents stated that this disposition is more likely to be applied to the repeat offender. Referral to court without a detention request is not as likely to be used more frequently for the repeat offender since more than one-third of the respondents reported the equal application of this disposition. Seventy-one percent of the respondents from Washington report that they employ this disposition equally. This fact is particularly interesting when contrasted with the 25 percent reporting the equal application of the more severe referral to court with request for detention. This differential application of the court dispostion options may be an indication of their serious offender legislation.

Table 16 displays differential treatment for first-time versus repeat offenders for selected offenses by state. This table demonstrates that as crime seriousness increases the dispositional disparity decreases. State differences can be observed in this table. One hundred percent of the respondents from Washington and Nebraska report that for the offenses of assault and battery and armed robbery both first-time and repeat offenders are treated equally. This finding is in contrast to the responses from police in the remaining states who report that differential treatment for these two types of offender exists even for the more serious offenses. It is interesting to note

TABLE 16

DIFFERENTIAL TREATMENT FOR FIRST-TIME VERSUS REPEAT OFFENDERS FOR SELECTED OFFENSES BY STATE (PERCENT OF AFFIRMATIVE RESPONSES)

	TRUANCY	MALICIOUS MISCHIEF	MARIJUANA USE	JOY RIDING	ASSAULT BATTERY	ARMED ROBBERY
Arkansas	50.0	66.7	83.3	66.7	16.7	50.0
California	57.1	75.0	74.3	57.1	54.3	37.1
Colorado	50.0	55.6	55.6	33.3	22.2	33.3
Florida	55.6	65.5	58.6	48.3	44.8	37.9
Georgia	64.3	64.3	57.1	42.9	42.9	35.7
Indiana	60.0	60.0	33.3	26.7	26.7	26.7
Kentucky	50.0	66.7	50.0	55.6	27.8	44.4
Maine	28.6	66.7	77.8	55.6	33.3	33.3
Michigan	82.9	63.9	55.6	44.4	44.4	27.8
Mississippi	55.6	88.9	77.8	44.4	66.7	44.4
Missouri	64.3	78.6	50.0	35.7	35.7	35.7
Montana	100.0	100.0	100.0	66.7	33.3	33.3
Nebraska	66.7	66.7	11.1	55.6	0.0	0.0
New Hampshire	50.0	50.0	66.7	16.7	50.0	33.3
New York	60.6	59.5	59.5	43.2	32.4	29.7
Ohio	86.7	63.3	50.0	37.9	27.6	20.7
Rhode Island	50.0	62.5	62.5	37.5	25.0	12.5
Texas	67.7	51.6	48.4	45.2	38.7	38.7
Washington	66.7	63.6	63.6	27.3	0.0	0.0
Wisconsin	44.4	68.4	52.6	52.6	36.8	42.1
Total	63.0	65.0	56.9	45.0	36.0	37.1

that, with the exception of Washington, the other states which have passed serious offender legislation (California, Colorado, Florida, Indiana, Kentucky and New York) all report some degree of differential treatment for these offenses.

Conclusion

One of the most striking findings from the police research is the contrast between the variety in the state statutes and the relative uniformity of the police practices across states. Our review of the statutes indicates that while a number of states that have explicit requirements in the law for diversion, there are several states that make no mention of diversion. Yet this difference is not reflected in the data. When examining Table 13, which indicates the percentage of respondents in each state that commonly use diversion, one fails to find any difference between the two group of states. It is not clear from the data that the inclusion of provisions in the statutes have led to an increase use of diversion.

Of course, the data may fail to reveal existing differences, but there are reasons to suspect that under certain conditions the legal codes may not be translated straightforwardly into practice. Van Dusen (1981) has argued that implementation is a function of the amount of necessary resources available and the degree of consistency of the philosophy of the legislation with the beliefs and values of the practitioners. In the case of diversion legislation, the amount of diversion that actually occurs will be a function of the availability of programs into which juveniles can be diverted. Although legislation encouraging diversion might stimulate the formation of diversion programs, factors outside the control of legislation determine the number of diversion programs available. Since most juvenile statutes permit law enforcement officers a great of deal of discretion,

the amount of diversion in a state will also be determined by law enforcement's willingness to employ diversion. These two factors may work relatively independently of the states' recognition of diversion in their statutes and may have a greater impact on actual police practice.

A second example of a discrepancy between differences in state legislation and in police practices across states occurs in the case of Arkansas. Unlike other states, their legislation appears to mandate formal entry into the court system whenever a youth is contacted. This apparently precludes the use of release with no official report as a disposition. Yet departments in this state frequently report that they commonly use this disposition. The demands of police work with juveniles make very practical a disposition of release with no official report. It is likely that Arkansas' use of this disposition is a response to pressures on the law enforcement system.

The homogeneity of police practices across states is not matched by homogeneity within states. There is a variety of responses to many of the questionnaire items. It seems likely that much of the difference between departments is a function of community and organizational constraints within which the agencies operate.

Another striking finding is the frequency with which respondents failed to see their options in handling the youths as comprising forms of punishment. Only when one examines court referral with detention do the respondents approach agreement that the disposition is a form of punishment. Even in this case,

ten per cent of the respondents did not consider it punishment. In addition, it is the larger agencies processing more juveniles that more consistently see their disposition options as non-punishing. If officers do not see what they do as punishment, it is likely that they communicate this to the juveniles that they process. The net effect may be that the police may undermine the deterrent effect of their encounters with juveniles.

A final striking finding is the prevalence of differential treatment of first-time offenders. Despite the absence of explicit legislative directives to treat first-time offenders differently from repeat offenders in the great majority of cases, first-time offenders are generally treated more leniently than repeat offenders. Thirty per cent of the agencies reported differential treatment for first-time offenders even in the case of armed robbery. A great many departments have gone so far as to formulate such policies explicitly.

There is, however, an interesting exception to this pattern. Informal probation is seen more frequently as punitive than diversion to outside agencies, yet in a greater percentage of agencies it is used more frequently with first-time offenders. The data suggest that in some cases agencies use informal probation to provide a somewhat harsher response to juveniles who are at the beginning of their involvement with the police.

In conclusion, the relation between a state's statutes and police practices is not straightforward. Information about the community and organizational factors might be more predictive of

practice. On the other hand, the imprecise fit between statutes and practice is in part a reflection of police discretion. And it is the existence of discretion that provides the potential for the design of police practices responsive to the characteristics of juveniles, especially when they are being contacted by the police for the first time.

REFERENCE NOTES FOR PART 2

(1) The numbers in all tables are rounded to the nearest hundredth.

(2) See Green, 1964; Hagan, 1974; and Tiffany, 1975.

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APPENDIX I

CONTINUED

1 OF 2

Department Name_____ ☐C1 ☐2 ☐3 ☐4

Station_____

Name and Title_____

_____

PLEASE DISREGARD THE BOXES ON THE RIGHT SIDE OF ALL PAGES

The following brief questionnaire about the handling of juvenile cases should take approximately thirty minutes to complete. Please recall that it is being sent to jurisdictions across the country. Since terminology varies from jurisdiction to jurisdiction, some of the terms may be unfamiliar to you. Please take this into consideration and answer the questions as well as possible. Whenever an alternative answer does not apply to your particular department, put NA on the line provided. Thank you for your cooperation.

For the purposes of the questionnaire "contact" is defined as an officer's encounter with a juvenile for a possible infraction; this may or may not lead to a formal arrest.

Structure of Department

1) Are you either a full or part-time juvenile officer? ☐C5

_____Yes

_____no

If yes, how long have you worked in that capacity? ☐C6 ☐C7

_____Years

2) Which one of the following five statements best describes the way your department handles juvenile work? ☐C8

_____no juvenile specialization

_____sworn officer(s) assigned part-time to juveniles

_____a full-time juvenile officer, but no formal unit

_____a full-time formal juvenile unit

_____a central juvenile unit, but with juvenile units also in outlying precincts

3) In your station, how many of the following are employed? ☐C9 ☐C10 ☐C11 ☐C12

_____juvenile officers

_____other sworn personnel ☐C13 ☐C14 ☐C15 ☐C16

4) Approximately what percent of the initial juvenile contacts are made by each of the following? ☐C17 ☐C18 ☐C19

_____% by full-time juvenile officers

_____% by part-time juvenile officers ☐C20 ☐C21 ☐C22

_____% by patrol officers ☐C23 ☐C24 ☐C25

_____% by others, please specify_____ ☐C26 ☐C27 ☐C28

_____

100% contacted

5) Once a juvenile is taken into custody, who processes him? If more than one person is involved in the processing, place a 1 before the person who handles the juvenile first; 2 before the person who handles the juvenile second, etc. ☐C29

_____patrol officer ☐C30

_____juvenile officer ☐C31

_____probation officer ☐C32

_____juvenile intake officer ☐C33

_____court intake officer ☐C34

_____if other, please specify_____

_____

In questions 6 and 7 we are interested in determining your station's juvenile caseload.

6) During an average month, approximately how many juveniles are contacted by: ☐C35 ☐C36 ☐C37

_____juvenile officers

_____other sworn personnel ☐C38 ☐C39 ☐C40

7) During an average month, approximately how many juveniles are taken into custody by:

_____juvenile officers — ☐ C41 ☐ C42 ☐ C43

_____other sworn personnel — ☐ C44 ☐ C45 ☐ C46

Juvenile Dispositions

8) Please indicate which of the following juvenile dispositions are available to juvenile officers and how frequently they are used. If available and commonly used, please place the letter C in the space provided. If available but seldom used, please place the letter S in the space provided. If unavailable please place a U in the space provided.

_____release, with no additional action ☐ C47

_____release accompanied by official report ☐ C48

_____referral to outside agencies, public or private ☐ C49

_____informal probation ☐ C50

_____referral to juvenile court without detention request ☐ C51

_____referral to juvenile court with detention request ☐ C52

_____other, please specify_____ ☐ C53

_____

9) Which of the following are important in choosing among dispositions? RANK ORDER those that apply. Mark NA where "not appropriate." Please place 1 next to the most important, 2 next to the second most important, etc. Use each number only once.

_____age of juvenile ☐ C54 ☐ C55

_____sex of juvenile ☐ C56 ☐ C57

_____seriousness of offense ☐ C58 ☐ C59

_____attitude of juvenile ☐ C60 ☐ C61

_____attitude of parents ☐ C62 ☐ C63

_____prior record ☐ C64 ☐ C65

_____whether home environment of juvenile is helpful ☐ C66 ☐ C67

_____admissibility of evidence ☐ C68 ☐ C69

_____other, please specify_____ ☐ C70 ☐ C71

_____

10) Which of the following dispositions do you consider a form of punishment? Place a P before those you consider punishment and a NP before those you do not.

_____release, with no additional action ☐ C72

_____release accompanied by official report describing encounter with juveniles ☐ C73

_____referral to outside agencies, public or private ☐ C74

_____informal probation ☐ C75

_____referral to juvenile court without detention request ☐ C76

_____referral to juvenile court with detention request ☐ C77

_____other, please specify_____ ☐ C78

_____

☐ C79 Blank

[1] C80

C1 C2 C3 C4

11) In your department, all other things being equal, for which type of juvenile is a more severe disposition more likely?

_____younger

_____older

C5

C6

_____no prior record

_____prior record

First-Time Juvenile Offenders

We want to know whether or not you handle first-time juvenile offenders differently from repeat juvenile offenders.

12) Generally speaking, in comparison with repeat offenders, how frequently are the following dispositions used for first offenders. Please place the letter F before those dispositions used more frequently for first-time offenders; put the letter R before those used more frequently for repeat offenders; and put the letter E before those that are used equally.

Note:

F= First-time Offender
R= Repeat Offender
E= Equally applied

_____release, with no additional action C7

_____release accompanied by official report describing encounter with juveniles C8

_____referral to outside agencies, public or private C9

_____informal probation C10

_____referral to juvenile court without detention request C11

_____referral to juvenile court with detention request C12

_____other, please specify_____ C13

_____

13) We are interested in knowing for which type of offenses first-time juvenile offenders are treated differently from repeat juvenile offenders. Please check the offenses for which first-time juvenile offenders and repeat juvenile offenders are likely to be treated differently.

_____truancy C14

_____malicious mischief C15

_____marijuana use C16

_____joy riding C17

_____assault/battery C18

_____armed robbery C19

14) Are there any statutes or codes in your state that specifically apply to treatment of first-time juvenile offenders as opposed to repeat juvenile offenders?

_____Yes

_____No

If yes, please describe what it requires for first-time juvenile offenders as opposed to repeat juvenile offenders. C20

If you happen to know the name of the statute or code, cite it here.

15) Are there any <u>case decisions</u> from your state or local courts that specifically apply to the handling of first-time juvenile offenders as opposed to repeat juvenile offenders?

_____Yes

_____No

☐ C21

If yes, please describe what it requires for first-time juvenile offenders as opposed to repeat juvenile offenders.

If you happen to know the name of the <u>case decision</u>, please cite it here.

16) Are there any <u>policies</u> of police, court or prosecution that specifically apply to first-time juvenile offenders as opposed to repeat juvenile offenders?

_____Yes

_____No

☐ C22

If yes, please describe what it requires for first-time juvenile offenders as opposed to repeat juvenile offenders.

17) Would you please describe the <u>typical</u> sequence of events in the processing of a juvenile for the following two offenses. Please include who interacts with the juvenile, where he is kept during the processing and the various <u>stages</u> involved in the processing.

petty theft

armed robbery

18) Is there anything else about the different handling of first-time and repeat juvenile offenders that we should know? If so, please indicate here.

19) If any of our questions do not apply to your situation, we would appreciate your indicating which questions and why they do not apply.

END