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Habitual Juvenile Offenders: Guidelines for Detention



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Serious Habitual Offender
Comprehensive Action Program
(SHOCAP)



Office of Juvenile Justice
and Delinquency Prevention

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Habitual Juvenile Offenders: Guidelines for Detention



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SHOCAP stands for Serious Habitual Offender Comprehensive Action Program and is based upon the basic premises and principles of ICAP (Integrated Criminal Apprehension Program). SHOCAP is a comprehensive and cooperative information and case management process for police, prosecutors, schools, probation, corrections, and social and community after-care services.

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Introduction

Three years ago the Office of Juvenile Justice and Delinquency Prevention (OJJDP) embarked on an ambitious effort to help jurisdictions identify and appropriately respond to the serious habitual juvenile offender. Two demonstration projects were established, the Serious Habitual Offender/Drug Involved (SHO/DI) Program, located within the law enforcement community, and the Habitual Serious and Violent Juvenile Offender (HSVJO) Program, located within the prosecutor's office. SHOCAP is an extension of the SHO/DI and HSVJO programs.

"According to recent statistics, juveniles are responsible for about one-third of all serious crime committed each year in the United States. Every year nearly 2,000 juveniles are arrested for murder, 4,000 for rape, and more than 34,000 are arrested for aggravated assault."

SHOCAP stands for Serious Habitual Offender Comprehensive Action Program and, like its predecessors, is based upon the basic premises and principles of ICAP (Integrated Criminal Apprehension Program). SHOCAP can increase the quality and relevance of information provided to authorities in the juvenile and criminal justice system to enable them to make more informed decisions on how best to deal with this very small percentage of serious offenders. SHOCAP is a comprehensive and cooperative information and case management process for police, prosecutors, schools, probation, corrections, and social and community after-care services. SHOCAP enables the juvenile and criminal justice system to focus additional attention on juveniles who repeatedly commit serious crimes, with particular attention given to providing relevant and complete case information to result in more informed sentencing dispositions.

These pamphlets are designed to provide the reader with an overview of the conceptual basis for the role of specific agencies in SHOCAP.

Material presented in these pamphlets is an outgrowth of information contained in the SHOCAP publication entitled "Guidelines for Citizen Action and Public Responses."

Each pamphlet begins with a discussion of problems encountered by the juvenile justice system in dealing with serious habitual juvenile offenders (SHOs) Then attention turns to a specific group of agencies that come in contact with SHOs on a regular basis.

Nature of the Juvenile Justice System

According to recent statistics, juveniles are responsible for about one-third of all serious crime committed each year in the United States. Every year nearly 2,000 juveniles are arrested for murder, 4,000 for rape, and more than 34,000 for aggravated assault.

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The United States courts operate on what has become known as the two track system of justice. From the moment a juvenile commits a crime, his trek through the justice system differs substantially from that of an adult who may have committed the same crime. The system is designed intentionally to let non-SHO juvenile offenders become "invisible." This is probably acceptable because of the notions that children get into trouble and need a "second chance" to grow up.

Discretion and diversion are two mainstays of the juvenile justice system, and both play into the hands of a juvenile serious habitual offender. A police officer can exercise discretion when a juvenile is stopped on the street. That same juvenile may have been stopped by other officers on other shifts, yet if the officers choose not to write any type of report, then no one else in the system is even aware that any action has taken place. Just as police officers practice discretion, so do prosecutors and court intake workers (whether or not to file, reduce charges, etc.); judges (to accept a plea, to dismiss a charge, etc.); and correctional personnel (choosing type of facility, permitting home visits and furloughs, etc.). Such discretion, however well-intentioned, allows juveniles to fall through the cracks of the system.

Research projects and informal surveys of over 1,500 juvenile officers who attended a nationwide training program sponsored by the Office of Juvenile Justice and Delinquency Prevention, U.S. Department of Justice, and the Federal Law Enforcement Training Center have confirmed the following breakdown of juvenile justice system transactions: For every 1,000 young persons in contact with police, ten percent or 100 are arrested. Police commonly drop charges or reprimand about 50 percent of these, leaving 50 cases. Of the 50 cases formally presented to the court intake, only about 50 percent or 25 are sent forward. Unless a young offender has been arrested before, or the immediate offense is serious, less than 50 percent or 12 will be referred to the court. Less than 50 percent of the cases presented result in the adjudication or determination of delinquent status. This means that only six accused delinquents will be found guilty and sentenced. Of the six sentenced, five will probably be placed on probation. This leaves only one juvenile out of the 1,000 who will be incarcerated.

Are some of those other 99 who were arrested but not incarcerated serious habitual offenders? Chances are that they were and they were allowed to fall through the cracks. In recent years, members of the juvenile justice community have come to recognize that, when dealing with serious chronic offenders, the safety of the community must be considered. For most juvenile offenders, the point of initial contact with the system is the police department. Thus, SHO/DI was designed as a law enforcement response to serious

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juvenile offenders. However, even in the planning stages of the program, the need for cooperation and information-sharing among agencies was recognized. The major goals of the SHO/DI program reflect this need for interagency cooperation. SHOCAP expands this interagency model to include more emphasis on the system as a whole. Sharing information about the juvenile offender takes away his "invisibility" and gives the prosecutor a stronger case. It allows each component of the system to make decisions which are commensurate with the seriousness of the juvenile's behavior and past criminal history. With the SHOCAP program, fewer habitual juvenile offenders fall through the cracks.

A 1982 Rand Corporation report, titled "Varieties of Criminal Behavior," analyzed the results of a series of career criminal studies. One major conclusion of the report was the need to emphasize early juvenile offending patterns as the most important predictor of future behavior. Another conclusion was that official criminal records are too limited to use in accurate prediction. The study recommended that "prosecutors might be able to distinguish between predators and others if they had access to school records and other appropriate information about juvenile activities."

"The major goals of the SHO/DI program reflect this need for interagency cooperation. SHOCAP expands this interagency model to include more emphasis on the system as a whole."

Thus, while criminal activity peaks between the ages of 16 and 17, most career criminals are not identified until approximately age 22. Figure 1, Conceptual Model: Serious Habitual Criminal Evolution, shown below, identifies the evolutionary phases of the serious habitual offender and the lack of services provided to this population in the critical window of 18 to 22 years of age.

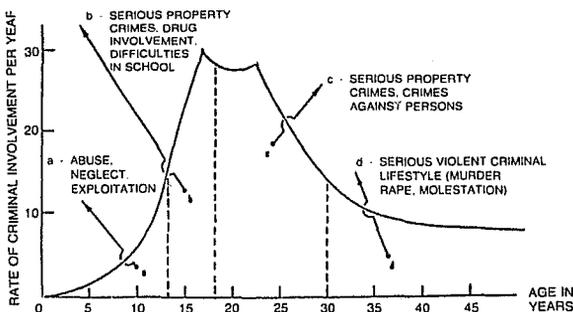


Figure 1. Conceptual Model: Serious Habitual Criminal Evolution

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Beginning around ages eight and nine, the eventual habitual offender is victimized through abuse, neglect, and exploitation. By age 13, he is committing serious property crimes—often to support a drug habit—and is experiencing extreme difficulties in school. Not until age 22 is the former juvenile habitual offender identified as a career criminal —committing serious property crimes and crimes against persons. The career criminal continues this pattern, committing more violent crimes including murder, rape, and molestation.

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It is important to remember that although this type of individual represents a very small percentage of the offender population, he is responsible for a large percentage of criminal offenses. And while the types of criminal activity are identified according to age group, this division is for general purposes. Obviously there is activity overlap between age groups.

Coordinate Interagency Activities and Services for Interagency Cooperation

In most states the components of the juvenile justice system include the police, the prosecutor, the judge, and probation/parole/social services. Many of these agencies and officials have coexisted for years. Most are totally unaware of how other operations work and of the problems and needs of other components of the system. Cooperation and communication between agency representatives are stimulated on a personal basis. The danger inherent in this informal process is that it is personal, and therefore egos and personalities affect the degree of cooperation and communication. What has been a positive working relationship between agencies may abruptly change with a change in personnel or a change in philosophy.

In this era of limited resources, juvenile justice system components can ill afford to work in a vacuum and not cooperate or communicate with each other. The informal or personal basis for interagency cooperation and communication, while essential, needs to be elevated to a formal, organized process. The interagency functional model, depicted in Figure 2, shows the process and activities required for implementing this formal interagency approach which is called SHOCAP. This approach calls for the development of a written interagency agreement between all components of the juvenile justice system to guide and promote interagency commitment to the program.

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Following the development and signing of the interagency agreement, each agency involved in SHOCAP must examine its own internal policies and procedures to make certain they support and are consistent with the guidelines set forth in the interagency agreement. Commonly referred to as "general orders," standard operating procedures (SOPs) or departmental guidelines, this formal documentation will assure continuity and long term commitment from each agency. In addition, the development of policies and procedures which reflect the goals of the interagency agreement will prevent juveniles from falling through the cracks.

The key tools used in the SHOCAP model are rosters and profiles. Rosters identify active serious habitual offenders (SHOs) and are provided to certain police department units and juvenile justice system agencies to aid in system alert. Profiles contain information relevant to the juvenile's offending behavior, including criminal and traffic arrest history, case summaries, descriptive data, modus operandi, police contact information, link analyses depicting criminal associations, drug/alcohol involvement indicators, and pertinent social and school history information (when available). The SHO profiles are provided to police officers, the DA's Office, Juvenile Probation Department, and the Division of Youth Services (detention and commitment).

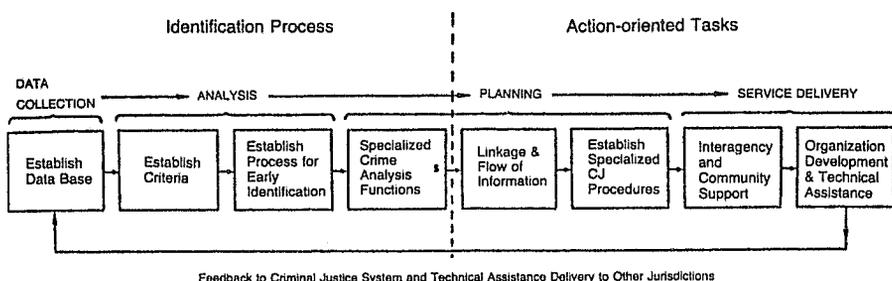


Figure 2. Interagency Functional Model

"The key tools of SHOCAP are the rosters and profiles. The rosters identify active SHOs and are provided to certain police department units and to juvenile justice system agencies to aid the system alert."

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The SHOCAP profiles are intended to provide police and principal juvenile justice agencies with a composite of information pertinent to the juvenile's offending behavior history and contacts with the system. Case filings, plea negotiations, detention recommendations, probation evaluations, dispositions, and placements are all critical decisions requiring immediate access to the behavioral and treatment history of the child. The profiles serve to enhance those decisions.¹

Summary

SHOCAP attempts to end the frustration associated with handling serious habitual offenders. Through a well-coordinated, interagency approach, SHOCAP encourages agencies in the juvenile justice system to work together. Through coordination and regular sharing of information, juvenile justice agencies are able to put together more comprehensive case histories for these offenders and, therefore, are able to make more informed decisions and recommendations regarding the use of available resources within the juvenile justice system.

On the following pages you will find information regarding school involvement with SHOCAP. There are several issues for consideration when implementing SHOCAP as well as several important aspects of the interagency model which will enhance your agency's ability to make appropriate decisions regarding the serious habitual offender. Careful planning and consideration of these issues will ensure that the frustration involved in dealing with this population is reduced and that the system responds to this population in a comprehensive, coordinated manner.

¹Thomas F. Paine and Drusilla M Raymond, *Juvenile Serious Habitual Offender, Drug Involved Program (SHO/DI)*, Colorado Springs Police Department (Colorado Springs, CO), July 1986, p. 22.

Detention

Two types of facilities, secure and nonsecure, are used for temporary confinement of juvenile offenders. The difference between the two is whether the facility is locked. Minor or trusted offenders are sometimes placed in facilities which may not be locked, either due to the lack of staff or building safety codes. Some use of nonsecure detention may reduce the stigma of being in jail.

Detention as discussed herein is the secure holding facility for pretrial cases. Some juvenile detention facilities are not designated to hold dangerous or violent offenders. Bed space is often limited because the detention facility is commonly used as a placement for serious runaways or other problem children. However, the youth identified as a SHO by established and agreed upon inter-agency criteria should be confined to secure facilities.

In this pamphlet, we will discuss the following strategies for the detention of habitual offenders:

- Establish a policy of separate and secure holdings of all designated habituals;
- Provide a special close custody classification for all designated habituals to protect staff and other detained clients; and
- Monitor and record all activities and transactions of designated habituals.

Establish a Policy of Separate and Secure Holding of All Designated Habituals

The temporary detention of any juvenile apprehended by the police should be protective in nature, not punitive. A juvenile should be held in police detention facilities no longer than is necessary for referral to juvenile intake, return to parent or guardian, or removal to another facility designated for the reception of children.

The following guidelines are provided for officers and agency representatives when handling apprehended juveniles:

- To the maximum extent possible, police must take immediate steps to notify the juvenile's parents or guardians; and immediately notify the juvenile in the presence of his parent or guardian of his constitutional rights, specifically the Miranda warnings, and shall refrain from any action that would abridge or deny these rights.

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- Children who are almost certain to commit an offense dangerous to themselves or to the community before court intervention shall be detained in a secure or restrictive manner.
- The police officer may take an accused juvenile to an appropriate facility used for the detention or reception of children if the juvenile would be in immediate danger of serious bodily harm if released, or the juvenile requests such custody.
- Juveniles held in police detention should be under observation at all times.
- Nonviolent offenders should not be confined with violent offenders, if possible.
- Juveniles should not be detained in facilities which are utilized to detain adults.
- Facilities should be inspected and approved by outside agencies, such as the juvenile court, social welfare, etc., as meeting all applicable standards.

Different handling for SHOs

Detention of juveniles identified as SHOs is different, i.e., separate and more restrictive with handling based upon sound, legal, social, and constitutional principles.

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Detention (or intake) officials who are not police or correctional custody officers should ask the police officers to recommend which juveniles need to be detained for the safety of the community or the individual.

Juveniles who have demonstrated that they may flee jurisdiction, i.e., runaways from an institution to which they have been committed by court, or parole violators, should be detained in a secure facility.

Detention

Provide a Special Close Custody Classification for All Designated Habituals to Protect Staff and Other Correctional Clients

It is incumbent on police juvenile officers to make recommendations to juvenile intake as to the detention of those individuals who the officer feels need to be detained for the safety of the community and/or the juvenile.

In designing corrections classifications, program managers must provide for the identification of the violent versus the serious habitual offender. The non-violent habitual must be targeted for control to assure, at minimum, that violations are not repeated. However, the potential for danger to other persons from

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the violent offender ranks demands that they be identified for closer observation and more restrictive constraint procedures. Procedural elements that provide a special close custody classification that will protect staff and other personnel include:

- accurate identification of violent or dangerous offenders
- close supervision by qualified professional staff member(s)
- structured activities, if possible, that minimize idleness
- reduced detention time prior to hearing

Monitor and Record All Activities and Transactions of Designated Habituals

Discretion and diversion are two mainstays of the juvenile system, and both play into the hands of a juvenile serious habitual offender. An officer can exercise discretion when a juvenile is stopped on the street. That same juvenile may have been stopped by other officers on other shifts, yet if the officers chose not to write any type of report, then no one else in the system is even aware that any action has taken place. Just as police officers practice discretion, so do prosecutors and court intake workers (whether or not to file,

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reduce charges, etc.); judges (to accept a plea, to dismiss charges, etc.); and correctional personnel (choosing type of facility, permitting home visits and furloughs, etc.). Such discretion, however well-intentioned, allows juveniles to fall through the cracks of the system.

Like discretion, the diversion built into the juvenile justice system was meant to benefit the youths involved in it, yet the impact reaches beyond the juveniles. When a serious juvenile offender is diverted out of the system and returned to the community, the victim may feel little sense of justice. In fact, the victim may be subjected to further abuse by the juvenile.

“An experienced juvenile offender knows that he can often avoid arrest, but even if he is arrested, he knows there is a good chance that he will be released without a formal referral to juvenile court or any other agency.”

Juveniles are also amazingly quick at learning the system, and it does not take them long to realize there are really very few sanctions against committing crimes. An experienced juvenile offender knows that he can often avoid arrest, but even if he is arrested, he knows there is a good chance that he will be released without a formal referral to juvenile court or any other agency. According to the Bureau of Justice Statistics, in 1981, over a third of those juveniles arrested were released without a referral of any kind. This applies to repeat offenders as well as to those who commit a single offense. Such handling of serious juvenile offenders serves as a poor model for other youths to observe.

Additionally, because 80-90 percent of all arrested children are diverted or dropped from the judicial process, serious juvenile offenders are seldom truly held accountable for their actions. This aspect of diversion has often frustrated law enforcement personnel. Juvenile arrests typically involve a great deal of paperwork. The officer who arrests a juvenile may have to spend several hours with the offender and complete all the additional paperwork, only to find that the juvenile is diverted and actually beats the officer back out on the street.

Perhaps the most significant difficulty in dealing with juvenile serious habitual offenders is the lack of information-sharing and cooperation among concerned agencies. These agencies have long perceived that information cannot or should not be shared; thus agencies have maintained separate, usually

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incomplete, files. This lack of information-sharing has had a major impact on the system's response to chronic, serious offenders.²

Summary

Detaining habitual offenders between the time of intake and time of trial or hearing date rewards the community in several ways. Numerous studies have shown that a high rate of criminal activity occurs among habitual offenders who are awaiting trial from previous charges. Detention of habitual offenders, violent or nonviolent, will prevent these occurrences by taking the offender off the streets.

"Perhaps the most significant difficulty in dealing with juvenile serious habitual offenders is the lack of information-sharing and cooperation among concerned agencies."

In this pamphlet, we have discussed strategies recommended for detention including establishing policies for separate and secure holdings of SHOs, providing a classification system, and monitoring the activities of SHOs.

For further information, bibliographies, or additional materials, please contact:

The Serious Habitual Offender Information Clearinghouse
National Crime Prevention Institute
University of Louisville
Louisville, Kentucky 40292

or call (Toll Free) 1-800-345-6578.

²Robert O. Heck, *Serious Habitual Offender/Drug Involved Program Information Guide*, July 1986.

ALSO AVAILABLE:

Guidelines for Citizens Action and Public Response

Guidelines for Courts

Guidelines for Intake

Guidelines for Parole/Aftercare

Guidelines for Police

Guidelines for Probation

Guidelines for Prosecution

Guidelines for Schools

Guidelines for Social Services

Guidelines for State Corrections