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JUVENILE DIVERSION

VOLUME 1

FINAL REPORT

*R.T. Barnes*  
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NATIONAL EVALUATION PROGRAM:  
PHASE 1 ASSESSMENT

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Coordinator

Andrew Rutherford  
Project Director

Department of Criminal Justice Studies  
University of Minnesota  
December 1975

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## NATIONAL EVALUATION PROGRAM

In July 1974, the National Evaluation Program was established within the Law Enforcement Assistance Administration under the Office of Evaluation of the National Institute of Law Enforcement and Criminal Justice. This followed a recommendation by LEAA's Evaluation Policy Task Force (a joint body of representatives from LEAA and state planning agencies) that certain types of information can best be produced through nationally coordinated assessments and evaluations. Phase 1 of the NEP represents an assessment of the state of knowledge regarding a specific topic area together with some description and analysis based upon site visits and other data.

The National Evaluation Program has worked closely with the recently established Office of Juvenile Justice and Delinquency Prevention in initiating Phase 1 Assessments in the general area of juvenile justice. Either completed or in progress are studies of Youth Service Bureaus, Delinquency Prevention and Alternatives to Detention. In March 1975 the University of Minnesota received a grant to undertake studies in the areas of Diversion and Community-based Alternatives to Incarceration.

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## ABSTRACT

Diversion has, during the last few years, become a regular catchword in the language of criminal and juvenile justice. It has been characterized by a lack of rigorous definition and careful measurement of its impact. This assessment of diversion within the juvenile justice process is not limited to a study of diversion programs, but addresses also the process of diversion. A distinction is made between "traditional diversion" which sought ways of preventing certain juveniles from entering the juvenile justice system and "new diversion" which is represented by an array of programs for youth which at best reduce penetration into the system. It is suggested that many of these diversion programs may well have the unanticipated consequence of increasing rather than reducing the net of control exercised by the juvenile justice system.

Site visits were conducted in a number of settings and it was found that diversion programs and processes could be differentiated according to the degree of explicit or implicit legal control exercised over the youths. Much of the discussion and analysis contained within the report is definitional. It is argued that this is necessary at this stage if a more substantial foundation for the development of diversion programs and processes is to be laid. These definitional issues have important implications for decisions concerning both policy and research.

## PREFACE

This is part of a three volume report which assesses Juvenile Diversion. The study was conducted by the Juvenile Justice Project, Department of Criminal Justice Studies at the University of Minnesota during 1975. It was commissioned by the National Institute of Law Enforcement and Criminal Justice as part of its National Evaluation Program.

Volume 1 Juvenile Diversion: Final Report consists of the following topic areas:

- historical review
- review of literature and identification of key issues
- description of juvenile diversion processes
- assessment of juvenile diversion practices
- research design issues
- evaluation designs that address both program and process issues

Volume 2 Juvenile Diversion: Site Visit Reports contains the complete reports of the thirteen site visits undertaken in this topic area during the summer of 1975.

Volume 3 Juvenile Diversion: Report Summary is a summary of the final report. It is scheduled for distribution to juvenile justice planners and others with responsibilities in this field.

## ACKNOWLEDGEMENTS

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## PROJECT STAFF

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## CHAPTER I

INTRODUCTION: PURPOSES, APPROACH AND LIMITATIONS

Diversion has become very much part of the language of the criminal and juvenile justice process during the last decade. The level of interest in diversion has not, however, been matched by detailed knowledge of what actually occurs under that name. Since the 1967 President's Commission on Law Enforcement and Administration of Justice<sup>1</sup>, attempts have been made to encourage what Edward Lemert, for that Commission, described as "judicious non-intervention" as an alternative to processing youth into the juvenile justice system. This approach appears to be, at least in theory, opposite to the child-saving philosophy of an earlier generation, and it has found practical expression in a wide variety of activities. Proponents of diversion reflect the growing awareness that juvenile justice, as practiced in America, has fallen far short of early expectations. An earlier era had seen the juvenile courts as a mechanism for diverting youth from full exposure to the criminal justice process. Half a century later the diversion emphasis had shifted and processing by the juvenile justice system had itself come to be viewed as potentially harmful and to be avoided wherever possible.

The contemporary rhetoric and recommendations favoring diversion found legislative expression in the recently enacted Juvenile Justice and Delinquency Prevention Act of 1974. While the legislation did not resolve the conceptual confusion that the term has caused it did provide for a level of federal responsibility which juvenile justice as a whole badly needed. As the 1974 legislation pointed out:

States and local communities which experience directly the devastating failures of the juvenile justice system do not presently have sufficient technical expertise or adequate resources to deal comprehensively with the problems of juvenile delinquency, and existing Federal programs have not pro-

vided the direction, coordination, resources and leadership to meet the crisis of delinquency.<sup>2</sup>

With the establishment of an Office of Juvenile Justice and Delinquency Prevention within the Law Enforcement Assistance Administration of the Justice Department, there is now the opportunity for a more coordinated role for the federal government in this complex and changing scene.

Those intent upon the reform of the juvenile justice process have drawn attention to the need for change at both the periphery of the system and at the deep end. The diversion movement represents a major part of the effort that has been concerned with reform at the periphery, and it might be termed a shallow end strategy. In recent years there has been an enormous increase in the number of programs which are said to divert, but information about such programs has remained scarce. Furthermore, it is by no means clear that these programs serve their stated purpose.

This study of juvenile diversion is one of a number of Phase I Assessments of the National Evaluation Program within LEAA which focus upon a specific topic within juvenile justice. These Assessments should provide the new Office of Juvenile Justice and Delinquency Prevention, as well as state planning agencies and other bodies concerned with juvenile justice, with an opportunity to review the contemporary state of knowledge and practice. The basic purpose of the study is to clarify some of the many conceptual and definitional problems and to describe a number of diversion programs and the processes they represent. In the light of these descriptions a number of policy and research issues are explored.

This study has been completed in eight months which is the period of time established by the NEP Phase I design. A brief time span such as this

has both advantages and limitations. On the positive side it provides an up-to-date description of the contemporary scene for policy makers and others concerned with the issue. Long-term research efforts cannot easily be geared towards the immediate needs of potential users. A limitation of this time frame is the intense pressure to complete the various phases of the project: initial conceptual work, reviews of the appropriate literature, planning and executing the field work, organizing and analyzing the field reports and incorporating this material according to the NEP design.

Clearly such a project cannot attempt an in-depth focus of long-term undertakings such as the University of Michigan's National Assessment of Juvenile Corrections. It was, for example, decided that a random sample of programs would be an inappropriate method for selecting site visits. Instead, a more viable approach was to select programs for site visits that were representative of a number of key variables. Data gathered and impressions gained during the field work, as well as during other phases of the project, should provide a basis for re-examining and drawing attention to issues which merit greater consideration than they have previously received. The study aims to sharpen the focus upon key contemporary issues which have to be taken into account by both policy makers and researchers.

The NEP Phase I design refers to the goal of providing a description of the current level of practice. This study has attempted to piece together a series of such descriptions which reflect the perspective of the various parties involved, including wherever possible the youths who are involved in the process. The study has deliberately focused upon the process of diversion rather than confining itself to the narrower area of diversion programs. Programs have, of course, been studied, but within the context of the systems which they are a part of. This wider perspec-

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tive is crucial to the study since the major theme explored is whether diversion from the juvenile justice system is actually taking place as opposed to minimization of penetration into the system. A companion report, prepared by the same research team, has addressed a very similar issue in the area of community-based alternatives to juvenile incarceration. In that report a dominating issue has been whether such programs are actually replacing incarcerative institutions or merely providing a supplement to them. It is imperative to note that naming a program, i.e. diversion, does not necessarily result in the intended purpose being served. Such a warning is all the more timely when certain names become catch phrases for funding and other purposes. By drawing attention to this central issue, it is the intention of this report to highlight both conceptual and empirical gaps in our knowledge about juvenile diversion.

The overall NEP design in the juvenile justice area sets certain boundaries for this study which are discussed in the body of the report. It might be noted that the area of Youth Service Bureaus was the focus of an earlier NEP study and every effort was therefore made in this study to avoid duplication with that work. An analysis of the YSB form of diversion is found in the earlier report prepared for LEAA.\*

This report does not contain the total NEP study. The complete site visit reports that describe each of the programs in detail have been submitted separately to LEAA. The diversity of the programmatic arrangements and the fluidity of the contemporary scene do not easily facilitate the

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\*Arnold Schucter, National Evaluation Program, Phase I: YSB Assessment, Report in Progress, 1975.

development of neat classifications that might have immediate utility for policy makers and researchers. At this stage it is possible that description complicates rather than simplifies, and it certainly introduces a heavy note of caution for those with a predisposition towards catch-words and panaceas.

NOTES

1 President's Commission on Law Enforcement and Administration of Justice, U.S. Task Force Report: Juvenile Delinquency and Youth Crime (Washington, D.C.: U.S. Government Printing Office, 1967).

2 Juvenile Justice and Delinquency Prevention Act of 1974, Public Law 93-415, 93rd Congress [Section 223(a)10], September 7, 1974.

CHAPTER II

HISTORICAL OUTLINE OF THE JUVENILE JUSTICE SYSTEM

#### A. The Classical School

In the latter half of the 18th Century the classical school of Criminology/Corrections came to dominate social policy in regard to the appropriate societal response toward behavior viewed as criminally deviant. The classical perspective held that man being a rational being--would best be able to differentiate between right and wrong behavior via a process of hedonistic calculus based upon the pleasure-pain continuum. It was the task of social policy makers to clearly outline the criminal law and the consequences incurred by violation of its precepts. Celerity, certainty and uniformity of societal response would enable an individual to make a rational choice between good and evil, right and wrong, legal and illegal behavior.

#### B. The Neoclassical School

Critics of the above theory were quick to point out its major weakness--not all individuals possessed an adequate degree of rationality. The mentally-ill suffered from impaired judgment and children lacked maturity--hence, both categories were unable to engage in a meaningful degree of hedonistic calculus. The logic of this critique mandated separate processing of the young and the mentally-ill outside of the traditional criminal justice system. How and by whom such separate processing should be accomplished became the bones of contention among reformers and policy makers. The reforms that led to the establishment of a separate juvenile justice system and the attempts at reforming that system are the subjects of this historical sketch.

#### C. The Neoclassical Roots of Diversion

Potential reformers of the present juvenile justice system use a catchword called diversion. Attempts at defining the term are frustrated by multiple

usage. A simple definition of the term, however, might prove useful in placing current usage within an historical perspective. The dictionary and common usage generally view diversion as a "turning aside." The critics of the classical position believed that consistency demanded that the mentally-ill and the young be turned aside from processing within the criminal justice system. Apparently such turning aside was at first accomplished simply by means of discretionary judgments on the part of criminal justice officials. Standard options for such officials likely encompassed what Nimmer has listed as screening, sentence leniency and traditional diversion (informal supervision, referral to existing social services, etc.).<sup>1</sup> Unfortunately significant numbers of juveniles, particularly in urban areas, were not "turned aside" but instead were processed in much the same manner as adults. The neoclassical reformers began to realize that effective "turning aside" might be enhanced by developing procedural, institutional and/or programmatic components specifically designed for juveniles.

D. Juvenile Justice Reform: Phase I

1. The House of Refuge Act of 1824

The political and sociocultural dynamics of early 19th century America set the stage for the development of a complex reform movement garbed in liberal rhetoric but functioning as a conservator of traditional moral ideals. It is hardly fortuitous that legislative embodiment of reformist ideals first appeared in New York with the House of Refuge Act of 1824. New York City was fast developing the urban character which it would epitomize by the end of the century. New York City was the port of entry for an increasing wave of immigrants as well as a strategic point for westward emigration via the nearly completed Erie Canal. The city was beginning to manifest some of the problems of crime and deviancy so typical of present day urban centers. The

newly created House of Refuge served as an institutional embodiment of the demand for a different societal response towards deviant acts of youth.

## 2. Major Reform Themes

Two crucial themes of 19th century juvenile justice/welfare reform were evident in this early act:

- (1) The emphasis upon predelinquent youth and/or minor offenses.
- (2) The attempt to impose middle class norms upon the children and families of immigrant, poverty ridden social groups.

The immediate rationale for legislative reform derived from the doctrine of parens patriae which pointed out that it was "the duty of the government to intervene in the lives of all children who might become a community problem."<sup>2</sup>

Evident in this first phase of Juvenile Justice (or Criminal Justice) reform were some additional traits which have directed contemporary attempts:

- (1) A tendency to divide the area of juvenile justice into serious vs. nonserious offenses.
- (2) A reliance upon legal authority to bolster the role of those desiring to intervene in the lives of others.
- (3) The acceptance of a treatment model.
- (4) The cooptation of reform institutions, process, and programs by the parent criminal justice system.

The early stage of juvenile justice reform highlighted the problems but did not solve the dilemma inherent in the neo-classical approach--"how and by whom should alternative processing be accomplished?"

### E. Juvenile Justice Reform: Phase II

#### 1. The Illinois Juvenile Court Act of 1899

By the late 19th century, phase two of the juvenile reform movement was institutionalized by the Illinois Juvenile Court Act of 1899. The Illinois reformers were ideologically quite similar to their predecessors. Between

the 1820's and the 1890's it had become evident that the earlier reform was too narrow in scope and had been virtually coopted by the criminal justice system. So-called juvenile "treatment" institutions were clearly punitive facilities and increasing numbers of juveniles were being processed and incarcerated as adults. Anthony Platt, in The Child Savers, has documented the multitude of motives possessed by the reformers of the 1890's.<sup>3</sup> In essence he maintains that they also masked conservative ideology with progressive-liberal rhetoric. Sanford Fox generally supports the Platt critique with an added emphasis upon the mythical nature of procedural reform.<sup>4</sup> Contrary to popular thinking the Juvenile Court movement of the turn of the century resulted in greater formalization of procedure and an escalation of the "official" societal response to juvenile misconduct. In modern parlance, the reforms served to widen the net of legal intervention in the lives of citizens.\* Advocates of treatment were bolstered by a conferral of legal authority, and they continued to emphasize the processing of relatively minor offenders amenable to working within the counseling treatment model. Hard-core offenders were offered institutionalized treatment via incarceration. The moral stature of middle class values was reaffirmed and succeeding generations of immigrants and poverty-stricken were to be offered treatment rather than punishment. In effect:

Rather than a significant reform, the Illinois Juvenile Court Act of 1899 was essentially a continuation of both major goals, and the means, of the predelinquency program initiated in New York more than 70 years earlier.<sup>5</sup>

Future juvenile justice reformers would have to challenge a major national institution protected by its self-conception and public image as a concrete example of successful liberal reform.

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\* For a contrary view, see Lawrence J. Schultz, "The Cycle of Juvenile Court History," Crime and Delinquency (October, 1973), pp. 457-476.

F. Juvenile Justice Reform: Phase III

1. Critics of the Juvenile Court

The first two phases of juvenile justice reform largely succeeded in turning aside juveniles from in depth processing by the adult criminal justice system. The third phase was complicated by demands aimed ultimately at diverting youth from processing by the juvenile justice system. Phases one and two had been legislative actions at the state level--phase three was initiated at the national level primarily by the Judicial and Executive branches.

As the juvenile justice system increased in size and scope it became clear to some critics that processing a youth by that system actually differed little from processing by the traditional justice system. The major difference seemed to be that in the juvenile system a youth was denied the due process safeguards of the constitution. As the discipline of sociology gained credence with social policy makers, doctrines of individual responsibility came under attack and greater emphasis was placed upon environmental and interactionist models of causation. As early as 1938 Frank Tannenbaum warned that the dramatization of evil was, perhaps, as great a culprit as the evil itself.<sup>6</sup>

2. The Gault Decision

The creation of the Juvenile Court did not drastically change a youth's perception of interaction with official justice agencies. By the 1960's criticism of juvenile justice was widespread. Critics maintained that the ideals of the juvenile court movement had dissipated over the years. Unless major changes were instituted, it seemed that avoidance of contact with the system was the best course for youths in trouble--the treatment model (at least the "official" version) had to many observers, become a punitive model in effect. The Supreme Court in the Gault decision expressed criticism

of the juvenile justice system. In essence, that decision cast official doubt on the benevolent ideals of the system because of their obvious failure to be operationalized in juvenile court procedures. The court decision, however, served only to mandate due process rights for children at the point of adjudication. The "informal" procedures of police, probation and detention personnel were basically left untouched. Even at the adjudication level little real change in juvenile justice occurred as a result of the Gault decision. The Executive branch urged the reformers to make the next move.

### 3. The President's Commission of 1967: Labeling Theory

The decade of the 60's brought the civil rights and anti-war movements, urban disorders, the creation of a counter-culture and the explosion of drug use among youth; it was perceived as a period of increasing lawlessness, particularly attributed to young people. In 1967 the President's Commission on Law Enforcement,<sup>7</sup> dominated by sociologists, advised that the juvenile justice system had largely failed. A crucial criticism was that contact with the juvenile justice system was potentially more harmful to youths than no contact at all. The theorists, drawing upon the popular labeling theory approach, viewed interactions of youth with the system as stigmatizing and perhaps generating more severe criminal activity. The Commission's major recommendation was that whenever possible youths should avoid juvenile justice processing and that alternatives should be developed outside of the existing system; a recommendation was made to create "youth service bureaus" or provide services through existing community agencies. These criticisms amounted to a call--once again--to divert youth from potentially harmful processing. This time they would supposedly be turned aside from the juvenile justice system.

## G. Diversion

### 1. Traditional versus New Diversion

The Commission's emphasis upon diversion did mean the process was unheard of prior to 1967. Before and after the Juvenile Court Act of 1899, police and later probation officers and judges had engaged in screening, sentence leniency and diversion--something other than the full processing of the system had been implemented. Although some writers have differentiated among the above procedures it is, perhaps, best to view all such informal processes as Traditional Diversion. Since the President's Commission Report, the emphasis has been upon creating specialized diversion programs; this aspect of reform might be termed New Diversion. Traditional and New diversion are not distinct merely because of temporal considerations but differ as to emphasis on process or special program as a means to "turn aside" juvenile offenders.

The existence of traditional diversion as a time honored practice of legal authorities accounts for much of the present confusion over the term diversion. Old hands comment "hell we've always done diversion." But it is traditional diversion they have in mind. Faced with a dispositional dilemma, they counseled, warned and released, dismissed cases, threatened, kept an eye on a kid, suspended prosecution, referred to community service agencies, etc.--in general, they tried hard to "turn aside" a youth by diverting him from the system through specific, usually informal procedures. The New Diversion has provided officials with specific, usually formal programs to divert a youth to. Hence, some researchers have discovered that police use diversion programs as an alternative to the screening process. Traditional diversion is being replaced, coopted, and/or expanded by the more formal programmatic emphasis of New Diversion. The result may well be that youths will experience more, not less, intervention in their lives. If the interveners possess some degree of legal

authority it may be accurate to view New Diversions as a widening of the net.

## 2. Minimization of Penetration

Many New Diversion programs have been developed by, or are under the auspices of legal authorities- in particular, the police and probation departments. It is interesting to note the enthusiasm with which the New Diversion has been received by agents of the system under attack. It appears that diversion, as denoted by labeling theory sociologists, has been given an entirely different connotation by practitioners. The negative aspect of the Commission's critique of juvenile justice as an institution one should be diverted from has been interpreted as a positive critique implying that the system should engage in diversion to something- often a program staffed and/or controlled by that same system. The enormous amount of federal dollars poured into the New Diversion has not been ignored by juvenile justice practitioners.

The Youth Service Bureau concept, advocated by the President's Commission, has blossomed into an amazing variety of forms. Observers of the YSB phenomenon find it difficult to identify, much less evaluate, just exactly what a YSB is or what it is supposed to do.<sup>8</sup> The same confusion has surrounded other New Diversion programs within the police and probation departments. Minimization of Penetration is a major way in which practitioners perceive the diversion concept; it means virtually any activity or program short of adjudication. Minimization of Penetration is usually accomplished by some action of a juvenile justice agency or official. The Sacramento 601-602 Diversion program, for example, minimized penetration further into the system by diverting a juvenile to a different part of the same system. The youth does not avoid contact or further processing by the system, but he is turned aside from official or

formal adjudication. This interpretation of the diversion concept is quite standard and should prove highly informative to diversion researchers.

3. The National Advisory Commission on Criminal Justice Standards and Goals

In 1973 the National Advisory Commission on Criminal Justice Standards and Goals<sup>9</sup> supported the programmatic assumptions of the New Diversion movement by distinguishing screening (process) from diversion (program). Screening was viewed as removal from the system while diversion halted or suspended proceedings upon the promise of the accused to do something in return. Implicitly the accused had to cooperate with the assumption that he was guilty; the juvenile justice system maintained a coercive presence in order to obtain cooperation. The Commission recognized the potential for violation of the due process rights of the accused and included in its standards the recommendation that diversion "agreements" should be closely scrutinized for legal infractions.

4. The Juvenile Justice and Delinquency Prevention Act of 1974

Diversion is an important component of the Juvenile Justice and Delinquency Prevention Act of 1974.<sup>10</sup> Although diversion is not defined in the text of the bill, support for the New Diversion and its programmatic emphasis is implicit. Pressures for accountability of expenditures serve to make federal support of specialized programs more acceptable than a "laissez faire" commitment of federal dollars for changes in processing procedures at the level of localized juvenile justice.

NOTES

1 Raymond Nimmer, Diversion: The Search for Alternative Forms of Prosecution (Chicago: American Bar Foundation, 1974).

2 Sanford J. Fox, "Juvenile Justice Reform: An Historical Perspective," Stanford Law Review, Volume 22 (June, 1970), p. 1193.

3 Anthony Platt, The Child Savers (Chicago: University of Chicago Press, 1969).

4 Fox, op. cit., p. 1207.

5 Ibid.

6 Frank Tannenbaum, Crime and the Community (Boston: Ginn Publishing Co., 1938).

7 President's Commission of Law Enforcement and Administration of Justice, U.S. Task Force Report: Juvenile Delinquency and Youth Crime (Washington, D.C.: Government Printing Office, 1967).

8 Arnold Schucter, National Evaluation Program, Phase I: YSB Assessment, Report in Progress, 1975.

9 National Commission on Criminal Justice Standards and Goals, Corrections, (Washington, D.C.: Government Printing Office, 1973).

10 Juvenile Justice and Delinquency Prevention Act of 1974, Public Law 93-415, 93rd Congress [Section 223 (a) 10], September 7, 1974.

CHAPTER III

REVIEW OF THE LITERATURE

A. Summary of Key Diversion Issues

The following list of key issues in juvenile diversion represent salient points referred to in the diversion literature.

1. Conceptual Framework

The development of some sort of coherent conceptual framework is imperative. Frameworks may serve as visual aids. The problem for the researcher or policy maker is to devise an aid which all users can employ, or to clearly differentiate one's own conceptual apparatus from competing frameworks. In the area of diversion, development of such a framework is hampered by the ambiguous goals that diversion is supposed to meet.

2. Goals

Closely related to the lack of a conceptual framework is the failure of advocates of diversion to clearly delineate the goals or objectives of diversion. A number of goals are mentioned in the literature:

- (a) Avoidance of labeling (stigma)
- (b) Reduction of court costs
- (c) Reduction of case loads
- (d) The creation of "better" or "faster" services
- (e) The freeing of the juvenile court to handle "real" delinquents (more difficult cases)
- (f) The desire for more "efficient" administration
- (g) The reduction in juvenile crime rates
- (h) The need for the development of an advocacy role relative to youths
- (i) To "help" youths/parents resolve problems

Emphasis upon any one, or series, of these goals will have a profound effect upon conceptualizations and definitions of diversion, and of course, changes in diversion practice.

### 3. Definitional Issues

#### a. Boundaries

Elementary to resolving definitional confusion is the need for agreement as to when and where diversion occurs. Stated in another way, how does diversion differ from prevention, alternatives to detention or alternatives to incarceration? One possible frame of reference is that:

Diversion occurs after a youth's initial official contact with an agent of the law and prior to formal adjudication.

#### b. Process

Establishment of diversion boundaries aids in deciding when or where diversion occurs but leaves unresolved the issue of what occurs when diversion takes place. There is a crucial need to differentiate between different types or forms of diversion. Again the literature offers a variety of such forms and definitions.

- (1) True diversion --the termination of official processing and/or referral to a program outside of the juvenile justice system.
- (2) Minimization of penetration --continued informal intervention or processing and/or referral to programs inside of the juvenile justice system.
- (3) Screening --removal from the system generally without referral.
- (4) Diversion to --suspension of processing upon the client's agreement to "do something."
- (5) Diversion from --attempts to avoid or terminate a youth's contact with the system.
- (6) Traditional Diversion --discretionary judgments by juvenile justice personnel to not process, process informally or to refer to nonspecialized community programs.

- (7) New Diversion --the emphasis since 1967 on developing programs especially for diverted juveniles.

The above forms and definitions need to be closely examined in order to disclose overlap, contradictions and confusion of goals.

#### 4. Theoretical Issues

If diversion is tied to a theoretical perspective it is probably that of the labeling theorists. This perspective has proved extremely difficult to use for research purposes. Attempts, however, must be made to substantiate the claim that system contact is in fact stigmatizing and that diversion results in less stigma. Also, empirical research must examine the claim that labeling causes secondary deviance and that diversion will reduce the incidence of such deviance.

Other possible theoretical positions that may connect with the diversion concept are deterrence theory and the whole spectrum of treatment theories. These, too, deserve close attention.

A particular problem is the interpretation of theory by the practitioners who implement the diversion process. The transformation of theory into practice and the resulting corruptions of, and additions to such theory are crucial issues.

#### 5. Process versus Program

The implementation of discretionary diversion options may be viewed as the diversion process as contrasted to the reception and treatment of juveniles in diversion programs. The effect of emphasizing one or the other of these considerations is crucial in evaluating the effects of a variety of diversion forms or definitions.

## 6. Organizational Milieux

Diversion programs and/or processes occur within specific organizational milieux. The strengths and weaknesses of such milieux in furthering a particular diversion goal (or of fulfilling a particular definition) must be examined. A primary issue centers upon the regulations, rules, guidelines and informal relationships that guide juvenile justice personnel in their intra- and interagency interaction.

## 7. Unanticipated Consequences

Programs/processes should be examined for possible unanticipated consequences of diversion such as:

- (a) Widening the net (increasing number of juveniles contacted by the system)
- (b) Increasing the size of the system (budget and staff)
- (c) Alterations in traditional processes (e.g. screening abandoned in favor of diversion into the system)
- (d) More intensive handling of non-diverted youths
- (e) Creation of new legal entities
- (f) The increased influence of legal authorities within private programs
- (g) The ignoring of client's due process rights

## 8. Target Population

The youth population experiencing diversion should be examined in order to assure that diversion does not merely widen the net or increase system-youth contact. The possibility of institutionalized racism in diversion processes/ programs must also be closely scrutinized. Differences in sex and offense characteristics of divertees should also be examined.

## 9. Legal Authority

The role of legal authority relative to diversion processes/programs should be examined for possible contradiction of definitions and/or goals in diversion efforts. The degree of legal authority or control over a client appears to be the major difference between true diversion and minimization of penetration. The development of a diversion continuum based upon the degree of legal authority relative to diversion processes/programs would offer one possible conceptual framework with which to organize the complex world of diversion.

### B. Survey of the Research Literature

#### Introduction

It should be noted that although this brief survey focuses upon research within the area of juvenile justice most diversion research has been concerned with adults. Some general observations, however, about the state of diversion research can be made that would apply to both adult and juvenile justice.

(1) The research has been handicapped by an absence of precise operational definitions. There has certainly been little in the way of agreement as to what the term "diversion" means.

(2) Insufficient attention has been given to the provision of good descriptive material as to what takes place when diversion occurs.

(3) There has been virtually no attention as to how the diversion process is perceived by the individual who is diverted. It is by no means clear, for example, that s/he perceives the experience as being something apart from the traditional process.

(4) Diversion research has tended to focus upon programs rather than the process of diversion. This is hardly surprising given the programmatic orientation of most policy makers. It has, however, had the consequence of further obscuring the original conception of diversion as a process rather than as a series of new programs.

(5) There has been little sound monitoring or evaluation of the diversion process. In a recent survey of some adult pre-trial intervention programs it was found that the research was often oriented toward political and funding realities.

(6) There has been no attempt to date to place the phenomenon of diversion within its broader socio-political context, and to explore whether it implies a lessening rather than merely a shifting of social control mechanisms.

Diversion is a process occurring after a youth's initial contact with an agent of the law (provided that the contact gives law enforcement personnel the opportunity to impose legally sanctioned, coercive control over a youth's actions) and prior to formal adjudication. Diversion usually involves turning youth away from further formal juvenile justice processing at any point between apprehension and adjudication. Diversion may or may not be accompanied by referral to a community agency or a similar institution providing social services.

Most diversion research attempts to address three major topics:

- (1) Research on diversion programs concerned with how participation in such programs affects subsequent behaviors and attitudes (client outcome studies).

- (2) Research concerned with variations in official rates of diversion between similar social control agencies. These researchers attempt to account for the disparity in such diversion rates and assess their impact upon both recidivism and systems impact.
- (3) Research concerned with the official decision-making process and the factors which pattern it.

The following survey of research is not meant to be comprehensive but merely an outline of some of the major diversion research efforts. No attempt will be made to critique research designs and methodology.

1. Project Crossroads

Project Crossroads in Washington, D.C., provides a comparison between diverted youth and a matched group who were processed routinely.<sup>1</sup> The objective of the diversion project was to provide employment services and counseling for first-time offenders. One hundred and ninety-one participants were matched with 105 controls and a 15-month follow-up was conducted. The control group was subsequently divided into those who were ultimately convicted and those who were screened at some time prior to adjudication. It was possible, therefore, to make a comparison of recidivism (defined here as one or more re-arrests) rates for those diverted and referred, screened, and adjudicated. (These alternatives, it should be noted, were not exercised at the same decision-making point in the system.)

Thirty-one percent of youth referred to Project Crossroads via police were re-arrested one or more times within the fifteen-month follow-up period. By contrast, 44 percent of those subsequently screened (N=50) and 47 percent of those subsequently adjudicated (N=55) were re-arrested in the same period. This suggests that diversion with referral is associated with lower rates of re-arrest than traditional modes of processing. Diversion

accompanied by the provision of services also appeared more effective in terms of re-arrest rates than merely screening a youth out of the system. It is important to recognize that participation in Project Crossroads was partially coercive. "Satisfactory" participation led to dropping the original charges. Unsatisfactory participants re-entered the system and were formally processed on the original charges. Interestingly, while only 22 percent of the "successful" participants (N=104) were rearrested, 57 percent of the "unsuccessful" participants (N=51) were rearrested. Thus, those "unsuccessfully" diverted and referred had the highest rates of rearrest, while those "successfully" diverted and referred had the lowest.

## 2. Alternate Routes

Carter and Gilbert's evaluation of Alternate Routes (AR) in Orange County, California, provides a comparison of youth diverted and referred with those processed formally.<sup>2</sup> Alternate Routes receives the bulk of its referrals from police and probation intake. In addition it accepts referrals from local schools and community agencies. Treatment methodologies include short term, individual, group, and family counseling. Police estimate that 60 percent of the youth they refer to Alternate Routes would have been referred to juvenile court had this "diversion project" not been available. The study involved a comparison of 142 youths referred to Alternate Routes in 1972 and 190 youth arrested by local police in 1970, the year prior to the establishment of AR. The groups were matched on presenting offenses. The comparison focused on: 1. the average time from arrest to some professional counseling, 2. cost saving associated with referral to Alternate Routes, and 3. the level of justice system penetration achieved by those diverted and referred and the 1970 comparison group. Carter and Gilbert state:

Our findings suggest that following arrest, youth and their families are being provided treatment more quickly and the cost required to process these youth is considerably less expensive to the taxpayer than<sub>3</sub> in the more traditional juvenile justice system.

They also report that only 6 percent of the diverted group penetrated the juvenile justice system as far as having a petition filed, whereas 47 percent of the 1970 sample penetrated to that point or beyond. Eighty-seven of the 142 in the "diversion sample" were referred by parents, schools, and community agencies. The follow-up period was not specified but it could not have been much more than 12 months for the "diversion group," including the time they were participating in the diversion program.

### 3. The Sacramento 601-602 Diversion Project

The Sacramento 601-602 Diversion Project<sup>4</sup> was designed as an experiment to test whether juveniles falling within Section 601 of the California Welfare and Institution Code could be better handled through short-term family crisis therapy. Section 601 covers runaway, truancy, and incorrigibility, which are generally called "status offenses." The project provided family crisis therapy at intake, administered by specially trained probation officers. The project handles cases on four days of the week, with the regular intake units handling the other three days. The days are rotated monthly. During the first nine months, the project handled 803 referrals involving opportunities for diversion. Petitions were filed in only 2.2 percent of the cases. In comparison the regular intake staff handled 558 referrals during the same period and filed petitions in 21.5 percent of the cases. In comparison the regular intake staff handled 558 referrals during the same period and filed petitions in 21.5 percent of the cases. Using re-arrest as a measure of recidivism, in a seven-month follow-up the

researchers found that 36 percent of project youths were subsequently rearrested on 601 offenses as contrasted with 46 percent of the control group. Eighteen percent of project youth were rearrested on charges of criminal conduct compared to 31 percent of the control group youth. Finally, whereas over 60 percent of all control group youths spent one night or more in juvenile hall, only 9 percent of the youths handled by the project did so.

4. Pre-Trial Intervention and Diversion Project

Binder<sup>5</sup> provides an assessment of the Pre-Trial Intervention and Diversion Project in Huntington Beach and Costa Mesa, California. The project, aimed at improving parent-child communication patterns and teaching coping skills to parents and children, employed the resources of a major university to deal with community problems. With the cooperation of local police, the project placed 20 percent (N=34) of those youths referred to the project by police in a control group. The process of assignment to the control group was accomplished by a table of random numbers to assure that there would be no bias. The remaining youth (N=130) received the benefits of the Project's services. A follow-up of six months was conducted to determine the impact of the diversion project. Recidivism rates were operationalized as arrests and determined by the police in Costa Mesa and Huntington Beach using the Central Juvenile Index. The project found that where 15 percent of the treatment group was rearrested, 29 percent of the control group was subsequently rearrested. This project was also interested in the program's relationship with local police. Binder concludes that the police expressed an extremely favorable attitude toward the project.

## 5. Los Angeles Police Diversion

Malcolm Klein defines diversion as "any process employed by components of the criminal justice system (police, prosecutor, courts, corrections) to turn suspects and/or offenders away from the formal system or to a 'lower' level in the system."<sup>6</sup> In terms of police, diversion would include the traditional practices of counsel, warn and release and "station adjustment" in addition to the relatively new practices of referral to specialized programs. Referral for Klein is "any process by which a diverting agent initiates the connection between the diverted suspect or offender to another agent or agency, usually within the offender's community."<sup>7</sup>

The first problem which concerned these researchers was the great variation among police departments' diversion rates. In Los Angeles County, diversion rates ranged from a low of 2 percent in one city to 82 percent in another. Klein and Sundeen<sup>8</sup> were unable to account for this variation in terms of city size, population characteristics, demographic indices, police department size or structure, ratio of staff to juvenile and adult populations or arrestee characteristics, including average offense data among cities. Klein went to the police chiefs, asking if they could account for this variation. Most police chiefs suggested that the factor explaining this variation was the chief himself. Subsequent analysis revealed the untenability of this hypothesis.

Sundeen thought Wilson's<sup>9</sup> distinction between professional and fraternal police departments may have had something to do with the disparate rates. Wilson found that departments characterized by professional ethos tended to arrest proportionately more juveniles than departments immersed in fraternal ethos. In a similar fashion, Sundeen hypothesized that professional police departments would tend to have lower rates of diversion

than police departments with a high degree of community attachment. Sundeen's sample included 43 police department juvenile bureaus in Los Angeles County. Each department chief was interviewed and approximately 80 percent (N=130) of all juvenile bureau personnel completed a questionnaire concerning professionalism and community attachment. The unit of analysis was the juvenile bureau; Sundeen employed the departmental mean for each item to assess the degree of the department's professionalism. Sundeen's findings, in the main, were negative; "The findings of this study generally lead to the conclusion that police characteristics alone (professionalism and community attachment) do not explain police diversion of juveniles."<sup>10</sup> However, he did add that the amount of training received by the officers, the estimation of local friendships of the officers, and the officers' residences were relatively good predictors of diversion rates.

Having to account for variation in police diversion rates, Klein and others moved on to an analysis of rates of police diversion, referral, and recidivism. Lincoln studied a pilot diversion project which referred juvenile offenders to community agencies for social services.<sup>11</sup> During the pilot period, the first forty days of the referral project, 30 youths were diverted from the justice system and referred to agencies in the community. The referred offenders were matched with non-referred juveniles of similar characteristics. In addition, data was collected on 250 offenders, who served as a "large baseline group of typical offenders."

Data on all juveniles was obtained using existing police records only. With regard to the number and average seriousness of subsequent offenses, the referred and typical groups did not significantly differ. About 54 percent of each group came to the attention of police for a suspected

violation. Thirty-one percent of subsequent offenses in the referral group were serious enough to evoke the most serious police disposition; 36 percent of the typical group's subsequent offenses were that serious. The referred and the matched non-referred groups did not differ significantly in the proportion of offenders committing at least one repeat offense. Sixteen individuals in the referral group were recidivists as compared to 14 in the non-referred group. The two groups also did not differ in terms of offense seriousness of subsequent offenses. The two groups did differ on the average number of subsequent offenses. In the referred groups, juveniles committed a higher number of subsequent offenses. Lincoln concludes that "referral tends to aggravate rather than to deter recidivism."<sup>12</sup>

Klein also reports on recidivism data for two sets of police departments, one with high diversion rates and the other with low diversion rates. The departments were equated on all other relevant variables. The major difference was that high diversion departments had lower subsequent recidivism rates for first offenders than for multiple offenders, while low diversion departments did not exhibit such differences.

#### 6. Diversion From the Juvenile Justice System

There has been only one study explicitly addressed to the problem of decision making in diversion. Cressey and McDermott conducted a qualitative study of intake units in four counties.<sup>13</sup> Their general interests were exploratory and descriptive. They were concerned with the variety of practices manifest in the "new diversion." A specific interest was decision making: how the decision to divert is made. They found that the decision to divert was characterized by substantial discretion; the intake officer has a variety of alternatives from which to choose. They report

"diversion is likely to occur only if the intake officers want it to occur."<sup>14</sup> Their decision to divert was influenced by factors such as the officer's conception of justice, his theory of corrections, his knowledge of available resources and his relationships with other workers both in and outside of his department. Size of the community was also found to influence the amount and type of diversion carried out in a particular area; the smaller the community, the more informal the relationships among official personnel and between official personnel and clients. This informality led intake officers to adopt an "individualized justice" approach to "clients" and a corresponding de-emphasis on legality. The relationship between referral organizations and intake units affected the rates of "intake diversion." Where this relationship was relatively cordial, there were higher rates of diversion. In sum, Cressey and McDermott found a variety of influences patterning decision making. However, their findings are only tentative and suggestive. The hypotheses they propose must be subjected to systematic verification in order to assess their plausibility.

#### 7. Criminal Recidivism and the New York City Project

A major study of rehabilitation and diversion services in New York City has recently been completed by Robert Fishman (awaiting publication).<sup>15</sup> This three and one-half year study examined 18 projects for "their ability to affect the criminal behavior of 2,860 of their male clients."<sup>16</sup> The major evaluation criteria was the project's success at meeting the Omnibus Crime Control and Safe Streets Act of 1968 goal of reducing crime. "The common measure by which they [the projects] were to be evaluated was arrest."<sup>17</sup> Thus the study attempted to measure the reduction in recidivism resulting from the processes of diversion and/or rehabilitation.

A quantitative methodology was used. Client data from the projects was accumulated by means of a standardized intake form. The research team was able to instruct project staff as to the accurate completion of such forms. Once clients were identified the information was utilized to gather arrest histories from the New York City Police Department:

For the measurement of severity of criminal history prior to project entry the average number of arrests was selected as a result of validation studies that compared that measure with a modification of the Sellin Scale.<sup>18</sup>

Arrests after project entry were also obtained from police records.

Fishman reports the following results:

- (1) Differences among projects did not affect the arrest recidivism rates of similar types of clients.
- (2) The magnitude and severity of criminal recidivism was high.
- (3) Criminal recidivism was affected by age and criminal history.
- (4) The second year prior to project entry was compared for arrest rates with the year after project entry. The year after had significantly higher rates for clients 18 or younger and lower rates for clients 21 to 39.
- (5) Violent crime before project entry was related to violent crime after project entry.

Fishman concludes that:

- (1) Rehabilitation by the projects was a failure.
- (2) Failure was apparently not related to implementation, program models, unemployment or poverty.
- (3) Violent crime in New York City will continue to rise.
- (4) To lower the incidence of crime, sanctions which can prevent and deter criminal behavior should be tried.

- (5) Diversion as provided by the projects has added to the increase of crime.
- (6) High juvenile crime stems primarily from criminal justice system policies.
- (7) Educational, vocational and counseling services\* should be continued under other auspices.

#### 8. National Evaluation of Youth Service Systems

Delbert Elliot's 1974 study of seven Youth Service Systems for the Office of Youth Development/Department of Health, Education and Welfare (OYD) defined diversion as "a process of referring youth to an existing community treatment program or prevention program in lieu of further juvenile justice system processing at any point between apprehension and adjudication."<sup>19</sup> The definition eliminates processes such as "screening" and "minimization of penetration" from the realm of diversion and "presupposes a receiving agency [outside of the system] which offers some formal or informal youth development service."<sup>20</sup>

The research was designed to measure change within the existing juvenile justice system brought about as a result of the operations of specific Youth Service Systems. Basically it was assumed that a change in diversion could be measured across time as a percentage reduction in maintenance probabilities within the juvenile justice system. For each of the seven Youth Service Systems<sup>+</sup> a set of baseline maintenance probabilities was established for two points in the juvenile justice system (police and probation intake points). The baseline maintenance probabilities specified sex and offense.

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\* Professor Franklin Zimring of the University of Chicago, in a review of the above research has raised serious methodological questions concerning this research. See: Communications between F. Zimring, Benjamin Altman and Robert Fishman, New York City Criminal Justice Coordinating Council.

+ Portsmouth and Manchester, New Hampshire; Syracuse, New York; Nashville, Tennessee; Kansas City, Missouri; Denver, Colorado; Las Vegas, Nevada.

Although the research hoped to measure systems or institutional change it was found that "most projects are making their entry into their communities via a direct service/diversion role and to date are not viewed primarily as agents pushing for institutional change."<sup>21</sup> This would seem to indicate the possibility that Youth Service Systems operate to "widen the net" rather than to reduce systems-youth contact.

Sex and offense indicators demonstrated a greater willingness of official agencies to divert misdemeanants rather than status offenders; this trend was even more true for female offenders. The use of maintenance probabilities as a measuring device was hindered by: 1) problems of definitions; 2) limited availability of required data; and 3) questions regarding the accuracy and reliability of the data obtained.<sup>22</sup> These problems cause great difficulty for all quantitative analysis of diversion within the juvenile justice system.

NOTES

- 1 Leon Leiberg, Project Crossroads: A Final Report to the Manpower Administration (Washington, D.C.: National Committee for Children and Youth, U.S. Department of Labor, 1971).
- 2 Robert Carter and John Gilbert, "Alternate Routes: An Evaluation" (Sacramento: Department of California Youth Authority, 1973).
- 3 Ibid., p. 10.
- 4 Warren Thornton, Edward Barrett and Lloyd Musolf, "The Sacramento County Probation Department 601 Diversion Project" (Sacramento: Sacramento County Probation Department, 1972).
- 5 Arnold Binder, "Pre-trial Intervention and Diversion," Project Number: 1426, Date of Project: September 1, 1973-August 31, 1974.
- 6 Malcolm Klein, "Police Processing of Juvenile Offenders: Toward the Development of System Rates" (Los Angeles: L.A. County Criminal Justice Planning Board, 1970), p. 1.
- 7 Ibid., p. 2.
- 8 Richard Sundeen, "A Study of Factors Related to Police Diversion of Juveniles: Departmental Policies and Structures, Community Attachments, and Professionalization of Police," Unpublished Ph.D. Dissertation (University of Southern California, 1971).
- 9 James Wilson, "The Police and the Delinquent in Two Cities," ed. Stanton Wheeler, Controlling Delinquents (New York: Wiley, 1968).
- 10 Sundeen, op. cit., p. 577.
- 11 Suzanne Lincoln, "Juvenile Diversion, Referral and Recidivism," eds. Robert Carter and Malcolm Klein, Police Diversion of Juvenile Offenders. (Englewood Cliffs, N.J.: Prentice Hall, 1975).
- 12 Ibid., p. 13.
- 13 Donald Cressey and Robert McDermott, Diversion From the Juvenile Justice System (Ann Arbor, Michigan: University of Michigan Press, 1973).

- 14 Ibid., p. 7.
- 15 Robert Fishman, "An Evaluation of the Effect on Criminal Recidivism of New York City Projects Providing Rehabilitation and Diversion Services" (New York: New York Criminal Justice Coordinating Council, 1975).
- 16 Ibid., p. 7.
- 17 Ibid.
- 18 Ibid.
- 19 Delbert Elliot, "National Evaluation of Youth Service Systems" (Boulder, Colo.: The Office of Youth Development, Behavioral Research and Evaluation Corporation, 1974), p. 38.
- 20 Ibid.
- 21 Ibid., p. 650.
- 22 Ibid., p. 653.

CHAPTER IV

METHODOLOGY

## A. A Diversion Typology

### 1. Introduction: Typological Options

The construction of typologies is intricately connected to the existing definition(s) of the research problem. Due to the contingencies of the present NEP design, the diversion endeavor has been defined as those processes designed to minimize penetration into the juvenile justice system, occurring after initial contact with the system and prior to adjudication. Such a definition tells us when, or maybe where, diversion occurs but sheds little light on how or by whom the process is implemented. To clarify such questions, it might be beneficial to develop Process types. Typologies of this sort could stress roles and rules. Thus one type might be that of Patrolman Diverter and would draw attention to the universe of rules and role expectations that guide the individual police officer relative to diversion of contacted juveniles.

Similarly other such types could be constructed:

- . Juvenile Officer Diverter (Police)
- . Intake Officer Diverter (Probation)
- . Investigation Officer Diverter (Probation)
- . YSB Counselor Diverter

The above are, of course, micro or subtypes. At the more general or macro level process types might delineate processing alternatives, i.e., "Diversion into" or "Diversion out of" the juvenile justice system.

Process types, no matter how explicit, cannot tell us much concerning the nature of the interaction between the diverted juvenile and the referral or accepting agencies--commonly referred to as diversion programs. Program types thus might be constructed to bring clarity to the universe of methodologies adopted by various diversion programs. Such types might be based

upon treatment perspectives, funding arrangements, type of services (direct, brokerage, etc.) or degree of control by the juvenile justice system.

Process types inform as to how and by whom the diversion process or decision is initiated. Program types serve the purpose of delineating the choices concerning what should be done to a juvenile once diverted. Well-developed types and subtypes zeroing in on procedural or programmatic considerations are extremely useful for the purpose of understanding these perspectives. The present research endeavor, however, adopts a third perspective stressing the dynamics between process, program, and client. Roles and rules operate within a particular organizational milieu. Programs may be characterized not only by their stated goals and methodologies but by their participation in, or reaction to, specific organizational settings. Juveniles and their families are liable to have preconceived or emerging definitions of the authoritative nature of particular institutional or organizational settings. If organizational milieu, identities, etc., are acknowledged as the dominant dynamic relative to process, program and client it seems reasonable to construct organizational or structural types which may provide the conceptual framework that is necessary to adequately describe the complicated experience called diversion.

## 2. An Organizational Typology

Many observers have commented upon the fact that diversion is not a new practice. The President's Commission on Crime and Delinquency (1967), however, brought renewed attention to an old concept and practice. The Commission recommended the creation of administrative alternatives (particularly Youth Service Bureaus) as a means of minimizing a youth's contact with the formal juvenile justice system. Systems contact was perceived as stigmatizing,

potentially harmful and only rarely as a positive contribution to reform or rehabilitation of the youthful offender,

The major theoretical emphasis in the Commission's report was that of labeling theory. Although this theoretical perspective embraces diverse areas viewed as "social problems" (mental illness, sexual deviancy, etc.) it has been particularly important as a critique of the modern criminal justice system. The labeling perspective stresses that "crime" or "delinquency" should be viewed as social construct or definitions of the behavior in question, and not as objective phenomena. Agencies of social control (police, probation, courts) are primarily responsible for bestowing such definitions. These agencies derive their definitional powers from the fact that government has granted them legal authority to intervene into the lives of the citizenry. Private citizens and/or organizations may label individuals as "criminal" or "delinquents" and there is, of course, a degree of social stigmatization involved. Agencies possessing the mantle of legal authority, however, can make such labels "real." It is such "real" or legal labels that the President's Commission hoped to avoid through diversion.

The following types embrace the social reality of legal authority. The interactional dynamics of diversion processes and programs and individual clients are viewed within the context of certain organizational, structural, or institutional responsiveness to legal authority. Types are ideal constructs. It is understood that official agencies do not always act in their official capacity and that non-official agencies may take "official" or legal action. Ideal types serve merely as a yardstick to measure somewhat more objectively the subjective world. The macro types developed forthwith: Legal, Paralegal, Nonlegal, were constructed with both the practitioner and researcher in mind.

Although types and subtle issues will be highlighted, the macrotypes standing alone should prove useful for greater clarification--on one primary dimension--of the interactional dynamics of diversion.

Type I: Legal

The organizational milieu that may be characterized as legal surrounds the diversion process and/or program with an aura of legal authority. The process (whether informal or formal):

- (a) is administered by a functionary of a legitimate social control agency as part of his/her bureaucratic responsibility.
- (b) formal legal sanctions can be imposed.
- (c) coercion--implicit or explicit--maintains a strong presence.
- (d) programmatic developments are administered and staffed by social control agencies.
- (e) programs are physically located on or within the official premises.

In less abstract terms the organizational context of the legal type of diversion is that of the official juvenile justice system--particularly the police or probation departments. Individual agents of these departments are granted legal authority upon assuming the job assignment. They must confront the dispositional dilemma to divert or to further process the client in question. The crucial point is that such agents, because of their official capacity, always retain such discretionary power and it is most likely that their clients are aware of this situation.

Agents disenchanted, critical, or embarrassed by their right to wield legal authority might develop informal processes or programs that ignore or play down this fact but the organizational milieu places great strain upon survival probabilities of such arrangements. A change in administrative

leadership (at a variety of levels), a change in political climate, a change in funding arrangements and/or judicial or legislative challenges to such informal arrangements might easily reinstate the legal aspects of the procedural, or programmatic elements. The working personality of social control agents tends to assume the ideology of the agency. Belief in law enforcement, legal control, obedience to rules, and a particular moralistic perspective become characteristic of such agents. Lack of adherence to such criteria may hinder career advancement and/or lead to a decision by the agent to seek employment with an organization more amenable to his/her ideology. Acceptance of the theory which advocates diversion from the juvenile justice system may cause particular problems for personnel in social control agencies; consistency demands that they accept some negative image of the agency to which they have pledged their loyalty.

Programs/processes subsumed under the legal type are as follows:

- . Police Officer referrals (patrolman's discretion)
- . Police Juvenile Bureau's referrals
- . Police diversion programs (treatment, etc.)
- . Probation Intake referrals
- . Informal Probation
- . Probation diversion units

Type II: Paralegal

Although a diversion process or program occurs outside of the existing structure of the juvenile justice system, if it includes the following elements it should be viewed as paralegal in nature:

- (a) funded by the system
- (b) administratively controlled by the system
- (c) staffed by system personnel (on loan, sabbatical, etc.)
- (d) physically based within system offices
- (e) has access to all juvenile records or allows the juvenile justice system access to its records
- (f) receives its clients by means of explicit coercion through the juvenile justice system
- (g) maintains an informal or formal system of reporting on client progress versus the official system.

Organizational processes and programs often exist or are developed as alternatives to standard organizational forms. Upon closer examination, however, it is common to perceive a great deal of similarity, overlap, or cooptation of the alternative by the formal or competing official form. Official processing and programs of the juvenile justice system, once under attack, spawned alternative forms of organization. Some of these alternatives operate entirely under the auspices of legal authority and are subsumed under Typology I. Other alternatives were established by private individuals or organizations supposedly "outside" of the existing system. Reliance upon the official system, however, for client referrals, trained staff, data, physical space, and money tends to mold the alternative to the model of its predecessor. Most importantly perhaps, the new form grows increasingly similar to the old through the varieties of "cooperation." Compromises on policy and procedure may be made as temporary tactics to mitigate suspicion and fear on the part of traditional system personnel but such compromises often become rigorously observed organizational guidelines, thereby changing the nature of the alternative. The alternative forms may undergo organizational psychosis thereby accepting as valid or given that which they originally sought to change.

An example of the above outlined conflict between tradition and reform is obvious on the level of legal authority. Many or most alternatives to the juvenile justice system must come to terms with whatever legal authority is imposed upon the client by that system. Such alternatives may view themselves as being "outside" of the justice system and thus relatively free of a need for legal authority in relationships with their clients. It is during the course of interaction with the existing system that the new organization or process becomes aware of the need to come to terms with its own position relative to legal authority. Pressures for accountability, legitimization, and security (financial, organizations, interpersonal) tend to make a greater reliance upon legal authority appear more necessary.

Insofar as the alternative must constantly react to or act with legal authority and insofar as it allies itself with social control agencies possessing legal authority, it will tend to accrue a "paralegal" nature in the eyes of staff, clients, and traditional system personnel.

The Youth Service Bureau concept, suggested so strongly by the President's Commission as an alternative to the existing juvenile justice system, may be viewed as a primary example of the "paralegal" typology. Some observers would view the degree of YSB "success" as directly accountable to the degree that a particular bureau has assumed a paralegal nature. Virtually all alternative forms of juvenile processing and/or programming are susceptible to becoming paralegal in effect. As long as the behavior which brings the juvenile into contact with a program/process is perceived as a violation, or potential violation of legal codes, the question of the appropriate or the acceptable relationship to legal authority will be salient. The degree of the client's voluntary participation (particularly as perceived by the client)

may serve as one rule of thumb in differentiating between "legal," "paralegal," and "nonlegal." The researcher must be constantly aware, however, that a great deal of organizational interaction and processes are not immediately visible to the client.

### Type III: Nonlegal

In order for a program or process to operate truly apart from and "outside" of the existing juvenile justice system, proponents must be conscious and cautious of their relationship to legal authority. It is not enough merely to claim nonlegal status; day-to-day practice must exhibit freedom from reliance upon such authority and/or control by agents or agencies exercising legal authority. Defensive reaction to requests and demands of social control agencies must be bolstered by a proactive attempt to purge the "nonlegal" program/process of all trappings, actual and psychological, that favor that perspective.

Nonlegal programs/processes are predominantly client oriented with voluntary participation of the client a hallmark of the interaction. As client referrals will draw upon official social control agencies the "voluntariness" of client participation must be closely guarded from the taint of subtle or implicit coercion. The juvenile client must be assured of the right of non-participation without the threat of negative responses to his/her choice. In order to guarantee such freedom of choice, the nonlegal agency may find itself serving the role of youth advocate. Again the needs of the client are all important and must assume precedence over bureaucratic "needs" such as accountability, record keeping, progress reports and response to political pressures. The nonlegal agents/agency must be prepared to give an emphatic "no" response to requests/demands and pressures from existing social control agencies.

If a program/process is seemingly successful at remaining free from all ties to legal authority but continues to be perceived by the client as an agency of social control, the observer should question the true nonlegal nature of the program/process in question. Client trust in the nonlegal nature of his interaction is crucial. Such trust is susceptible to destruction at a moment's notice. The fragility of the trust relationship again stresses the need for nonlegal oriented personnel to be extremely cautious of their interaction with social control "officials." The tenuousness of all relationships between clients and social control agencies with the nonlegal organization underscores the need for an excellent public relations component and/or superior quality staff, highly conscious of their precarious position.

A nonlegal organizational milieu may appear as a polar opposite of the legal type outlined above. It is, perhaps, this aspect which causes bureaucrats, professionals and even the general public to disdain nonlegal programs/processes. In the universe of juvenile justice some residential programs and runaway houses perhaps come closest to the nonlegal model on the programmatic level. Nonlegal "processes" differ from official processes by actually stressing voluntary participation and the resultant protection or advocacy of client's right against further processing. In an area where human behavior is described and proscribed by legal codes and sanctions imposed by legal authorities, nonlegal processing is a rare thing indeed. Given the contingencies of interaction with extremely powerful and influential legal authorities, the attrition rate among nonlegal programs/processes is likely to be quite high. Agencies that avoid an early death often do so by acquiring some of the characteristics outlined under the Paralegal type. It should be expected that funding arrangements will greatly influence the degree and/or ability of a program or process to remain nonlegal in character.

In summary, any program operating outside of the official control of a legal social control agency (Police, Probation, County Welfare) may maintain nonlegal status if it adheres to the following criteria:

- (a) it is client oriented
- (b) client participation is voluntary
- (c) implicit coercion is watched for and resisted
- (d) no sanction occurs against clients for nonparticipation or termination of participation
- (e) an advocacy role is acceptable
- (f) the client perceives the program as nonlegal
- (g) it has control over staff appointments
- (h) it is able to maintain program goals independently without pressure from funding sources.

## B. Site Visit Selection Methodology

Of the several Phase I National Evaluation Programs conducted, the present one was unique in that it assessed two somewhat convergent topic areas, diversion and alternatives to incarceration. A telephone and mail survey addressed both topic areas. In addition to economizing effort there was another advantage to combining the two topic areas. Much of the emphasis in the site-visit methodology was toward process and client flow through the juvenile justice process. Although most site visit reports were generally written around a single program in one or the other topic area, the project gained some insights about the diversion process while assessing an alternative to incarceration program and vice versa.

A major task of the project was to select up to thirteen site visit locations, in each of the two areas, for the field research. To this end, data was collected through: 1) telephone interviews and correspondence with state planning agencies, juvenile justice personnel and programs; 2) program descriptions provided by the Law Enforcement Assistance Administration's Grant Management Information System (GMIS) and by the National Council on Crime and Delinquency; 3) a search of the available literature.

### 1. Telephone Interviews

The telephone survey addressed four main tasks: 1) to discern how the term "diversion" was being utilized within the juvenile justice process; 2) to determine the nature and extent of diversion programs; 3) to explore the factors which influenced the development of these programs; 4) to locate some representative programs. At least three telephone interviews were conducted in each state with the following juvenile justice personnel:

- a. The juvenile justice planner in the state planning agency, or whoever had knowledge of this area.
- b. An administrator in the state agency responsible for juvenile corrections (Department of Youth Services, in most instances).
- c. Other persons knowledgeable about diversion or alternatives to incarceration programs as recommended in interviews 1 or 2, including Office of Youth Development personnel, court and probation officials, members of citizen advisory boards, private agency personnel and researchers.

It was anticipated that many respondents would be unclear as to what was meant by the term diversion and interviewers were instructed to utilize the following definition:

Any process or program which results in a non-adjudicatory disposition of a juvenile after an initial contact with the juvenile justice system (i.e., police, probation department). An illegal act, as defined by the state's juvenile justice code, must have been committed by the juvenile.

## 2. Correspondence

At the completion of each interview with state planning agency personnel, a request was made for copies of the following:

- a. A comprehensive state plan for juvenile justice.
- b. Recent or pending legislation pertaining to juvenile justice.
- c. A listing of the broad types of diversion programs in the state.
- d. Descriptive literature pertaining to diversion programs.
- e. Research reports on diversion programs.

This request was formalized in a letter to each state planning agency.

## 3. GMIS and NCCD

Computer printouts describing programs funded by the Justice Department were obtained from the Grant Management Information System (GMIS) of the

Law Enforcement Assistance Administration. The printouts were reviewed to determine which programs fitted into the topic area. This information was supplemented by information on programs and research in the area of diversion obtained from the National Council on Crime and Delinquency's Center for Youth Development in Tucson, Arizona.

#### 4. Quality of Information

The extent and quality of information on programs gathered in interviews and correspondence with state planning agencies and other respondents was uneven and often inadequate. As a primary goal of a Phase I NEP is to describe the dominant form of a process/program, it was decided to exclude those programs whose primary emphasis was something other than diversion (prevention programs). Consequently, many private programs, such as YMCA-sponsored endeavors, were not included in our original sample of the diversion universe.

#### 5. Site Visit Selection Process

The initial universe of 350 diversion programs was reduced so that the site visits would represent:

- a. regional and population considerations
- b. age, race and sex differences of the youth involved
- c. the typological scheme (as outlined in section A of this chapter)

From a final list of 30 programs 12 locations were eventually selected for site visits.

## 6. Site-Visit Methodology

The field research approach had three central features: 1) Emphasis on client flow in a "system" rather than viewing the program in isolation; 2) participant observation model; 3) the delineation of the separate perspectives of each interview respondent.

Visits were conducted over a period of one working week, with the task of obtaining a description of the following characteristics of each program:

- a. Clientele
- b. Program staff
- c. Program administration and funding
- d. Day-to-day program operation
- e. Interaction between the program and the juvenile justice process

The participant observation approach has been described as "the circumstance of being in or around an ongoing social setting for the purpose of making a qualitative analysis of the setting."<sup>1</sup> Since the information to be gathered on the site visits was qualitative in nature, this approach seemed most appropriate in that it would provide the flexibility necessary to allow a valid description to be made of the programs and processes observed.

In order to further facilitate this construction it was determined that each member of the site visit team would adopt the perspective for as long as it remained useful. The three perspectives developed were those of: 1) Program clientele; 2) Program staff; 3) "Significant others," e.g., parents of clients, community members and juvenile justice personnel.

An outline was developed to provide the basis for open-ended interview schedules; it specified the descriptions needed of program characteristics and the juvenile justice processes.

Initially teams were composed of two project members and one person who lived in the area of the site, who was hired on a contract basis. The local member was located by contacting various colleges and universities near the site, making use of both faculty and students. It was soon discovered that the advantages of using this local person were far outweighed by the disadvantages. While the local team member did have greater ease in scheduling interviews, making further contact with the program and gathering background information, this person was continually hampered by lack of training in the approach used and orientation to the issues of the topic area. It proved to be less expensive and more efficient to either send an extra project team member, do more advance work by telephone, or to send one of the regular team members a few days in advance of the scheduled site-visit week.

Preparations began three weeks in advance of visiting each site. The program directors were contacted by phone and by letter, and descriptive materials on the program were requested, including information on funding, goals and objectives, daily routine, and clients and staff composition. Program staff were informed about the purposes of the National Evaluation Projects and the structure of the site visit, including who was to be interviewed. "Significant others" in the juvenile justice system were contacted and interviews arranged. Only the first two days were totally planned in

advance of the visit in order to allow team members the flexibility to respond to each individual site.

The week of the site visit began on Sunday evening and ended on Friday. Each team met informally with the staff of the program on Sunday evening or Monday morning, when possible, to explain who they were, what their objectives were, and what they planned to do. This early meeting was found to be very helpful in eliciting the cooperation and trust of program staff.

At the end of each day the team met and discussed their findings based on the perspective each had taken. This information was then used to plan the following days' activities and to insure that all aspects of the program and its functioning within the juvenile justice process were being covered.

An attempt was made to interview program staff and clients, parents of clients and other community participants such as volunteers, and those involved at every major decision point of a juvenile's career in the juvenile justice system. The major interview problems encountered centered around juveniles: some program staff refused to allow their clients to be interviewed, graduates of programs could not always be located, and a number of those juveniles who were interviewed were noncommunicative. If such noncommunication seemed due to the setting, team members would try to arrange to interview juveniles away from the program, but this was not always possible.

NOTES

1

John Lofland, Analyzing Social Settings (Belmont, California: Wadsworth Publishing Co., 1971), p. 110.

CHAPTER V

JUVENILE DIVERSION PROGRAMS: A PROCESS PERSPECTIVE

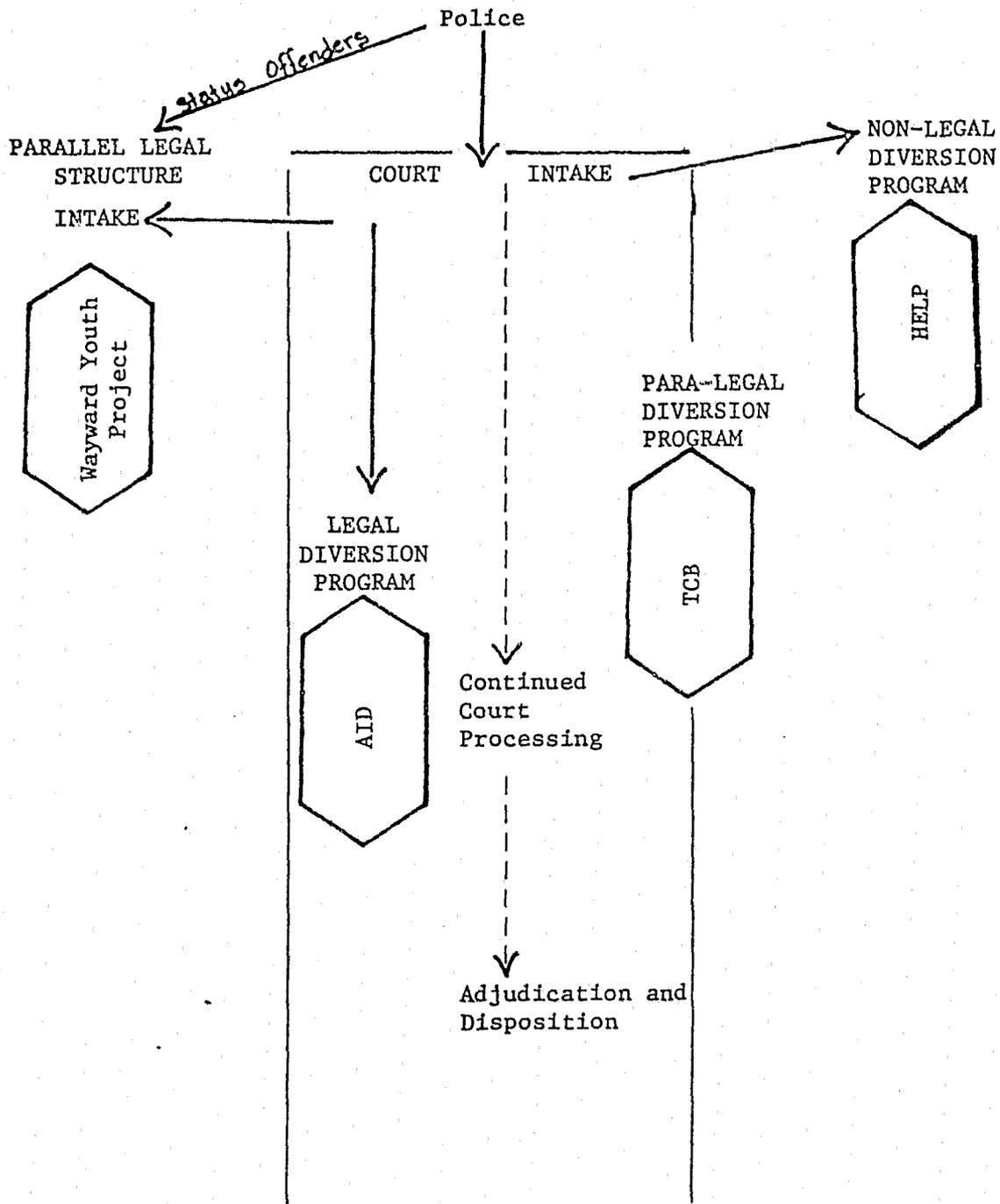
## Introduction

Site visits were conducted at thirteen locations in order to assess a representative range of diversion programs and processes. The selection process was described in Chapter IV-B, including the attempt to match the site visit locations with the typology of the diversion process that had been developed. There was often considerable disparity between descriptions of the programs studied prior to the visits and what was actually found to exist during the course of the field research. Changes in legislation, funding sources or key personnel sometimes result in radical alterations of a program's demeanor. A state of flux and the anticipation of yet further change was a recurrent finding at most locations visited.

This report has stressed the importance of viewing diversion programs within a process perspective. The connections between each program visited and the relevant decision-making points within the juvenile justice process were a major focus of the field research. The programs were found to fit the typological scheme presented in Chapter IV-A. The field research, in addition, suggested an important subtype of the Legal Type which is termed the Alternative Legal Structure. This chapter presents a descriptive overview of the site visit findings; four programs have been chosen to illustrate the typological scheme, as well as to draw attention to the variety of diversion practices encountered.

Diagram 1 locates the four programs within the overall juvenile justice process. Site Visit Report (SVR) 1 on the AID program represents the Legal Type and receives its clients from the Court Services Intake Unit. The program, which was originally part of the intake unit, is staffed by probation officers and is funded through the county. The Wayward Youth Project

DIAGRAM 1: FOUR TYPES OF ORGANIZATIONAL STRUCTURES



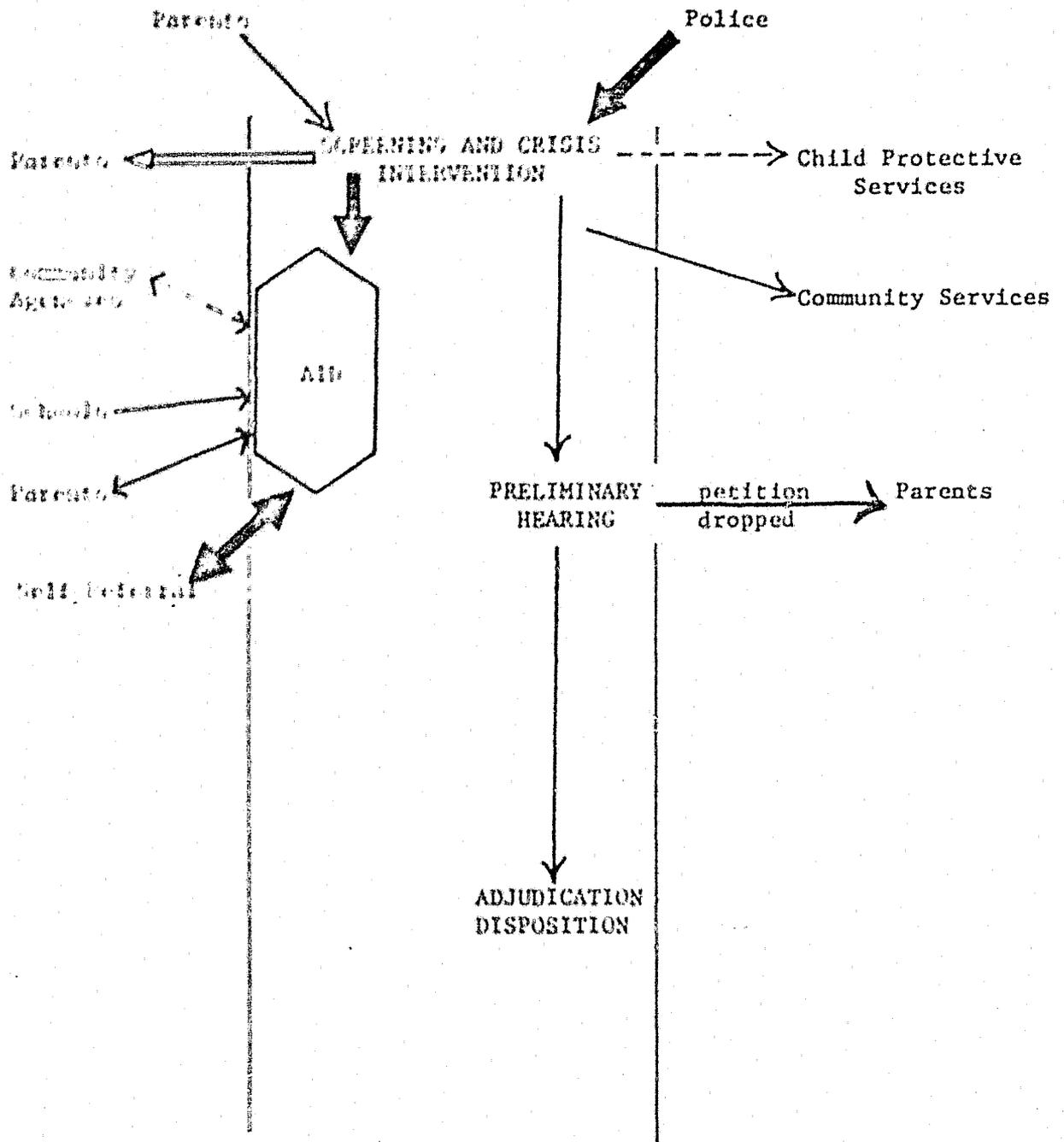
(SVR 3) represents the subtype of the Legal Type referred to as the Alternative Legal Structure. This particular program receives its clients from the police and from the Court Services Intake Unit. It has a 24-hour intake unit, a secure shelter care facility and a staff of 40 professional counselors. The counseling services offered by the program are undertaken voluntarily by youth and parents. TCB (SVR 5), representing the Paralegal Type, is a black-originated program serving a black community. It is staffed by detached probation officers and has formal ties with its major referral sources: the city and county police and the probation department. HELP (SVR 4) represents the Nonlegal Type and as the diagram indicates it has remained outside the juvenile justice process.

This chapter reviews the essential descriptive aspects of each of the four programs. Each description is prefaced by a diagrammatic flow chart which places the program within or in relation to the local juvenile justice process.

A. AID (Site Visit Report 1):

LEGAL TYPE PROGRAM

DIAGRAM 2: AID PROGRAM WITHIN ALABAMA COUNTY JUVENILE JUSTICE SYSTEM



- most frequently used path to AID
- most frequently used path through court system
- moderately used path through court system
- - - - -** infrequently used path through court system

## 1. Origin and Evolution

AID, initially part of the receiving unit at the Court Center, was to "siphon off" so-called incorrigibles. Five workers began in September, 1969 to: 1) provide counseling services for parents and children at a pre-delinquent stage in order to prevent youths from violating the law; 2) to attempt to make disposition of law violations without the court process; and 3) to protect the community by accomplishing the first two objectives. By 1973, the unit had separated itself from receiving and functioned as a fairly autonomous unit within the Court Center. Further expansion then saw 8 additional probation officers assigned to AID which resulted in concentration on long-term counseling for "pre-delinquent" and "pre-adjudicated" youth. The program was then reorganized along geographic areas with each probation officer assigned to all cases from a specific high school area. Finally, in July, 1973, an AID worker was assigned to each one of the two schools in outlying areas of the county to undertake crisis intervention and family counseling.

## 2. Intake and Referral Sources

Referrals to AID, not from SCI, tend to come from school administrators, teachers, school resource officers (police officers located in the schools), and parents. Some school administrators want to retain control over what happens on the school grounds and will insist that the AID counselor at least attempts to contact a juvenile before resorting to suspension, expulsion or police intervention. Teachers generally inform the school dean of problems they are having with a particular student. Informally, either the teacher or the dean will suggest to the student that s/he contact the AID counselor. In many of these cases there is certainly an implied

"or else." The teacher and the dean will follow-up on the student and get informal verbal reports from the AID counselor.

#### 1. Client Population

Generally, the clients of AID are status offenders, between the ages of 8 and 16 with 70 percent having had either one or no previous court referrals. This reflects the program's emphasis on "pre-delinquent youth."\* Most of the youths do not appear to be involved in criminal offenses, but because of family situations find themselves in some difficulty for incorrigibility or for running away. Thus, the majority of the youths are not those who would have been adjudicated or even have come into contact with the juvenile justice process if the program did not exist.

AID has not been successful for two groups of potential clients. There have been attempts to include youths from the areas where the inhabitants are predominantly poor and Spanish-American through the use of a counselor at the local high school. Interviews conducted in these areas of the city revealed that AID counselors were seen as "the man" and were not to be trusted. In addition to this lack of success with certain groups of ethnic poor, AID has also failed with those families whose needs are economically based, due to high unemployment and the lack of skills needed to obtain jobs other than low-paying menial work. Due to the emphasis on family counseling, AID does not address the needs of these families and therefore either does not receive referrals for these families or refers them to other more appropriate agencies, or simply does nothing. Both of these two groups are probably more in need of some sort of services than the group that is presently receiving counseling. They are not able to afford assistance

\* Pre-delinquents are considered by AID staff to be those youths who "act out" either at home or in the school, but have not, as yet, come into contact with the police.

(counseling) from private agencies and there are no agencies to deal with their economic needs other than the traditional public agencies (welfare).

#### 4. Staff

AID's staff consists of 12 full-time and 3 half-time people. Until very recently, the staff was drawn from other sections of the Court Center: probation, detention and intake. Presently there is an effort to draw from sources other than juvenile justice. About half the staff has studied psychology or criminal justice; the remainder have varied backgrounds and experiences.

In addition to counseling youth the staff are involved in family counseling, advocacy for clients with parents and schools, and community organizing. Some staff members are beginning to recognize the difficulties and inconsistencies of a diversion process as part of a juvenile court which retains control over diverted youth for periods ranging from 90 days to two years. They have started to refer an increasing number of their clients to non-system services.

#### 5. Program Services

The actual services rendered by AID greatly depend upon the assigned caseworker. Most of the workers' primary orientation is toward treatment of the youths' psychological problems; each caseworker is free to use his or her own approach. This often consists of a combination of individual and family counseling. The counselor has discretion to decide both the location and the frequency of counseling sessions. There appears to be a wide variety of services for youths involved in the AID program.

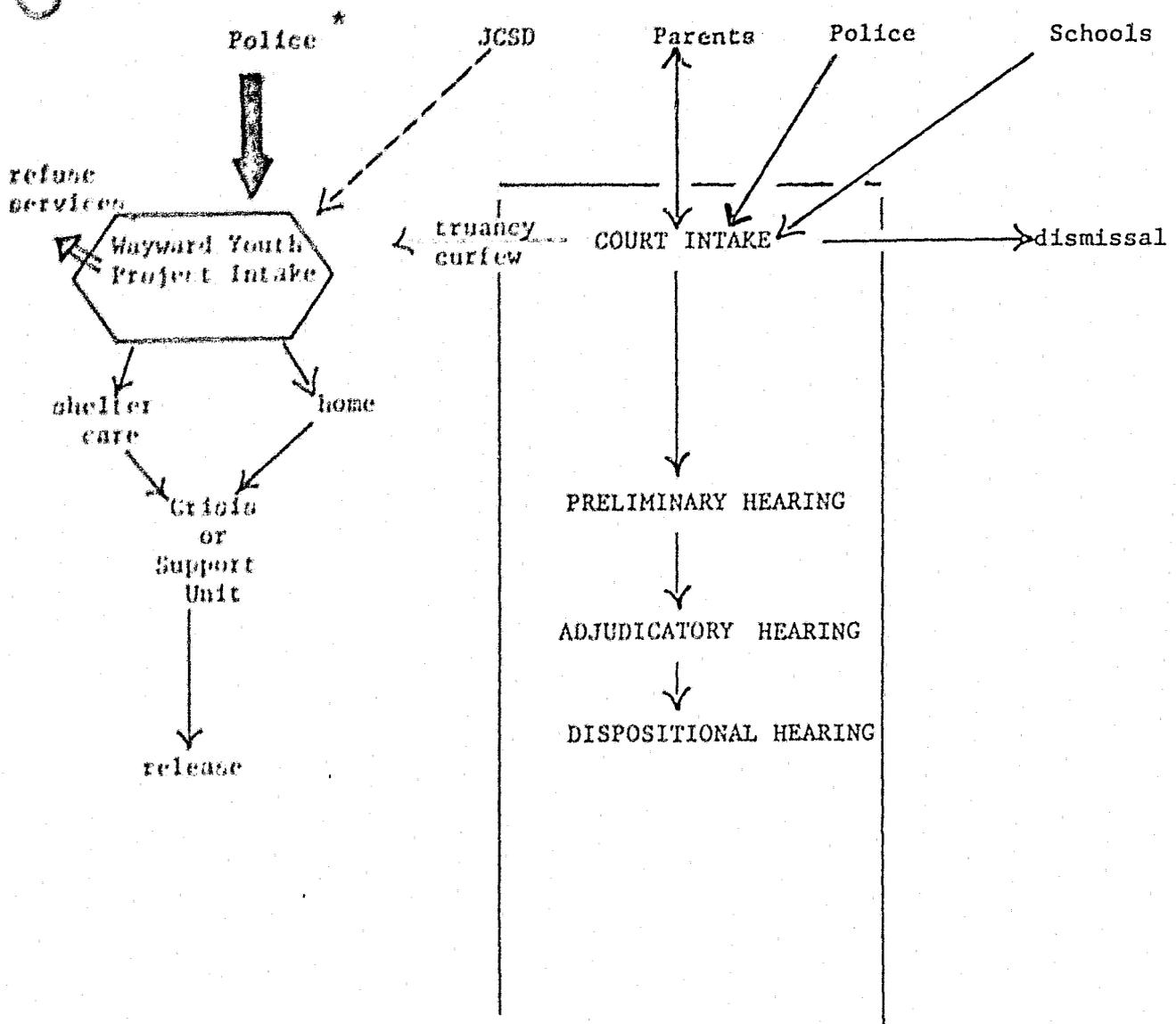
6. Funding

When AID was established in 1969, it was funded through an LEAA grant. After three years, the juvenile court included AID funding in its budget proposal to the County Board of Supervisors. AID is now funded by the county except for two counselors, added in 1973, who are separately funded through an LEAA grant. In 1973 when the program expanded to its present size, its annual budget was \$50,000. By 1975, this had increased to \$155,000. The cost per youth is difficult to determine because of the large disparity in the length of time youths are served.

B. WAYWARD YOUTH PROJECT (Site Visit Report 3):

ALTERNATIVE LEGAL STRUCTURE

DIAGRAM 3: WAYWARD YOUTH PROJECT WITHIN JEFFERSON COUNTY JUVENILE JUSTICE SYSTEM



- ▶** most used path to program
- =====>** frequently used path
- ▶** moderately used path
- - - - -▶** infrequently used path to program

\* The police must refer all juveniles who are charged with status offenses (except truancy and curfew violations) to the Wayward Youth Project.

## 1. Origin and Evolution

The Jefferson Children Service Department has handled wayward youth since this category of youth was created in 1968. However, the initial contact of JCSD with wayward youth usually resulted from another type of child welfare related problem. In 1973 a pilot program was started to work with a limited target population comprised primarily of first offenders, incorrigibles, and home truants. The caseload was limited to seventy-five. The pilot program was funded and intake was controlled by JCSD.

When the regional planning office and the administrative judge of the Domestic Relations Court began pushing for some type of diversion project for wayward youth, the pilot program was disbanded, renamed and reorganized as the Wayward Youth Project. The project was designated responsible for wayward youth because it had the available funding and facilities.

## 2. Intake and Referral Sources

In January, 1975, the administrative judge of Jefferson County determined that certain categories of status offenders, or "wayward youth" (incorrigibles and home truants) would immediately be referred to the project. Other categories - school truancy, curfew violators, and those endangering their own health and morals - would be referred by the court after July 1, 1975. In effect, it appeared that the judge was decriminalizing status offenses by administrative fiat and insisting that they be dealt with by the Jefferson Children Service Department, the parent agency of the project. The first contact a status offender or "wayward youth" has with the criminal justice system is generally with the police. In 1974, 85 percent of the 2102 waywards contacted by the police were referred to the

juvenile court. The remainder were given an "office interview" (counsel, warn and release).

The referral is accompanied by either a report or an affidavit, the latter being a formal petition for a preliminary hearing. If the referral is accompanied by a report, and the youth falls into one of the "wayward" categories, the referral will be transferred directly to the Wayward Youth Project. Upon arrival at the project offices, the youth is interviewed and the parents are contacted. They are informed of the voluntary nature of the services offered, but if a family or youth refuses services, the project worker will attempt to persuade them to accept. If this does not work, no further action will be taken. Indeed, over a third of the referrals decline services. When program services are accepted, the clients are assigned a counselor in either the crisis unit or 90-day support unit within the program.

At the time of the field investigation, the program was not open for intake between the hours of midnight and eight a.m.; thus all wayward youth taken into custody during those hours were held at the detention center and escorted to the program offices in the morning. As of July 1, 1975, the program has had 24-hour intake and wayward youth are taken directly to the program offices rather than the detention center. The program is also expected to provide shelter care for those youth whose family problems cannot be settled by crisis counseling. Court and child welfare administrators felt that this shelter care should be a "secure" facility for some youth. Slightly more than a month before the July 1 deadline, the facility (ies) had not been selected and there appeared to be only two options: a small runaway house and the reception center of a

large 150-bed institution already being operated by the Jefferson Children Service Department. Several persons interviewed reported that security screens were being welded to the windows of this facility. There was little or no difference between this institution and the state training schools.

### 3. Client Population

As mentioned previously, all clients of this program are officially classified as "wayward youth." This classification was established by the State Assembly in 1968 and includes any youth:

- (i) Who does not subject himself to the reasonable control of his parents, teachers, guardian or custodian, by reason of being wayward or habitually disobedient;
- (ii) Who is habitually truant from home or school;
- (iii) Who so deports himself as to injure or endanger the health or morals of himself or others;
- (iv) Who attempts to enter the marriage relation in any state without the consent of his parents, custodian, legal guardian or other legal authority;
- (v) Who is found in a disreputable place, visits or patronizes a place prohibited by law or associates with vagrant, vicious, criminal, notorious or immoral persons;
- (vi) Who engages in an occupation prohibited by law or is in a situation dangerous to life or limb or injurious to the health or morals of himself or others;
- (vii) Who has violated a law applicable only to a child.

The Jefferson Children Service Department has used this definition to organize the program. In the first four months of operation the program received 1000 referrals; out of these 280 cases on wayward youth were opened. The ages of the youths ranged from 8 to 18; the average age was 15. Approximately 50 percent were male and 50 percent female. The income level

of the families served tends to be just below the mean income level for the county. While 70 percent of the families earned less than \$12,000, 38 percent of the families earned between \$4,000 and \$12,000.

#### 4. Staff

The organization of the program's 41-member staff resembles a modified pyramid. The director and assistant director share many responsibilities and both are available to talk with supervisors or caseworkers. Although the director's job is described as a policy making and "highly responsible administrator/supervisory position," the project policies tend to be made by a small group of people excluding the director. At the time of the field investigation, the director did not have a copy of his budget and could only estimate the amount as "somewhere between a half and a quarter of a million dollars." Probably as a consequence of this, the line staff did not feel as though they were receiving support from the director.

#### 5. Program Services

When the youth first arrives at the Wayward Youth Project, usually accompanied by a police or court intake officer, the first contact is with a casework supervisor. After a brief talk with the prospective client, the supervisor assigns the best suited available caseworker. The worker then reviews the case with the youth, calls the youth's parents and begins to fill out forms, including financial eligibility statements. The youth then waits for the arrival of his or her parents for the first family counseling session. Because all the workers have social work training, the counseling sessions are oriented toward arbitration between the youth and the family, or the youth and a social agency, rather than psychological treatment.

The first session is usually spent negotiating a verbal contract between the youth and the parents. If the services are accepted, the case is initially carried on a 30-day basis, during which time the worker does a weekly follow-up on the contract. The contract may be renegotiated or refined with the worker as arbitrator if all the parties are not satisfied. If all is going well at the end of the 30-day period, the youth will be terminated from the program. If further work with the family appears necessary the case will be referred to the program's 90-day support unit. The 90-day support unit functions in much the same manner. The support worker will continue to mediate and arbitrate between the youth and the family, the court if necessary, and any other social agencies involved.

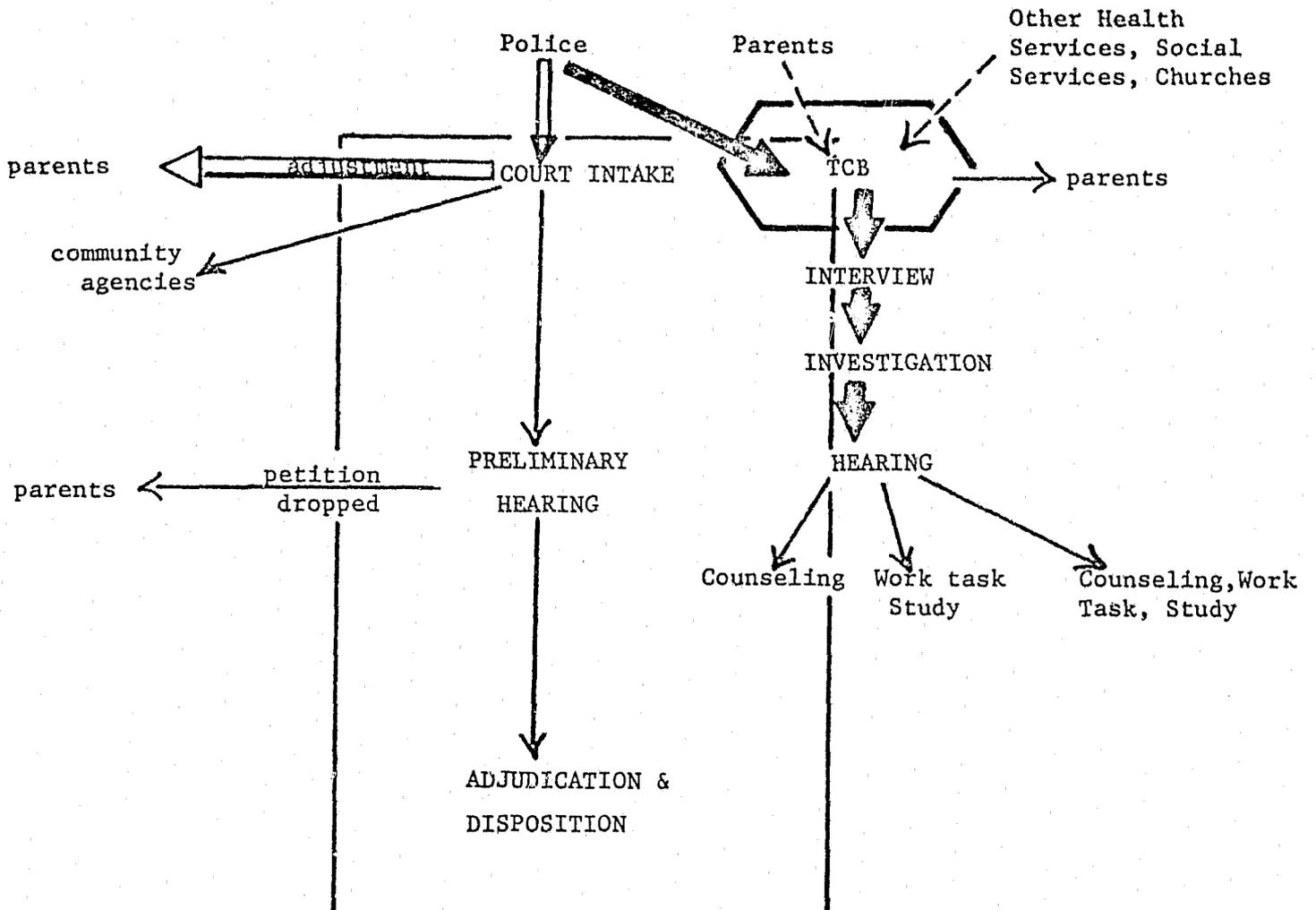
6. Funding

JCSD provides the funding for direct services, while an LEAA grant supports a small coordination unit. Although the program director did not have a copy of his budget, the executive director of JCSD said the budget was somewhere in the neighborhood of \$500,000, not including the LEAA money. JCSD obtains most of its money from its own tax levy, and is financially secure as evidenced by the fact that it is returning unused funds to the County Board of Commissioners.

C. TCB PROJECT (Site Visit Report 5):

PARALEGAL TYPE PROGRAM

DIAGRAM 4: THE TCB PROJECT WITHIN WHITE COUNTY JUVENILE JUSTICE SYSTEM



- most frequently used path into program
- most frequently used path through court system
- moderately used path through court system
- - -** infrequently used path into program

1 Budget and Services

The ideological perspective for TCB was laid in the wake of the Newark, N.J. riot and related events. Black college students in Kansas began discussing what they could do to improve the juvenile justice system for black youths. They recalled that for every black juvenile being arrested for minor offenses, and that even inside the system they were unlikely to be treated equitably.

The program started in October, 1970, as a demonstration project funded by DASH and administered by the state planning agency. Its stated objectives were: 1) the elimination or reduction of repetitive delinquency; 2) the reduction or elimination of habitual truancy; and 3) the reduction or elimination of responsible behavior. Although the staff works to implement the goals, the staff probably formulated by TCB's organizers in order to obtain state funding from the DHA. According to the director, "the number one goal is to keep the system out of the system."

Although part of a community panel, early identification of potential delinquents, individual counseling, community work tasks, and staff attitudes indicated that TCB's actual goals are: 1) to develop and secure the participation of the local community in controlling and redirecting the behavior of youth in the community; 2) to develop among youth a sense of personal investment with and commitment to the community and its general welfare, and to encourage both youth and adult citizens in efforts to reduce crime rates in the community, particularly burglary and theft.

During the past three years, the TCB Program had a staff of 10, employed a full time vocational counselor and had a Crime Prevention Unit. The program employed black business in the community so a number of youths could be hired. \* Students from the local community college worked for the

\* TCB pays half of the salaries. Many of these juveniles would not have otherwise had jobs.

program on a work-study basis. Backpacking trips were organized and panel members received stipends to cover babysitting and travel expenses. However, all of these activities and programs were eliminated when the LEAA funds ran out in 1973. At that time the program had to look to the county for funding. The budget was drastically cut, and as a result the staff of 10 was cut to 4 and the appropriation was slashed to \$47,000 - less than half of the previous year's budget.

## 2. Referral Sources

TCB, a black-originated and operated program in the black community of Kumasi (pop. 18,000), obtains 83 percent of its clients from three primary sources: 1) the county sheriff's office; 2) the police in the neighboring white community; and 3) a black-staffed probation unit.\* Secondary referral sources, accounting for 17 percent of the clients, are local schools, the welfare department, a local health clinic and parents.†

A youth's entrance into the program is not voluntary, nor does it offer a range of choices. The referring personnel, in the agencies mentioned above, offer TCB candidates the choice of entering the program or proceeding on to juvenile court. Once they accept referral to the program, every youth is required to sign a form stating that s/he will cooperate with TCB's disposition of their case. The form is signed at the referring agency by both the youth and parents. The program contributes to a facade of voluntariness by assuring the youth that s/he may terminate his or her stay with TCB at any time and have the case dealt with by the referring agency.

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\*The probation unit is a decentralized branch of the County Probation Department located 40 miles away.

†These will not be dealt with here, as they are not part of the diversion process.

The sheriff's office and police department both use the following criteria for referral to the TCB Program: 1) no major felonies, weapons involvement or personal violence; 2) no youths on probation; 3) the parents must be available and agree to participation; and 4) the youth must be a Kumasi resident. The juvenile's record is also studied to determine if the youth is an appropriate referral for the program. When asked to clarify this, the interviewed officers spoke of family background, whether s/he was "basically a good kid," and whether the offense indicated "street sophistication." The juvenile officer within the police department and the commanding officer of the sheriff's office approve all TCB referrals. Their concern is that sophisticated juveniles will slip through their screen and into the program. The probation department also checks on referral decision-making. By justifying all non-referrals to the chief probation officer it is hoped that penetration into the juvenile justice system will be minimized.

#### 4. Client Population

Any youth who is between the ages of 5-18, lives in Kumasi and is charged with a violation of the Juvenile Code is eligible to participate in the TCB Program. Almost all of the clients are black and, although the program does not compile race-related data, it is safe to assume that the majority of the youths are in low income facilities due to the economically depressed situation of the community.

The majority of offenses which the program handles are misdemeanors, but it has dealt with a substantial number of felonies. In 1974, approximately 17 percent of the client population was composed of youths who were charged with felonies, the majority of which were burglary. Shoplifting and petty theft are the most represented offenses within the program. These offenses accounted for slightly more than half of the 199 juveniles handled

by TCB in 1974. During the fiscal year 1974-1975 approximately two-thirds of the program participants were male and one-third were female.

#### 4. Staff

The staff feels that the youths who receive services from the program have made relatively minor mistakes and should not go through the trauma of being processed through the juvenile justice system. The mistakes that the youths have made are significant enough, on the other hand, to require some intervention from an outside force.

The staff consists of the director, the youth guidance counselor, the panel reporter and the secretary.

The director is responsible for overall program coordination, administration, supervision and planning. In addition to overseeing the day-to-day operation, he is responsible for "establishing and maintaining an open line of communication with all agencies connected with the program." The present director is on detached assignment from the Kumasi branch of the county juvenile probation office.

The youth guidance counselor counsels youths and their families. This task necessitates meeting on a case-conference basis with officials of schools, the welfare department, police, and the Kumasi Health Center. The counselor also works with local vocational rehabilitation counselors to arrange tutorial and employment assistance for clients, trains and supervises volunteer counselors, attends panel meetings if desired, and aids the panel members in their decisions.

This position has consistently been filled by probation officers on detached assignment from the county probation department. The present counselor said that when her term at TCB is completed she will be appointed to the probation department on a regular full-time basis.

The panel reporter has the task of providing the panel with "all the material and information required to assure that it functions as a qualified substitute for the juvenile court." As such, the panel reporter is responsible for conducting investigations related to panel hearings. This entails interviewing parents, suspects, school officials, police, victims, and witnesses. The panel reporter then writes and presents a review of the youth's social environment to the panel along with specific information about the alleged offense. The panel schedules the panel hearings and makes certain that: 1) panel members are notified of hearing dates; 2) members have adequate information about each case; 3) all necessary parties are notified and are present at the hearing; 4) points of the criminal, welfare and institution codes are clarified; and 5) ongoing training for panel members is provided.

The present panel reporter gained experience in working with youths as an elementary school teacher and principal in another state. He has lived in Kumasi for the past 14 years and has been active in civic affairs. He appears to be a well-known and respected member of the community and consequently has few difficulties in establishing a rapport with clients and their parents than a worker without such contacts.

#### 4. Program Services

The director serves as the intake officer for the TCB Program. He rarely refuses a referral since the major referral sources are aware of the program's limitations, and carefully implement the screening criteria. Upon acceptance into the program, a juvenile is scheduled for a panel hearing.

The panel is composed of a maximum of 8 Kumasi residents, although an average of 5 panel members attend weekly meetings. Three panel slots are allotted to youths. Prior to the weekly hearings, the panel holds a pre-hearing (without clients) to read and discuss the panel reporter's investigations of each case.

At the weekly hearings, each youth appears before the panel accompanied by his/her parents. The chairperson opens the hearing by introducing the panel members, the panel reporter and the youth guidance counselor. The referring report (usually a police report) is read, after which the youth is asked for comments. Then, each of the members proceeds to question the youth whether or not guilt has been admitted or denied. When the panel is satisfied that all information has been heard, and pertinent questions have been answered, the youth and parents are requested to leave the hearing room while the panel deliberates.

If the youth admits guilt, the panel discusses possible dispositions. If guilt remains an issue the panel decides the case much like a jury. Circumstances of the offense, demeanor during testimony, prior record and character background are examined. The panel reporter and the youth guidance counselor may be called upon to clarify their reports or offer opinions on the matter.

If found not guilty, the youth will be released. If found guilty, the panel has several options: 1) release with a warning; 2) recommend counseling;\* or 3) assign a community involvement work task.

The work task is considered to be the most important tool that TCB has to implement the goals of community involvement in a youth's "rehabilitation." The task is a regular, nonpaying work, and sometimes study, assignment which must be done under supervision of program staff, a community agency, or adult community resident. An attempt is made to fit the task with the crime. For instance, a youngster who has burglarized a home might be made to do yard work for the victim. Such a disposition would serve to embarrass and

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\*Most counseling is undertaken by the youth guidance counselor and panel reporter. The youth can also be referred to more specialized agencies, volunteers or YMCA staff.

punish the youth, besides making him/her realize that the victim is a person, and not a nameless entity.

Successful completion of the work task closes a youth's case. If the youth does not cooperate, TCB has the option to dismiss the case with a notation of failure to cooperate, or of sending the youth back to the referring agency. If disciplined, as in the first case, the youth would not be accepted into the program upon subsequent referrals. If sent back to the originating agency, the youth could be processed on to juvenile court.\*

#### b. Funding

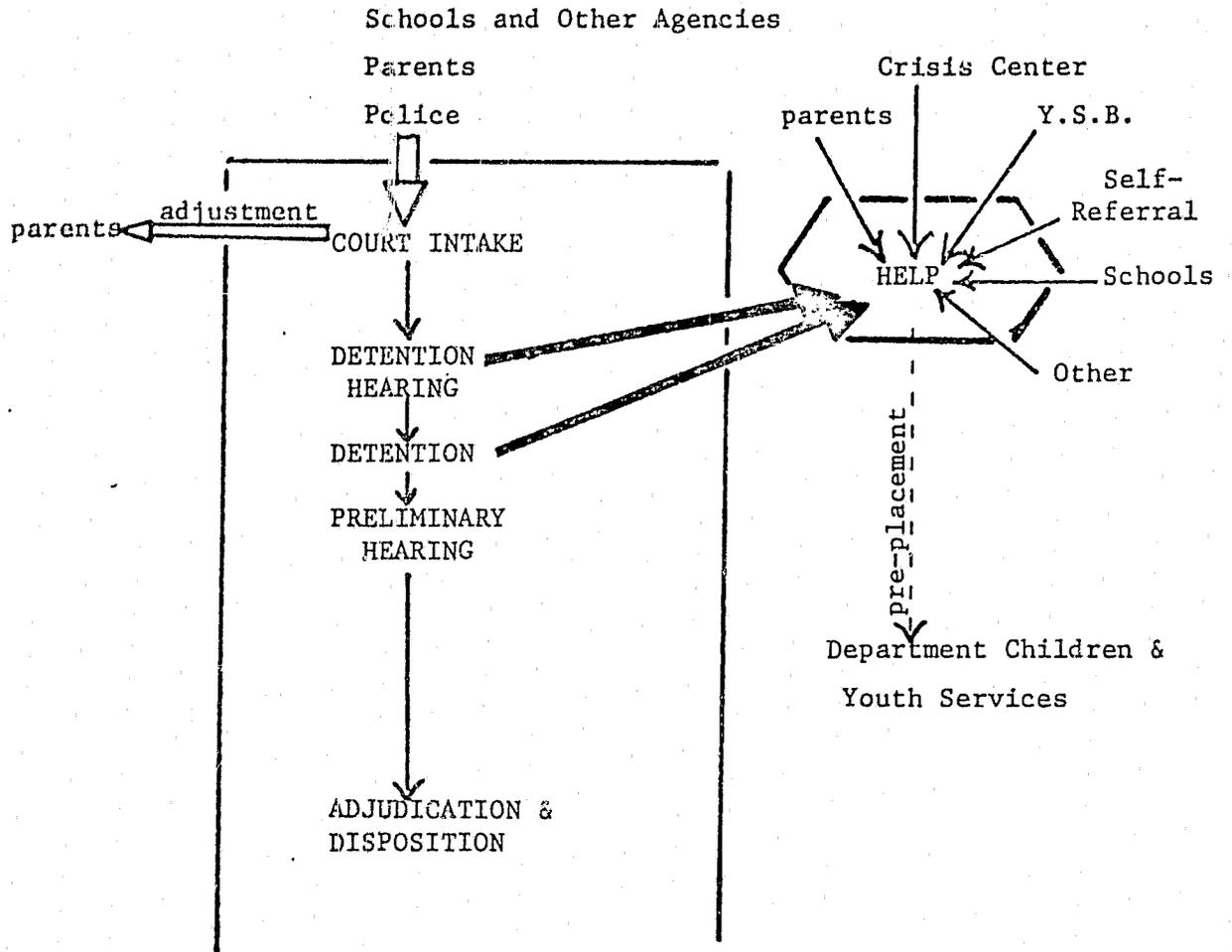
TCB is presently funded through the county government. The county's funding guidelines require that TCB divert a certain number of youths from the Federal branch of the county juvenile probation department. The program's survival is now totally dependent on whether it has saved the county money by the fact that TCB has no control over the number of referrals it receives from the two main referral agencies: the Kumasi branch of juvenile probation and the county sheriff's office. Although the probation department has almost met its projected number of referrals the sheriff's office has not, due in part to recidivism. If TCB does not receive its projected number of referrals from the official system, it may have to close at the end of the fiscal year.

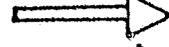
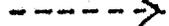
\*This option has only been used 1 or 2 times in the program's history.

D. HELP PROJECT (Site Visit Report 4):

NONLEGAL TYPE

DIAGRAM 5: HELP PROGRAM WITHIN THE CENTRAL CITY JUVENILE JUSTICE SYSTEM



-  most juveniles enter housing at HELP
-  moderately used source of contact with HELP or through system
-  most frequently used path
-  infrequently used path from HELP

## 1. Origin and Evolution

The HELP Project began in the spring of 1972. The idea was originated and developed by Father Joe, Assistant Rector of the King Church. Father Joe came to King in 1968 for the purpose of developing a youth ministry. His task was to develop programs in the church and community to serve the needs of King's juveniles. He was instrumental in the development of the town's YSB in 1970 and in 1971 began what turned out to be six months of research in the area of runaways and legal requirements for temporary foster care.

Two major factors facilitated the development of the program. The first was "being employed by a parish with a sense of mission, where you could feel free enough to go out and explore in the community and be encouraged by them." The second factor was that supportive services, such as the YSB, already existed in the community, which allowed HELP to provide emergency temporary housing to "runaways, throwaways, disposable, neglected and abused kids." The idea was "to give a kid a meal, a place to stay and a little love."

Being a parish program, the first task was to gain the vestry's approval. This proved to be a minor task as the vestry, without reservation, accepted sponsorship of the program and agreed to support Father Joe's involvement - which took up 50 percent of his time. The consensus was that "as long as you are working with people you are working for the church."

With this in mind, Father Joe set out to tap the available community resources: good families with stable homes and the resources to temporarily house juveniles. The initial call for volunteers was answered by 22 families. It has since expanded to its current size of 52 families and is no longer limited to parishioners.

The program was originally intended to serve only the community of King, with 8 to 12 referrals a year. Since then it has accepted referrals from agencies and individuals throughout the area. From its inception, Father Joe maintained contact with the YSB and also contacted other community agencies, such as the police and schools. In the summer of 1972 he established contact with one of the two juvenile court judges for the district (who is a resident of King) and with this expansion came the first referrals from outside of the community - and the first referrals who were not strictly runaways. An increase in publicity brought referrals from other local and state agencies including the Department of Children and Youth Services (DCYS), the welfare department, Central City Police and others. Although these relationships increased the ties between HELP and the official agencies, no formal feedback mechanism was developed and any information obtained about a child placed in a HELP home was gathered on the initiative of the individual caseworker.

A licensing issue arose in the fall of 1974, prior to the consolidation of all youth services, Welfare and Child Protective Services under DCYS.

The state statute reads:

No person, agency, association, corporation, institution, society or other organization except a parent, an adult relative or guardian of any child, shall place out in any free, working, or adoption home or board out any child without a license obtained from the Commissioners of Welfare.

Consequently, the welfare department wanted to impose licensing requirements on all HELP families. Father Joe felt the issue was not whether the HELP families could meet the requirements, but that the program was designed to be "simple, non-bureaucratic and without red tape." Involvement with a state agency could have easily destroyed this.

Legislation requiring licensing of an "emergency host home facility agency" which would approve "emergency host home facilities" has been passed and is awaiting the governor's signature. In this case, the King Church would be licensed and would approve the host families for placement purposes. An "emergency host home facility"

provides care for a child in a situation where there is a critical and immediate need for shelter away from home for a period of limited duration, not to exceed three weeks, with the provision of a continuation for an additional three weeks if the child, guardian, and the agency as part of a reconciliation effort, consent and agree.

## 2. Referral Source

The HELP program serves as a temporary foster placement service for juveniles experiencing family problems which prevent their return home. In this sense, the homes in which the youths are housed serve as cooling-off places. HELP, in this role, ideally provides a nonlegal diversion service which attempts to avoid official processing through state agencies.

The King Police Department is one of the referral sources for HELP when the program receives nonadjudicated youth. This police department has a juvenile division staffed by two full-time juvenile officers. If a juvenile is referred to them by a patrol officer, three dispositional options are open to them: 1) CWR; 2) voluntary referral to a community agency; or 3) referral to juvenile court.\*

HELP receives approximately 9 percent of its juveniles through referrals from the King Police Department. There are no formal guidelines. Instead, the juvenile officer considers the youth's attitude, prior record and age. If it appears that the youth cannot return home immediately, but that a reconciliation is possible within a short time, the child becomes a HELP

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\* Approximately 22 percent of the cases handled by the juvenile division are referred to the juvenile court.

**CONTINUED**

**1 OF 4**

candidate. Referral is made by telephone; the juvenile officer calls the program director who then arranges placement. The director is available 24 hours a day and placement can be arranged within a few hours. Police contact ends upon referral, although a record of the incident is made.

Through the evolution of its program HELP found itself in another role; it serves as a shelter care placement, or alternative to detention and preplacement housing for the juvenile court, the DCYS and the welfare department. When the program is used in this manner, the youths are either returning to court for adjudication or have already been adjudicated delinquent. HELP also takes welfare cases when a youth has been declared dependent-neglected and is awaiting permanent placement. In these cases the program does not function as a diversion project.

a. Juvenile Court and Detention Center

If a complaint brings a youth to the attention of the juvenile court, a probation officer is assigned to investigate the case prior to a formal hearing. The probation officer has five options: 1) a petition can be filed against the youth; 2) a recommendation for dismissal can be made; 3) CWR; or 4) the youth can be referred to a public department, community or private agency. One of the private agencies that the probation officer can refer to is the HELP program.\* Voluntary agreement by youth and parents is required.

b. Preplacement

Once a youth has been adjudicated, or found to be neglected, abused, or uncared for, there is usually a 2-3 week period between the adjudication

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\* Juveniles referred to HELP by the juvenile court are sometimes placed under informal supervision, in which case they would not be returning to court.

hearing and placement. In these instances the court will not commit a youth to DCYS or welfare until placement has been found. During this period the juvenile court again uses HELP as a preplacement housing service. One of the problems with this type of placement is that once a youth has been placed in a temporary home through HELP, the pressure to find permanent placement is removed.\*

### 3. Client Population

The only placement criteria for HELP is that it must be "beneficial to the youth," voluntary, and the juvenile must not pose a physical threat to the community or the host family. There is no formal screening process, nor is any type of juvenile categorically excluded from placement.

In 1974, HELP received 307 referrals; 118 were male and 189 were female. Approximately 66 percent of the youths came from outside of the community. The program primarily serves juveniles between the ages of 13-17, but is not limited to that group. Although the program was designed to serve runaways, it does not exclude juveniles according to offense; it is aimed at meeting the temporary placement needs of all juveniles. Consequently, its referral sources are numerous and varied.†

Of the 307 referrals received in 1974, 100 were placed. A number of the referrals were found not to need housing, as a reconciliation between parent and child was achieved informally, either by the program director

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\*Because the host families are mainly concerned with the welfare of the youths they are housing, no families have refused to continue to house their HELP youth which would probably have resulted in the youth's returning to the detention center.

†Referrals from the following sources make up the indicated percentage of HELP's clientele: Juvenile Court, 25 percent; YSB, 15 percent; P.D., 9 percent; Welfare, 8 percent; parents and self-referrals, 16 percent; Crisis Intervention Center, 5 percent; schools, DCYS, various church social services, hospitals, out-of-town agencies and others, 22 percent of the program's referrals.

or the referring agency. If the youth is under 16 the director is required by law to acquire the consent of the parents - unless the referring agency is the guardian - before placement can be made. It is this contact which often results in a return home.

#### 4. Staff

The "staff" of HELP are the host families that volunteer their homes to provide housing for HELP clients for anywhere from 1 day to 3 months. One family perceived HELP as a "Christian attempt at caring for others."

Prior to placement in a HELP home, the client is told the basic ground rules: avoid illegal behavior, follow whatever specific rules that the host family sets down, and do not use drugs. In addition to these there may be school stipulations imposed by a probation officer. The lack of specific restrictions is based on the belief that the host family should maintain, as much as possible, their normal home environment. Most clients were only expected to be pleasant, call in when they were going to be home late, and carry their plates to the kitchen after a meal.

In one family, the youths are told prior to placement that they will be asked to help with the normal work done on a farm. The family has housed nine children, eight of whom lived outside of King. All of them had specifically requested housing with this family. Youths felt included in this busy but well-run home where no one hid away car keys and money as soon as a HELP youth moved in.

Client reactions to HELP depended on the length of their stay. Some who were in housing only 3 or 4 days felt their host family had treated them as welcome guests, had been nonthreatening, and had given them a chance to reassess their own home situations. Others who stayed longer have often returned to visit their host parents.

## 5. Program Services, Goals and Objectives

The HELP Project was not established as part of or in conjunction with the juvenile justice system. Services are strictly to provide housing for juveniles in need of temporary placement. There are no services rendered beyond the placement function.

The guiding concept of the program revolves around the basic ideals of sharing and community involvement with youth. It is assumed that there are times in some youths' development when the pressure of the home or agency environment is so frustrating that the youth becomes involved in "acting out" behavior. When these critical junctures come to the attention of the HELP Program an attempt is made to house the youth in a stable, supportive home environment. No guarantees are made and there are no pretenses of therapy.

As a result of their defined purpose of providing only temporary housing, success or failure is purely a matter of whether the child can stay in the home or not. If the HELP family becomes totally disillusioned - which has only happened twice - the youth will be returned to the referring agency. In problematic cases, the director acts as mediator for the youth and host family, usually keeping the youth in the home or sometimes finding a more appropriate placement. If the youth runs away the director notifies the referring agency or individual in order to fulfill any legal obligations. This does not include assisting the agency in finding the juvenile or providing clues as to his/her whereabouts.

## 6. Funding

Prior to June, 1975, the only money coming into the program came from private donations, amounting to \$3,500 in 1974. These funds were used to purchase necessities for referred youth (clothing, medicine, etc.). Host

families strongly oppose any outside funding because of the implications. The consensus is "we would never want to be in a program where we would get paid for taking care of kids. We would not want to get involved in a bureaucracy."

CHAPTER VI

AN ASSESSMENT OF JUVENILE DIVERSION PRACTICES

## Introduction

The following critique of diversion in the juvenile justice system reflects the nature and goals of the research endeavor. As a Phase I National Evaluation Project a primary task was to describe and clarify the current state of juvenile diversion. The term "evaluation" in the project title is somewhat misleading; it was not the purpose of the project to evaluate the complex universe of diversion. Rather, an attempt was made to explore the possible ramifications of implementing the concept of diversion. But even here difficulties were encountered. At present no one definition of diversion is acceptable to all interested parties. The definitional confusion surrounding the concept is the major issue encountered by researchers.

In order to establish an organizational framework for the research, a diversion bench mark was needed. The most explicit definition of diversion available would likely serve that purpose. The survey of the literature revealed no clearer definition than that originally offered by the President's Crime Commission in 1967, which explicitly stressed the "turning aside of a youth from further processing by the juvenile justice system." This definition provides the basis for what many observers have termed "true diversion" - such diversion means that the juvenile and his/her family need experience no further intervention on the part of juvenile justice authorities.

The above definition indicated the utility of developing a typological framework of diversion based upon the degree or character of legal authority intrinsic to diversion processes and programs. If diversion occurs within the juvenile justice system "true diversion" has been restructured into becoming "minimization of penetration" - an attempt to reduce the intensity

or "official" nature of processing while systems contact is maintained. If, however, diversion occurs outside of the juvenile justice system it will be closer to the theoretical definition of "true diversion," depending upon the level of influence by and/or contact with that system.

With the above conceptual framework serving merely as a heuristic device the "real" world of juvenile diversion was examined. The field research was oriented toward a qualitative methodology. The resulting "data" is of course quite impressionistic. The findings are not limited to the observations of the field researchers, however, as they also incorporate the subjective assessments of participants in the diversion phenomenon (staff, juveniles, parents, and significant others). In the following analysis an attempt will be made to describe juvenile diversion in the light of the site visit data; it should incur the serious consideration of practitioners, researchers and policy makers.

Due to the lack of conceptual clarity surrounding the concept of diversion the reader should consider the term "diversion" as bracketed by quotation marks whenever it appears in the following text.

## SECTION ONE: CRITIQUE OF THE TYPOLOGICAL FRAMEWORK\*

The typological framework for the field research attempted to delineate organizational types along a continuum of legal authority. A major dynamic of the concept of diversion was that agents/agencies possessing legal authority had the power to impose official labels, and sanctions, likely to be detrimental to the youth in question. True diversion was defined as the processes/programs developed to turn aside a juvenile from further processing by the juvenile justice system which might result in the imposition of such labels and/or sanctions. Diversion as minimization of penetration, however, may be defined as attempts by juvenile justice personnel to reduce the intensity and degree of processing even though juvenile-systems contact is maintained. Diversion processes/programs, it was assumed, could be placed within one of the macro types, Legal, Paralegal, or Nonlegal, outlined in the typology.

The field research demonstrated that the suggested typological framework is a useful conceptual device. Programs that met the criteria as Legal types, of course, could not be interpreted as engaging in true diversion; rather, their stated goal is to minimize a youth's penetration into the juvenile justice system. The Paralegal form of diversion programs may be viewed as almost stereotypical of much of what is occurring under the New Diversion movement. (See Section Four, this paper.) It was anticipated that Nonlegal program elements would be difficult to locate. Only one such program was included in the fieldwork. The hypothesis that Nonlegal programs, surviving over time, do so at the risk of becoming transformed into Paralegal programs was reinforced by the research (see Section Five).

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\*See Chapter IV.

The major addition to the outline of characteristics intrinsic to Paralegal programs is the potential fostering of misconceptions concerning the relationship between a program and its possession of legal authority. Program staff may encourage the belief, among unsophisticated clients, that they (and the program) are indeed an "arm of the law" capable of taking and/or recommending "official" action against a client if the client is uncooperative (i.e., declines services). In such cases implicit coercion is derived not from legal agents (police/probation) but from private individuals who use fear of official action as a lever to encourage participation in a diversion program (SVR 7).

The extent of informal interaction between system personnel and program staff outside the system was somewhat greater than we expected. Even in cases where programs consciously attempted to avoid creating files and records, and refused to engage in providing official progress reports, a police or probation officer could usually obtain such information informally by merely picking up the phone. Such diversion programs, if they are to survive over time, must meet the approval of personnel in control of referrals (police/probation); they must be accountable - formally or informally. Such accountability or cooperative co-optation becomes the primary vehicle by which the new form becomes more and more similar to that of the old.

Field research did not lead to startling new discoveries concerning the Paralegal and Nonlegal categories. Somewhat surprisingly it was the Legal type that was most challenged by the research findings. It was assumed in the typology that "the organizational context of the legal type of diversion is that of the official juvenile justice system." In mind were programs internal to the juvenile justice system designed to minimize penetration by relying upon informal, rather than formal, processing (i.e., informal

probation, police/probation diversion - see Section Four, this paper). It was found, somewhat unexpectedly, that other government agencies (children/family services and welfare departments) have become intensely involved in diversion serving the administrative needs of both processing and programmatic development.

A youth may be diverted out of the juvenile justice system but into another government agency possessing the legal authority to intervene in the client's life. The alternative agency may engage in virtually identical intake and dispositional functions as the juvenile justice agency (e.g., probation), may initiate proceedings for a court appearance (adjudication), and may operate its own detention facilities (jail/juvenile hall) (SVR 3). It may in effect be what was termed in Chapter V an Alternative Legal Structure serving as a de facto juvenile justice system. Regardless of the welfare orientation of such an agency it is questionable whether or not a juvenile and his/her family appreciates the difference between the two legal bureaucracies charged with the power to intervene in his/her life.

Such alternative forms of processing juvenile offenses as outlined above certainly meet the criteria of the Type I - Legal category, as set out in Section A, Chapter IV. It is true that diversion to such an agency is diversion from the juvenile justice system. It is in fact true diversion rather than minimization of penetration. It is certainly questionable, however, whether the processing, the imposition of labels and the subjective reality of the clients has been significantly altered. Policy makers and researchers must closely scrutinize such diversion.

In light of the above, the typological framework relative to Type I - Legal should perhaps be expanded to include all such alternative legal structures. In the final analysis this might mean a re-examination

of the theoretical basis of the diversion concept. The reformers of the 1967 President's Crime Commission advocated "diversion from further juvenile justice system processing" and their recommendations were based upon the theoretical criticisms of labeling theorists. The utilization or creation of alternative legal structures which assume control over whole categories of juvenile offenses might indicate the need for a new emphasis relative to the diversion mandate - perhaps such reformers should advocate diversion from further processing by all legal authorities.

The typological framework used by this project is, of course, only one of several frameworks available to the researcher. It provides a heuristic device for evaluating an explicit theoretical definition of diversion - the turning aside of a juvenile from further juvenile justice system processing. The potential or actual use of legal authority to coerce the client, and the degree of influence which legal authority has over processes and programs becomes the crucial conceptual dynamic. The strength of such a typology is that diversion is not taken for granted (as in the case of typologies based upon treatment methodologies) but the degree of diversion may be measured against specific processes and program organization.

The above typology and the subsequent research endeavors to clarify the problems inherent in deciding when, where and by whom diversion should be initiated and/or controlled. If policy makers consider the above issues and decide that diversion to a program must accompany diversion from the juvenile justice system a new question is raised - what should such a program do? The question calls for a choice between different treatment or rehabilitative methodologies. The present research did not attempt to address this large and complex topic. Discussion of the form of treatment administered to youths by diversion programs must be based upon clear statements of diversion goals and processes. The present analysis will have accomplished its task if it clarifies these issues.

## SECTION TWO: THE RESEARCH PROBLEM

At a recent national conference of professionals in the field of criminal justice, the definition of diversion was assumed to be so commonly understood that detailed discussion of definitional issues was arbitrarily waived. Unfortunately, confusion concerning common usage is not an uncommon occurrence. There appears to be a communications breakdown between major diversion theorists\* and many diversion practitioners.

It is not unusual for "good" theory to become "bad" practice. The history of juvenile justice reform, however, seems extraordinarily susceptible to such a state of affairs.<sup>+</sup> Although labeling theory, the primary source for the concept of diversion, has a propensity for obtuseness, the discussion of diversion in the President's Crime Commission Report (1967) clearly expresses an increasing dissatisfaction with the juvenile justice system. The theoreticians emphasize the explicit meaning of the word diversion; hence to them diversion is a "turning aside" from that system (true diversion). The recommendation for the establishment and operation of Youth Service Bureaus outside of the existing system, lends support to this interpretation. From theory to practice, however, a crucial change occurs in the definition of the diversion concept.

Most practitioners have chosen to interpret diversion as minimization of penetration instead of an "end to further processing" by the juvenile

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\*In particular we have in mind the academic staff and consultants to the President's Commission (1967).

<sup>+</sup>See Chapter II.

justice system. The difference in interpretations is crucial. Whereas many theorists view contact with system processing as an evil, practitioners have viewed intensity and degree of processing as the evil.\* The consequence of this version is that each practitioner is ready to embrace the concept as long as diversion means the turning aside from the next step in the process.

In practice diversion has come to mean a turning aside from formal processing, particularly from adjudication. Informal processing and programs developed by the juvenile justice system itself have become viewed as the essence of the diversion mandate. Programs/processes such as the Sacramento, California 601-602 project (which received status as an LEAA Exemplary Program) are being modeled by other communities with the funding and obvious approval of federal and state government. It is difficult to criticize such endeavors for they appear to reduce the danger of formal stigmatization. It is questionable, however, whether diversion as minimization of penetration has much effect upon the subjective reality of a youth experiencing the informal process of the juvenile justice system. Some juveniles and/or parents interviewed during this study were either unaware, or unimpressed by the fact that their interaction with the system was informal - it seemed formal enough for them.

We really weren't offered any alternatives. The decision for us to come to the diversion unit was made somewhere along the line. (Parent, SVR 6)

It (diversion) wasn't suggested to us. We got a call from this place saying, "either show up here or you'll go to court." We were asked to come that evening. If our daughter had gone to court she would probably have been sent to the detention center and we wouldn't have had anything to say about it. (Parent, SVR 6)

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\*Of course labeling theorists would agree that there is a likely correlation between intensity and degree of labeling and its effects. The question here is one of either attempting to avoid labeling as much as possible (true diversion) or to simply mitigate the labeling process minimization of penetration).

The Dean of the School told me to go there. They said, "We're putting you in this AID program." I had to go there. I either go there or I get kicked out of school. (Youth, SVR 1)

The reformulation of the diversion concept from explicit theory to practical operation may be explained in a variety of ways. First, professionals employed by the juvenile justice system may be aware of the implicit criticism inherent in diversion theory; this may create a significant amount of cognitive dissonance. It is suggested that a youth may be better off by not coming into contact with the professionals in the system. Many of these individuals are highly trained, career oriented persons dedicated to helping juveniles. The suggestion that help is potentially harmful and that youths should be turned aside from such contact is not an easy concept to assimilate. The response is to place blame for harmful processing upon some other sectors or individuals within the system. The police officer diverts from probation, the probation officer from the juvenile judge, and the judge from the juvenile institution; all maintain self images as "good guys" who have successfully diverted a youth from further processing. Although cognitive dissonance is thus resolved for the professional, the youth, the researcher, and perhaps the theorist may not perceive informal processing by system personnel as any less infringing, stigmatizing and/or potentially harmful than formal processing. In fact, the added danger of deprivation of due process rights, implicit coercion and creation of informal files may become increasingly evident.

Another explanation for the operationalized definition of diversion discussed above is the simple desire of professionals for job security. The suggestion that others may do the job as well or better ultimately signals the possible termination of the position. Short of unemployment, diversion to outside agencies may limit the growth for the juvenile justice system

(e.g. probation) and/or a reduction of the likelihood of promotion and salary increases. By redefining the concept of diversion, the juvenile justice agencies have avoided its potentially negative aspects. Diversion in the form of minimization of penetration has often served to increase the size of juvenile justice components. Police are able to add juvenile specialists, and probation departments add highly trained counselors as diversion program staff. An example of such personnel growth was the AID program, which added eleven full time program counselors to the probation staff (SVR 1). Similarly, a police diversion program in Cowtown resulted in the hiring of a psychologist, a research analyst, and twelve police counselors to the police organization (SVR 13). This may lead to the number of supervisory positions being increased with the possibility of promotions all along the line. The need for greater skills in handling the programmatic aspects of diversion (counseling, therapy, etc.) is likely to result in increased salaries and prestige. Diversion as a consequence of these and other possibilities has become a popular cause with juvenile justice personnel. It becomes increasingly understandable why the agencies and agents who were the original targets of the diversion concept have become its most ardent advocates.

The research problem becomes that of choosing between the theoretical and operational definitions of diversion. The more explicit theoretical version lends itself readily to the researcher. Unfortunately such a rigorous definition would rule out research into most processes/programs that have adapted the diversion title. On the other hand, acceptance of operationalized definitions of diversion amounts to viewing all processes/programs that fall short of adjudication as instances of diversion. The present research endeavor has sought to clarify both definitional forms.

The project's approach to the issue has been guided by the operational definitions of the juvenile justice practitioner. Theoretical analysis of the diversion phenomenon, however, utilized the more consistent theoretical definition as a bench mark against which actual processes/programs can be measured. Hence, a process/program may be deemed "successful" in comparison with its own operational definition, but "unsuccessful" when compared against the theoretic ideal. The present research attempts to merely expose the differential interpretations of success and failure. The choice between theoretical and operational definitions of the reality of diversion remains a crucial public policy issue that calls for intense scrutiny by legislators, administrators and funding agencies.

### SECTION THREE: INTERVENTION STRATEGIES

Categories of intervention strategies (prevention, diversion, etc.) may be quite useful for the researcher. The practitioner, however, may view the attempt to fit his/her actions into "boxes" as irrelevant, inaccurate and maybe even rather threatening. The following discussion will attempt to examine the areas of contradiction and overlap that seem to arise between and within the various strategies of intervention.

#### A. Prevention versus Diversion/Screening

It is usual to view early identification and intervention - prevention - as the key to reducing the delinquency problem. If a predelinquent child or a youth with delinquent tendencies can be "saved" before embarking on a delinquent career the delinquency prevention people/programs have done the job. The terms predelinquent and delinquent tendencies are constantly used by practitioners. The AID program in Ajax, for example, saw predelinquents to be those juveniles who "act out either in the home or at school, but have not as yet come into official contact with the police" (Research team, SVR 1). They are confusing concepts, for they suggest that a youth has not really done something (delinquency) yet should be controlled or serviced because of what s/he might do. Identification of potential problems is reinterpreted to mean that the youth is a problem. Such early identification in order to avoid later actions that lead to labeling (delinquent) is in effect a labeling process (predelinquent).

The tenacity of the delinquency preventers often results in an expansion of the realm. As more accurate methods of identification and prediction are developed, greater numbers of young people become viewed as potential problems; yet there is a strong urge not to acknowledge the failure of

prevention. The actions of youths are either ignored, or renegotiated so that "prevention" may be attempted again. It is this later factor that causes confusion between prevention efforts and activities generally viewed as "screening" or "diversion." The AID program in Ajax was originally established: 1) to provide counseling services for parents and children at a pre-delinquent state in order to prevent youths from violating the law; 2) to attempt to make disposition of law violations without the court process; 3) to protect the community by accomplishing the first two objectives. The program's attempt to function as both a prevention and diversion unit has caused considerable confusion over program goals (SVR 1).

Much of the present controversy, criticism and confusion concerning the juvenile justice system has to do with the conferment of labels. Advocates of prevention attempt to confer less stigmatizing (or non-stigmatizing) and/or nonformalized labels to undesirable actions or attitudes of youths. Such activity is relatively easy to accomplish if other social control agents (parents, school officials, juvenile authorities) are cooperative and the acts or attitudes in question are perceived as minor. The school resource officer, a police officer assigned to a specific school, provides a typical example of this prevention-diversion confusion (SVR 1). The officer often cooperates with school officials by counseling youths who "act out" in class, are truant, etc. As all violations of school regulations may be interpreted as status offenses (violations of the Juvenile Code) s/he could arrest such youths and request that a petition be filed. Normally, however, s/he will simply handle the situation informally - perhaps a number of times - before taking official action. School officials, parents and the police officer are likely to view such informal actions as "prevention" - the researcher could easily interpret

them as instances of diversion. There is an enormous gray area, however, between obviously minor acts/attitudes deserving of prevention/intervention and acts/attitudes that call for "something more."

It would seem relatively simple to resolve the confusion between the prevention and diversion/screening categories by simply viewing prevention as all intervention occurring prior to an official response to an unlawful act. Unfortunately, individuals involved in juvenile prevention/corrections disagree as to when an act has occurred or indeed at what point official action occurs. If a youth commits an act that has come to the formal attention of the juvenile justice system (usually the police), prevention has failed to prevent. The only course left open seems to be screening/diversion (ignoring the act or some sort of alternative processing). But such clarity rarely exists. The preventers desire one more chance at prevention, the authorities do not want to engage in formal processing and all parties reach an agreement. The problem is what to call this process of agreement and how should the researcher perceive the activity? Is it prevention, screening, or diversion?

The practitioner's actions may be arbitrarily labeled to suit the needs of the parties involved; the range might be from moral choices to considerations of further funding. The researcher may agree to accept the label thereby ignoring consistency relative to research findings or s/he may choose to place the particular process on a theoretical continuum for comparison against the theoretical definition of terms. The later choice assumes that "prevention" is no longer possible once an act/attitude has come to the attention of official juvenile justice authorities even if those authorities choose not to act, or to act informally. The crucial dynamic is the contact between the youth and the juvenile justice official. Theoretically speaking,

if a juvenile justice official, regardless of his/her official title or duties, responds to an act it seems farfetched to view this as an attempt at "prevention." Something else has occurred - screening, diversion, etc., and a definitional problem for researchers remains.

#### B. Screening versus Diversion

A number of recent writers have attempted to differentiate between processes of screening and those of diversion. The heart of these arguments sees diversion as a solution to the dispositional dilemma of doing little or nothing or doing something formal and perhaps too much. Diversion thus is viewed as the middle range choice between minimal official action and adjudication. Diversion thus becomes the readily available tool of police and probation officers who feel the need to escalate their response without calling for a full official response. Diversion viewed in this way may serve as an alternative to screening.

The present research effort indicates that police and probation officers do indeed embrace diversion programs as an alternative dispositional choice. For example, in the past, the police in Pleasantville:

...frequently resorted to warning and release, and took the youth home to his parents; or they simply gave him the proverbial kick in the ass. The officer knows that under the present system, a youth charged with a first or second misdemeanor will go before the Arbitrator and participate in a hearing which will in itself not result in a juvenile record. The officer is thus freed from making a [screening] decision in the field and can place this burden on the Arbitrator.  
(Research team, SVR 2)\*

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\*A major jump in arrest figures occurred in the community. The projection for 1974 (first year of the program) was 2,838 but actual arrests totaled 3,546 (SVR 2).

Screening occurs when officials decide to cease processing and/or to recommend alternative forms of further processing for a select group of clients. Contrary to those who would differentiate between screening and diversion, it seems clearer to speak of all official discretionary acts that are directed at forestalling adjudication as diversion processes. To borrow a term, all such processes may be viewed as traditional diversion familiar to all law enforcement officials as part of their discretionary powers.\*

The "new" (1967) emphasis on diversion has created much confusion over screening versus diversion. For years police and probation officers have pleaded for additional treatment oriented programs to which they might screen and divert appropriate cases. Under traditional diversion processes, they had little choice but to screen out or divert youths from a system when further processing seemed inappropriate. The availability of federal and state dollars and moral support, resulting in the proliferation of diversion programs (services oriented, "do something" agencies), particularly within the juvenile justice system, now gives them more choice of screening and diverting to programmatic components. The emphasis of traditional diversion was on process (discretion) - the emphasis in the New Diversion is on process plus programs (discretion and treatment). All that has changed is the greater availability of programs. It remains to be seen whether such a change is to the best advantage of either diverter or divertee.

For the purposes of this study, screening and other discretionary judgments if occurring after contact and prior to adjudication are viewed as the essence of the diversion process. Such processes are viewed as

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\*If such processes terminate official intervention and/or refer a youth to a program outside of the juvenile justice system true diversion has occurred.

traditional diversion when extensive program support is absent and as new diversion when specially designed programs are adjuncts of the processes. These arrangements, within the juvenile justice system, are aimed at minimizing penetration.

### C. Diversion versus Alternatives to Detention

A closely related concern of those interested in prevention, screening and diversion is the desire to avoid the negative aspects of housing minors or first time offenders, with those juveniles possessing records of more hard-core delinquency. Processes and programs are developed whereby the unsophisticated juvenile offender may avoid extended stays in detention. To view such processes/programs as conceptually distinct from diversion once again confuses the conceptual and definitional issues.

Programs designed as alternatives to detention may also assume some sort of treatment or service orientation and become, in effect, diversion programs as the youth either leaves the system or undergoes some sort of processing short of formal adjudication. If the youth is in no danger of further formal processing, detention or adjudication, the program is not really an alternative to detention. If the goal is placement with no thought of treatment but merely a desire for more humanistic control, prior to adjudication, then one may properly speak of the program as an alternative to detention. Such "pure" programs without organizational and administrative misuse are rather rare.

#### SECTION FOUR: DIVERSION INSIDE THE JUVENILE JUSTICE SYSTEM

The hallmark of the traditional diversion process is the exercise of discretionary power by juvenile justice system officials. The organization and exercise of traditional diversion may be viewed as processes, with or without referral to program elements. In order to adequately understand the role of diversion programs a thorough analysis of the diversion process is necessary. Each major organizational sector of the juvenile justice system (police, probation, judiciary) will be examined in turn.\*

##### A. The Police

Police discretion has been estimated to account for as much as 80-90 percent of all diversion occurring within the juvenile justice system. In one county surveyed by the research team, there were approximately 10,000 police-juvenile contacts while diversion at the probation/judicial levels handled only a few hundred cases (SVR 6).<sup>+</sup> It must be assumed that in this particular county informal police practices diverted the vast majority of contacted juveniles from further processing by the system. To best understand this process, a brief discussion of the police operational milieu is in order, followed by an examination of each police administrative task.

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\*It should be emphasized that when traditional diversion results in termination of intervention with or without referral to outside diversion programs true diversion has occurred. If it results, however, in further informal intervention or referral to diversion programs inside the system minimization of penetration is the result.

<sup>+</sup>In SVR 10 it was estimated that 80 percent were diverted at the police level.

The police response to juvenile problems is a particularly perplexing problem. Youth crime must be reduced, but the rights of the youth must be observed. In the juvenile area treatment orientation maintains at least rhetorical dominance over punitive orientation; thus probation departments and juvenile judges often appear to police as being extremely lenient toward juvenile offenders. Police often view the juvenile court as a "revolving door," lacking the resources necessary to meet the needs of juveniles. At the same time, they acknowledge that juvenile court has an important back-stop function:

If you don't have something to back you up, what are you going to do, how are you going to apply pressure on a kid or parents to go to a community agency? (Police officer, SVR 4)

The above pressures and considerations plus an intense desire to expand and improve their own organizations have led police to develop their own "probation," "judicial" and "treatment" programs. Both the money and the encouragement for greater professionalism is available from federal, state and local government. As more police officers become trained in law and the social sciences there is a natural tendency to believe that they are as capable of making social decisions and providing treatment as probation or judicial officials are. As Wilson observed, one problem of greater police professionalism is the expansion of the police perception of persons in need of services - in this case police "services."<sup>1</sup>

The police have always engaged in traditional diversion. The social approval of diversion as a national policy and the availability of funds for the new diversion has not gone unnoticed by police who are increasingly supportive of diversion.

1. The Patrol Officer

The initial contact between a juvenile and the juvenile justice system typically occurs with a patrol officer. It is the officer in the streets who first exercises the discretion to divert or to further process a juvenile. His/her choice of action is in part determined by:

- (a) working personality
- (b) training
- (c) administrative guidelines
- (d) availability of alternatives

S/he may choose to ignore an incident, to do "something" short of formal processing (diversion) or s/he may institute formal procedures by turning the youth over to the probation department by way of a citation or detention.

The individual patrol officer may counsel, warn and release the juvenile (a "kick in the pants"). This elementary form of diversion may or may not appear as an official police juvenile contact. Even in a police organization with an explicit anti-diversion pattern patrol officers utilize such discretion:

for those police who worked regularly in project areas where there was pressure to relate to the community positively while following up on complaints, the stated tendency was to ignore behavior that was common (crap games, loitering, minor theft, drugs) on the first offense. "You ignore it once but if you see the same kid again, you pick him up" (patrol officer). This type of discretion can only be exercised if a police officer regularly patrols an area. (Research team, SVR 9)

In an ever increasing number of departments the patrol officer has a new option. S/he may refer the juvenile to a police juvenile specialist, juvenile unit or diversion program. Generally, this process occurs by means of a citation to appear before the appropriate person, unit or program.

The citation may or may not appear as an official arrest statistic, depending upon the administrative guidelines of the department. In Millopolis, for instance:

If the policeman on the beat decides to take the child into custody, he will turn him over to a Juvenile Aid Officer (J.A.O.). Both the J.A.O. and the head of court intake insisted this was not an arrest. The Inspector in the J.A. division stated that, "only a J.A.O. can formally arrest a juvenile except in cases where a juvenile is apprehended for drunken driving, using narcotics or murder." (Research team, SVR 8)

In the event that the youth resists such initial diversion (minimization of penetration) he is likely to be officially arrested and turned over to the probation department without experiencing the benefits of further police diversion.

## 2. Juvenile Specialist/Units

In effect the police juvenile specialist and/or unit infringe upon the territory of the probation intake officer or unit. Such infringement may be viewed as a direct result of police professionalism. In Grand City, the head of the juvenile unit sees:

"prevention" as the ideal goal of the juvenile bureau. He purports that (prevention) can be achieved through the process of "education, re-education, and training culture" ...Thus he feels that if youths who are neglected or dependent can somehow be placed under the jurisdiction of his bureau... his officers could instill the "meaning of right and wrong." (Research team, SVR 9)

The Grand City Police Juvenile Unit does not provide direct or referral services and merely acts as an investigative unit. In spite of this, it was expected that a brief encounter with an officer of this unit should impress a youth that crime is wrong. Often, police specialists felt that they were more in touch than the courts with the reality of the juveniles' social situation. One commanding officer thus stated:

We don't have a correctional facility in the area to catch the kids at a young enough age. These kids want someone to take an interest in them. They don't want to be excused, they want to be helped... We must get to the kids at a time when they are able to be gotten to. The judges do an irreparable harm to the kids when they let them off. If the present trend keeps up we will destroy the kids and society. (SVR 9)

As a result of having similar opinions, some police departments have set up direct service programs within their juvenile units which, in effect, are to provide fast, efficient services to "cooperative" juveniles. It is a response to the felt inadequacies of the juvenile court. One of these units

...felt that the juvenile (was) unimpressed with the sanctioning ability of the system. "He simply goes home and forgets about it and pretty soon we see him down here again." The First Offender Program... is to make the first offender more aware of the law and the consequences of his/her behavior in committing the offense. (Research team, SVR 13)

When a juvenile or his/her parents were not "cooperative," the juvenile was sent on to the court because s/he needed or deserved more formal processing.

Police diversion programs can be seen as accomplishing two goals. On the one hand they feel that they can provide the services that probation, due to its large number of cases, cannot. They are not so much diverting away from the probation department but toward their own programs. On the other hand, these same units are diverting juveniles from court processing as the court is considered a place for serious offenders.

In order to accomplish these two goals, police juvenile specialists use a range of intervention tactics from counseling to elementary forms of behavior modification. A juvenile officer thus may counsel, warn and release a youth, "ground" the youth, place on informal police "probation," assign work tasks (washing police cars, or refer the youth to a private diversion program involving intensive counseling or therapy. The juvenile officer

may CWR wichout further action. Such action was termed a "warn job" in one jurisdiction.

The "warn job" is typically used with cases such as shooting dice, obscene phone calls, loitering, and first time theft... Apprehension by the police, a short visit to the bureau, and a "talk" are considered a sufficient deterrent to continuing delinquent behavior. (Research team, SVR 9)

Such options by no means exhaust his/her potential dispositional alternatives which vary from officer to officer and from one police district to another and may be limited by restrictions on the exercise of discretion, and the youth's refusal to cooperate. In Centerville:

If the police choose not to file a complaint but do not want the case completely forgotten an "information only" report can be sent to DYS (probation). The report goes into the DYS master file. The report would show when the child was in previous contact with the police and why. The master file is available to anyone within the juvenile justice system. By using an information only report, the police divert a youth on a particular offense but are able to use this offense against him/her upon renewed contact. (Research team, SVR 10)

In some instances (referral to a private program) the youth appears to be "officially" diverted out of the system (true diversion) although in these cases, informal communication between police and program make this questionable.

Crucial to the referral decision is the informal contact between the significant actors: police/probation and the program director (remember he is a detached county probation officer). If any questions arise about a kid's past experience in TCB or about the advisability of making a particular referral, police/probation simply call the program director to discuss the matter. Communication lines between the program and the official police agencies appear to be frequently used. (Research team, SVR 5)

### 3. The School's Resource Officer

Police outreach or prevention programs have usually consisted of lectures on drug and bicycle laws and/or the development of community recreational

resources (Police Athletic League). A recent development, the school resource officer, tends, however, to blur the distinction between prevention and diversion (or for that matter pro-active patrol practice). The school resource officer is assigned to a particular school with a variety of roles to play. S/he is a counselor, a friend, a lecturer, a guard, a "probation" officer and last but certainly not least a club for school officials desiring a greater degree of legal authority to bolster their power over the students.

His/her presence certainly prevents (or deters) some youths from engaging in acts or exhibiting attitudes that would bring them into official contact with the juvenile justice system. In other cases, however, the school resource officer is the contact with the system and if further processing is to be avoided s/he must initiate the diversion process. The dispositional options then are basically the same as that of the patrol officer with, perhaps, additional training and more respect or cooperation from the youth's significant others (family, teachers). S/he may be viewed by the researcher as a hybrid - a combination of patrol officer and juvenile specialist with an aura of guidance counselor or social worker.

In one community, the school resource officer was quite well received by the students. His civilian dress and low profile had almost negated his status as a police authority. Unfortunately shortage of police funds caused a reorganization of the department and the school resource officer was assigned the additional duties of investigating all status offenses and misdemeanors occurring in his school district. Such investigations may lead to an increased number of arrests. The department did not forget that first, last and always the school resource officer was a police officer - an official of the juvenile justice system (SVR 1).

#### 4. Police Programs

When the police juvenile specialist begins to provide services or treatment to a juvenile he is moving away from the traditional diversion process and towards the programmatic emphasis of new diversion (often in the form of minimization of penetration). In smaller police departments with only one or two juvenile specialists, the juvenile officer generally provides such services his/herself - usually in the form of one to three counseling sessions with the juvenile. (Other similar options would be assignment to work tasks, informal probation, etc.) In larger departments specific programs are established, staffed by police, or police-supervised civilians.

Police programs might simply be attempts to educate youths concerning the law and the unofficial and official consequences of law violations. Such education programs are similar to police-sponsored programs for adult traffic violators (drunk driving schools, traffic safety schools). A typical example is the First Offender Program in Cowtown. Juvenile specialists refer first offender misdemeanants to the FOP program where s/he will receive the four-hour "awareness" lecture by police officers on two successive nights within one month of arrest (SVR 13). Attendance at these lectures is the only requirement of the program. Program staff see ignorance of the law and the consequences of law violations as a prime ingredient in youthful misconduct. Although the results are questionable, they believe that the lower rate of recidivism of program participants (9.6 percent compared to 15.5 percent for a control group) proves the utility of such educational efforts. Such efforts are not always appreciated by clients. One parent, after witnessing an educational slide show, said:

I thought it was a waste of time. I told them after I had seen it the first time that I wasn't sending my kid to that. It won't help anybody. All it does is give the kids ideas... When my last boy got into trouble, I told them (police) to forget it... (SVR 13)

If short term counseling and education are considered inadequate for a particular youth, intensive counseling or treatment may be recommended. In the past such youths would be referred to a private agency or to the probation department which was often viewed as having more knowledge and/or authority to make decisions concerning intensive treatment. Police departments are increasingly providing such treatment programs of their own. Again, Cowtown provides an example by its Police Counseling and Referral Unit (CRU). This unit receives referrals from the juvenile investigators. Referred youths are either repeat offenders, felons, more serious misdemeanants or first offenders considered in need of more intensive handling.

The Counseling Unit consists of one police lieutenant (program director), a psychologist, a research analyst, and 12 police counselors. The youths are processed through a three-phase program:

- (a) intake - needs assignment
- (b) direct treatment (usually group counseling/skills development)
- (c) follow up (6 months to one year)

The various stages of program participation assure youth-police contact for approximately six months. The psychologist (assistant director) of the CRU stated:

We have performance objectives all the way down the line. We have time objectives, process performance objectives and substantive performance objectives which are to insure that the kid accomplishes what we want him to. We have a series of goals starting at Intake and going through follow-up: admit, commit, and data. Our goal is to have them explore and

admit they have problems. Even if they never committed an offense and were railroaded into this by a rotten cop, they still have a problem.

In the direct phase we want him to participate fully in the skills program, to explore and to learn the skills. In the follow-up phase, we want to improve his functioning in three major areas. Before a kid leaves the program he has to be at what we call a level 3 in attendance at school, recreation, and other areas. Level 3 is a minimal acceptance. A level 3 on school attendance is a kid in school every day. If he is not following limits at home, or if he is not in a recreational program of some sort, you can make book that he is going to get busted again. If a kid does not meet these performance objectives he gets recycled.

If we don't get a parent to be a parent, then we won't have much success. The question is where is the kid in all this. Doesn't he have any sayso in what he gets? The answer is very little, and I'll tell you why. We found through our own research and that done by the State Youth Authority that the very factors that we work on are the very factors that differentiate between the kid that gets into trouble and the kid that doesn't. Our program is client centered around these factors. (SVR 13)

It is likely that police programs of this type provide a much more intensive treatment environment and degree of intervention into a youth's life than most court ordered formal probation. The Cowtown Police Department defends such intervention by claiming considerable success (on the basis of its own statistics) in reducing recidivism, numbers of petitions filed and in attitude changes among participating juveniles. Their increase in staff serving juveniles certainly expanded the degree of services available. It also expands the police sector of the juvenile justice system. Whether such programmatic police expansion reduces the amount of juvenile-systems contact or merely further widens the juvenile justice net and thus facilitates greater contact, is a point greatly in need of further research.

## Summary

The time-honored police traditional diversion process amounted to an exercise of discretion. Relatively untrained police officers relied a great deal on bluster, threats and "kicks in the pants," combined with friendly or parental advice and counseling. Usually such diversion was accomplished by the cop in the streets - such acts were rarely elevated to formal status. The new professional police officer, however, is likely to view the situation as one in which the offender is in need of services. Police departments are increasingly providing such services themselves as diversion processes/programs. The cop in the street is relieved of the difficulty of using his/her discretion -s/he shifts responsibility to the juvenile specialist under the guise of diverting the youth from probation. The juvenile specialist - generally treatment oriented - feels that the offender is in need of services. The specialist is encouraged to engage in direct services as a means of diverting the youth from further processing (i.e. contact with probation). In the process a number of issues are typically ignored, particularly the youth's due process rights and the explicit/implicit coercion used to obtain cooperation. The paramount issue being ignored is that processing by the police rather than probation may make little difference to the juvenile. The net has perhaps been widened but juvenile justice officials, police and probation are unlikely to acknowledge the fact.

## B. Probation

A juvenile may come in contact with the probation department upon his/her own volition or upon the instigation of parents or school officials. The great majority of juveniles, however, arrive at detention or appear before a probation intake officer due to a discretionary decision by a police officer.\* Police diversion has either failed or been considered inappropriate for the juvenile and/or the situation in question. In effect, the police initiate more formal processes and the decision to divert or engage in further processing is passed on to an official of the probation department.

It has been customary to view the police as a punitive oriented organization while probation has an aura of "treatment" or social work about it. Probation referral, as a threat by police officials, contradicts this perspective. This contradiction may be resolved, however, by the reminder that the police merely arrest or charge the juvenile with a particular violation of the law; it is the probation department that engages in, and/or recommends sanctions as a consequence of the act-attitude. Probation possesses a greater degree of legal authority or power to intervene into the lives of the juvenile and his/her family.

The development of juvenile probation is an important outgrowth of the juvenile reform movement of the late 1890s. Recent criticism of the juvenile justice system has often been synonymous with criticism of juvenile probation. The theoretical perspective which views juvenile acts/attitudes as noncriminal (hence generally free of due process considerations) and the

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\*In Central City, for example, 93 percent of all referrals to probation intake come from the police (SVR 4).

all-encompassing ambiguity of state juvenile codes, allows considerable discretionary power for probation officials. The ambiguity of a typical state delinquency code is reflected by the following:

A child may be found "delinquent" a) who has violated any federal or state law or municipal or local ordinance; or b) who has without just cause run away from his parental home or other properly authorized and lawful place of abode; or c) who is beyond the control of his parents, guardian or other custodian; or d) who has engaged in indecent or immoral conduct; or e) who has been habitually truant or who, while at school, has been continuously and overtly defiant of school rules and regulations; or f) who has violated any lawful order of the Juvenile Court. (SVR 4)

All of the above, combined with the treatment-oriented "helping service" self-image of probation, makes extensive intervention into the lives of contacted juveniles quite common. Such intervention, however, has come under attack by both the judicial and legislative branches of the federal government basing their opposition upon legal (due process) and social (labeling) theories. Contact and processing by juvenile probation, viewed by the old reformers as a highly positive interaction, has increasingly been viewed as a negative influence upon a juvenile's life. The recent emphasis upon increased diversion in order to terminate potentially harmful further processing by the system must be viewed within the framework of the dispositional options available to probation officials.

1. Probation Intake

Perhaps the most crucial role, relative to juvenile justice system processing, is that of the probation intake officer. When a youth comes into contact with this individual there is typically a formal request for the filing of a juvenile petition. The intake officer uses discretion to honor the request, dismiss the case or implement some middle range course of action. Pressures to "do something" are often quite intense. It is

generally assumed that the youth would not have reached this stage of processing if he wasn't "guilty of something." Dismissal of the case without prejudice is rare. The most numerous dispositions are generally some form of cite, warning and release (CWR)\* or informal probation. For example, in King:

These are commonly known as "nonjudicial" dispositions - the probation officer feels that either because of the nature of the act and/or the circumstances, no recourse to a formal judicial hearing is necessary. If there is to be a "nonjudicial" handling of the case, the following conditions must be met:

- 1) The facts establishing jurisdiction (i.e. delinquent behavior) be definitely acknowledged by the child
- 2) Based on informed consent, acceptance of the jurisdiction of the court be made by both the child and his parents
- 3) Non-judicial dispositions must be agreed to be all parties. (Research team, SVR 4)

a. CWR - This dispositional option is quite similar to the "kick in the pants" used by police. In Governapolis:

Many interviewers (including court intake) felt that control over a child occurs through fear of consequences. Thus if intake feels that they have been able to "scare the shit out of the kid," to "turn him around" or to "ream him out," s/he will be released to the parents.

The crucial difference is that it is an official action. Hence, a formal juvenile file<sup>†</sup> is opened, containing the allegations of the complainant, a social history (school records, etc.) and the disposition (CWR).

A CWR "adjustment" might even occur entirely on paper. In one city the police cite a juvenile to probation (paper referral); if the offense is of a very minor nature the case may be "adjusted" by simply notifying the parents by

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\*In Ajax, for example, 60 percent of all contacts were disposed of with CWR (SVR 1).

<sup>†</sup>Not an official juvenile record.

mail that the child was referred to juvenile court and that the court feels informal adjustment is sufficient. A list of community "helping" agencies is also provided. (Research team, SVR 12)

The juvenile and his/her parents may demand the filing of a petition if innocence is claimed but this is also rare - the 10 or 15 minutes in the intake officer's office may seem a small price to pay for an end to further processing by the system even if it entails an implied admission of guilt to the allegations. The complainant may be assured that the youth was "punished" (the warning); the juvenile system has disposed of a case cheaply and quickly; and the youth and his parents may generally feel that they "got off easy," or avoided frustrating interaction with more officialdom - especially the distasteful experience of "going to court." Although a record or file now exists and may prejudice the official response to subsequent acts/attitudes of the youth, true diversion by means of the traditional diversion process has been accomplished. The youth has been turned aside from further juvenile justice system processing (SVR 1).

b. Informal Probation - Many states have added to their juvenile codes a legal provision for "informal probation," "consent supervision," etc. In effect they have approved of probation - imposed probation without an adjudicated finding of guilt. In all implementations of this disposition, the juvenile must implicitly but usually explicitly acknowledge guilt. Participation is "voluntary" but coercion is implicit though hardly subtle. If agreement on the disposition is opposed, then a petition will be filed (SVR 7).

Conditions imposed under "informal probation" vary:

- (1) Placement on a regular probation caseload for a set period of time (45-90 days).

(ii) Mere "good behavior" during the duration of probation status.

(iii). Participation in a counseling or treatment program.

The conditions imposed by the intake officer are limited by the tolerance of the youth and/or his/her parents. Enforcement of any or all conditions depends entirely upon the ability and willingness of a particular probation organization to do follow-up. Generally, however, such follow-up is quite lax (SVR 10).

Unless one of the conditions stipulated participation in an explicitly organized, justice system diversion program, the traditional diversion process (i.e. discretionary judgment) appears to have ended further juvenile justice system processing. However, probation departments stipulate that failure of a youth to honor the conditions of informal probation may call forth a reinstatement of processing on the original complaint plus an official note in the juvenile's record that informal probation was tried and failed. Then too, supervision by the probation department and the fact that the youth has certain "conditions" placed upon his freedom of action, by the juvenile justice system, hardly indicates that true diversion or turning aside from the system has occurred. Rather, diversion has become minimization of penetration. A juvenile file/record is established, guilt is admitted or assumed and continued system intervention will occur. Such intervention has a tendency to encourage the development of programs by the system in order to assure more services than those customarily offered by field supervision staff. Such programmatic supports will be discussed shortly.

Additional options available to the intake officer are referral to a private or public program outside of the juvenile justice system or the filing of a petition for adjudication. The latter option is, of course, the intake

officer's method of escalating societal response by means of more formal processing (court adjudication). Filing a petition greatly reduces the likelihood of diversion. Referral to outside agencies may be accompanied by a CWR disposition which closes the case or by placement on informal probation which is conducive to further juvenile justice system intervention. If the case is officially closed via CWR plus a referral recommendation true diversion by means of traditional processes has again occurred. Failure of the juvenile to act upon the referral recommendation generally will not have immediate consequences in the form of further system processing and intervention will be terminated.

The consequences for diversion inherent in the discretionary choices available to the intake officer should be clear:

- |                        |   |                             |
|------------------------|---|-----------------------------|
| (1) Dismissal          | = | no guilt                    |
| (2) CWR                | = | true diversion              |
| (3) Informal Probation | = | minimization of penetration |
| (4) CWR + Referral     | = | true diversion              |
| (5) Petition filed     | = | further processing.         |

## 2. Modification of the Intake Process

The intake process occurs when an agent of the juvenile justice system possessing legal authority takes action or refuses to take action. In specific instances such authority might be delegated to others or, by means of administrative guidelines, be held in abeyance pending the actions of the parties to accusation. In the first instance, diversion program personnel may be given total intake authority for certain categories of offenses or may be asked to participate in the intake disposition through recommendation (the Sacramento Model). Changes in some state and federal legislation, relative to status offenses, appear to have had the effect of changing intake jurisdiction from juvenile justice authorities to other government agencies - usually a welfare or children and family services department (this will be

discussed in detail in Section Five). In the second instance, (usually status offenses) the parties "cool off" and no official action is taken and/or they seek resolution of the problem outside of the juvenile justice system on their own volition and the case is ignored or officially dismissed.

In a considerable number of jurisdictions, statutory or administrative guidelines demand the participation of the district attorney's office in all decisions relative to dismissal, informal adjustment or filing of juvenile petitions. The intake function may be viewed as a legal action requiring the knowledge and training of a lawyer:

How is a guy who doesn't have a law degree going to determine whether a charge is a good charge, whether there was probably cause for arrest, and exactly what kind of crime was committed... I'm not knocking probation officers (but they aren't qualified to do this. (Asst. District Attorney - SVR 9 and SVR 2)

As a general rule, however, all status offenses and minor misdemeanors (first offenses, etc.) are routinely processed totally by probation intake and the district attorney's office gives them the rubber stamp (SVR 9). In felony cases or cases that have angered the public (shoplifting, joy-riding) the district attorney may play a more positive role, even to the point of actually sitting in on intake or detention hearings (SVR 12). In jurisdictions that grant the above powers to the district attorney's office, the final intake decision is legally that office's responsibility. Informal working agreements (between probation and district attorney) based upon the dual desire to reduce work loads in the usually overloaded D. A.'s office and to speed up the decision-making process, serve to make day-to-day operations virtually indistinguishable from the more traditional intake process. In Grand City 50 percent of all non-serious cases are referred by the D. A. back to probation for handling (SVR 9). Even in the exceptions

noted - felonies and special categories - the regular intake decision would hardly differ from that of the district attorney. Obviously a change in philosophy at the district attorney level could drastically effect the intake procedures. The potential power of the D. A.'s office was again stressed by the D. A. of Grand City:

We are one of the last vestiges of authority for kids; certainly not the schools anymore. We have the capability of jamming a kid to bring a situation to a head because of our power to petition and the inherent power of the court to send a kid to an institution. (SVR 9)

The philosophy and actions of the juvenile court - the judge or referee - may have great impact upon the intake process. If the court makes it known that status offenses are undesirable cases that unnecessarily overload the adjudication process, one might expect a rise in dismissals, CWRs and informal probation or other adjustments in that area (SVR 1 and SVR 3). Similarly, a judge's personal disdain for a particular offense (drugs, alcohol) might place pressure upon intake to file petitions in all such cases. Typically, probation is an organizational arm of the court. Although the chief probation officer is the titular head of administrative services the judge's role is crucial; personnel in the lower levels of the hierarchy are likely to follow his lead.

### 3. Probation Investigation

If the intake officer decides to file a petition the next step in juvenile justice system processing is a more thorough investigation of the case with the purpose of writing a probation recommendation (report) to be presented at the adjudication hearing. The investigating officer may find that the facts of the case call for a dismissal or that the complainant, the juvenile, or the parents, have had a change of attitude and some disposition short of adjudication is now possible. In most jurisdictions formal or informal

rules allow the investigating officer the same discretionary power as the intake officer. Actual procedures may vary to a considerable extent such as:

- (a) The judge may sign blank dismissal forms to be used at the investigator's discretion.
- (b) The case may be sent back to intake with a recommendation.
- (c) The investigation officer may CWR, place on informal probation or make outside referral.
- (d) The case may be sent to the judge with a recommendation for judicial "diversion" (this conceptual complexity will be discussed shortly).

The investigation process is the last phase of juvenile justice system processing wherein diversion in either major form can occur without recourse to some form of adjudication.

#### 4. Probation Programs

The New Diversion emphasis upon developing programs has not been overlooked by probation officials. Pressure upon probation departments to divert juveniles from further system processing has paradoxically led to the development of system controlled diversion programs. In effect, probation may now divert a juvenile to probation. Such activity, of course, is acknowledged as minimization of penetration - the juvenile has avoided the next step in formal system processing, the adjudication hearing.

A common complaint concerning traditional diversion is that the lack of referral agencies (programs) eliminates the middle range of options available to police and probation officers. S/he supposedly is faced with either dismissing, warning or further processing. The new diversion attempts to rectify this situation by creating dispositional alternatives outside of the juvenile justice system (i.e. YSBs). By redefining diversion as minimization

of penetration the system sought to develop its own programmatic components in the form of police and probation diversion units. Probation diversion units generally are oriented towards status and minor or first offenders.

Probation diversion units or programs fall into two recognizable but overlapping categories:

- (a) Extensions of the intake function
- (b) Distinct treatment programs (referral sources).

Due to the fact that all personnel are probation officers and generally maintain a close working relationship with other probation units, operational overlap is perhaps inevitable. Even if formal administrative rules prohibit certain functions (i.e. intake) the informal nature of the entire process and the ambiguity and/or misunderstanding of program goals tends to mitigate against strict adherence to defined tasks (SVR 1).

a. Extensions of the Intake Function

(1) Crisis Intervention. It is generally maintained that a large number of cases require only short term, immediate counseling to resolve a particular crisis without further processing. The intake process (the initial interview) may thus be extended to an additional one or two sessions or contacts with an ultimate disposition of dismissal or CWR. Although actual contact with the juvenile justice system is thus prolonged, formal processing is avoided. In one probation department it was found that the intake unit had been reorganized as a "Screening and Crisis Intervention Unit" (SCI). Built into SCI was the ability to do short-term counseling. This enabled the court (probation) to deal with the juvenile and family immediately - without further (more formal) involvement with the court. Both the supervisor of SCI and the director of the juvenile center felt that this was the time when many problems could be solved or a referral made that would

discontinue further involvement in the juvenile justice system. It was therefore a priority goal to have the best staff at this point in the process (SVR 1).

(2) Intake and Long Term Counseling/Treatment. Examples of this format tend to be modeled after the Sacramento 601-602 Program. A separate group of offenders, usually with status offenses and perhaps minor misdemeanors, or first time minor felonies, is selected as a target population. Juveniles charged with committing one of the selected offenses are routed to the specialized program which theoretically initiates the regular intake process with the option of employing long term counseling if the juvenile and the parents are willing to cooperate (SVR 6).

The combination of intake and treatment poses some interesting questions concerning the voluntariness of the juvenile/parents' acceptance of services. There seems to be a strong tendency for the probation officer/counselor to "sell" his services during the intake interview. At the Richville County Family Diversion Program:

The staff admits to using a certain amount of coercion in getting family members to agree to joining the program... The staff's justification for using some coercion is that many parents are so disgusted and disappointed with their child's behavior that they are unwilling to put out any effort to help during the crisis... The staff's main objective is to keep the child out of court and out of detention. (Research team, SVR 6)

The officer is committed to the efficacy of counseling and tends to ignore or downplay the role of legal authority. The clients, however, are often unsophisticated concerning counseling but extremely anxious about the power of legal authorities. It is customary for clients at the intake level - intimidated by the aura of legal authority - to agree to almost any suggestion offered by the officer. If that officer is clear about the consequences

of non-participation in the counseling program, the resultant cooperativeness of the clients is hardly surprising and hardly noncoercive.

A variation of the Sacramento model is evident in the creation of irregular intake positions such as that of "arbitrator." Again selected offenses come to the attention of a specialized individual or unit who may arbitrate the case. The only difference from regular intake is the individual's specialization and the availability of specialized programmatic support. In one site visited, the arbitrator had the same function as a regular intake officer.

Both Mr. M. (juvenile judge) and Mr. C. (county prosecutor) agreed that the arbitration hearings did not raise enough legal problems to require that the arbitrator be a lawyer. Mr. C. classified the arbitrator as "nothing more than a glorified caseworker, handling the case on the same informal 45-day basis as the caseworker over there (Department of Juvenile Services)." Mr. C. maintained that it was more important that the arbitrator have a stern fatherly image. (Research team, SVR 2)

The arbitrator performed his role, however, in a pseudo-judicial manner.

All the trappings of a court hearing surrounded the "intake" interview

- flags, an elevated bench or desk for the arbitrator and a high degree of formality:

The proceeding is obviously designed to resemble a court trial... This setting clearly does have a stronger impact on the child than a mere intake conference would. Most youths are visibly anxious during the proceeding... All of the youths interviewed admitted that they were frightened during the hearing. This is the normal reaction, according to one of the field workers, among first offenders and children who have not had experience with the real juvenile court, but who may have participated in regular intake procedures. (Research team, SVR 2)

The C. A. arbitrator exercised all the traditional dispositional alternatives of intake with the additional option of placing a youth in the C. A. Program. This program emphasized work assignments as treatment/punishment

for the offense contrary to the strong emphasis upon counseling evident in the Sacramento model. The arbitrator concept - if disassociated from its programmatic context - appears to be nothing more than specialized intake.

The philosophy of the person holding the arbitrator's position is clearly the decisive factor in determining how repressive the program will be, since he has almost unfettered discretion in handling a given case. (Research team, SVR 2)

In the particular site visited, it seems that probation hoped to divert from further system processing by using ersatz probation personnel (see 5. Probation Personnel ) within the context of a more formal pseudo-judicial milieu (SVR 2). Such informal manipulation of legal authority again raises the question concerning the degree of coercion relative to the clients' "voluntary" participation.

b. Distinct Treatment Programs (Referral Sources)

Probation officers are typically trained in the field of social work - particularly in counseling techniques. Professional confidence in their own training and abilities plus the effects of other socio-psychological questions raised earlier, tend to make probation officials leery of the unprofessional and/or untrained individual found in so many "outside" referral programs. This results in the creation of probation programs staffed by regular and/or ersatz probation employees - controlled by the probation administrator and consequently held accountable and trustworthy by probation and other authority figures (police, school officials). The above considerations are, of course, true of programs/processes connected directly with the intake function as well.

Such probation programs serve as internal referral sources (diversion programs) for the intake officers. They generally serve selective target populations such as status offenses, drug abuses and traffic offenses.

Almost invariably, they rely upon some particular counseling strategy (SVR 1). Although participation in such programs is generally projected as short term crisis resolution, there is a strong tendency for the counselor/probation officer to hang on to a case even after the crisis or offense that initiated the referral is resolved. In the AID program:

Counselors seem to be involved with the client for as long as two years, certainly longer than expected for youths that have had little or no involvement with the juvenile justice system. The new director seems to recognize that staff tend to hold onto a client too long and is encouraging more referral and less direct service counseling. (SVR 1)

Clients may participate in such programs upon the suggestion of intake that they volunteer (case is then officially a dismissal or CWR) or participation may be a condition of informal probation. Such programs are also often used by the courts as an adjudicated disposition and are apt to receive a portion of their clients from police, school or self referrals. The variety of referral sources and hence the variety of initial contact with law enforcement officials makes it difficult for the researcher to categorize such programs as diversion. They also serve the function of prevention and as alternatives to detention.

The AID program began as an outgrowth of the intake office. It established itself as a separate unit oriented to prevention and acquired the respect and met the needs of regular intake; in effect it has become a diversion program. Staff and probation administrators, however, want to return the program to its role as a prevention program by means of changes in intake guidelines. This might result in the program doing its own intake and thus becoming more like the programs discussed under category a. Extensions of the Intake Function. Presently, program staff work informally with intake officers to decide upon program relevancy for particular cases.

Intake often informally refers a youth/parents to the program without taking any official action. Such action is viewed as "prevention" even though a violation of the law may be self evident (SVR 1).

#### 5. Probation Personnel

The expansion of probation services into the programmatic realm (as distinct from traditional processing and supervisory roles) has often led to an increase in personnel. In order to provide intensive and extensive direct counseling services probation departments must increase their staff. The direction of increase has been towards individuals with a commitment to the philosophy of social work (i.e., counseling). Many such individuals might not normally seek work with a civil service agency - particularly one with a law enforcement mandate. The punitive and treatment responses are often viewed as contradictory. In particular, coercion may be viewed as counterproductive to counseling success.

Promises of good salaries, small caseloads, freedom from normal bureaucratic controls, intake or case selection discretion, and a chance to "save" juveniles from becoming criminalized may be quite seductive. Official job titles such as "probation officer" are often viewed as mere technicalities, for budgetary purposes, by employer and employee alike (SVR 6). The new juvenile justice system employee becomes what might be termed an ersatz probation officer. His/her initial job and career orientation is not toward the probation department or the juvenile justice system but rather toward some noncoercive higher status role in social work (i.e. private practice). The Wayward Youth Project staff (in Governapolis) is young and zealous about what they are doing, but most view the Project as a stepping stone. Most of them are right out of college with B.S.W.s and have aspirations for further education. Few see themselves as staying for a long period of time (Research team, SVR 3).

Ersatz probation officers, however, are generally supervised by regular probation officials and must interact with others (police, intake) who are likely to take the more punitive, law enforcement mandate quite seriously. Also, they become members of an organization which itself experiences conflict over contrasting role orientations - punitive vs. treatment. Frustrations due to role conflict and/or client hostility may lead ersatz probation officers to rely more heavily upon their legal authority.

The situation may be further complicated by transferring a liberal, career oriented, probation officer to a program with the mandate to "act like a counselor instead of a cop." Such individuals often begin to forget they are probation officers - wielders of legal power - they become in effect ersatz probation officers. A threat of transfer back to a regular position, and/or frustration created by bureaucratic stumbling blocks to successful counseling may result in such individuals leaving probation. They go back to school (for an MSW) or seek employment with other agencies (mental health, welfare, schools, etc.). They may become ardent advocates of juvenile justice system reform - this may hasten their exodus from the probation department (SVR 1).

A major variant of the development of probation department internal diversion programs is the creation of external public or private agencies staffed by probation officers either on leave or on loan to the "outside" agency. Such officers are also ersatz; but most likely they are ersatz counselors - their mind sets and their career orientation may remain those of the juvenile justice system.

### C. Judicial Discretion

The present research endeavor chose to define diversion as alternative forms of processing occurring after initial contact with an agent of the juvenile justice system and prior to adjudication. An attempt has been made to clarify the issue of when and by whom official contact is made; adjudication must now be defined. Initially the research team took for granted that the adjudication process occurred upon a juvenile's contact with the juvenile court judge or referee. The fact that such contact might be informal as well as formal was overlooked. What does a judge do when he acts "officially" outside of and prior to the adjudication hearing? For instance, in one case official guidelines mandated that:

In cases where there is a possibility of extreme public reaction to the release of a juvenile charged with a serious offense, or a disagreement is presented by parents, lawyer or law enforcement concerning the release or admission of a juvenile, the Detention Screening Officer (intake) will immediately contact the judge for consultation and advisement prior to making final determination. (SVR 12)

Decisions by a judge are generally viewed as quite official by other court staff (probation) and by defendants (juvenile/parents). Is the judge engaging in informal adjudication or is he in effect engaging in diversion?

If the juvenile judge or referee signs blank dismissal orders he has, legally speaking, adjudicated the cases through a dispositional decision to dismiss. The probation investigating officer might make the actual decision but it remains a court order. Most practitioners would agree that such activity is diversionary - the juvenile has been "turned aside" from a formal court appearance. Similarly if a judge utilizes "continuances" with the recommendation that if the juvenile participates and demonstrates success in some diversion program (or merely by staying out of trouble for a specified period of time), then the case will be dismissed. Such decisions, however,

cause considerable confusion for diversion researchers with rigid conceptualizations.

In Millopolis:

if the child goes to court, one of the alternatives available to the judge is informal referral which is conditional in that the case is "held open" and will be reopened if the child fails in the program. (Research team, SVR 8)

In Centerville, judges may, under state law, "withhold adjudication,"

if s/he (the judge) finds that the child named in the petition is a delinquent child, but finds that no other action than supervision in his home is required, he may in his discretion, enter an order briefly stating the facts upon which his findings are based but withhold adjudication and place the child on probation (informal). (SVR 10)

These procedures place the juvenile in the gray area between diversion and adjudication. Again a judge might conduct "informal" hearings at which he recommends referral or informal probation or detention (this process may occur at the official detention hearings as well) as a means of avoiding formal adjudication. The juvenile's participation in such agreements may be viewed as "voluntary" by court officials including the judge, but a researcher may observe an implicit coercion process. In Centerville public pressure to reduce shoplifting by juveniles resulted in the creation of a "volunteer" Shoplifting Prevention Program. Offenders were allowed to participate in community work programs to compensate for their wrongdoings. The implicit coercion here is that they must appear before the judge who admonishes the evil act and accepts letters demonstrating successful completion of restitution. The program is also used as punishment for youths who will not admit guilt but are later adjudicated guilty. There is little difference between being diverted in this manner and being adjudicated (SVR 10).

Much of what has been outlined above would be viewed as diversion or "Pre-Trial Intervention" if it occurred at the adult level. In juvenile

cases, however, even the practitioner's use of diversion generally views avoidance of juvenile-judge contact as the primary goal of the diversion process. Hence "judicial diversion" generally seems to be a paradoxical term. If, however, diversion is viewed as minimization of penetration, once again the goal has been accomplished. Through "judicial diversion" or "informal adjudication" the judge diverts a juvenile from himself (the judge) by means of informal processes short of formal adjudication.

#### Summary

The preceding sections have analyzed the processes and programs relative to diversion occurring within the juvenile justice system. Some of the processes serve to terminate the system contact thereby turning aside the juvenile from further systems processing (true diversion). Other processes provide for a minimization of penetration into the system by developing informal procedures as an alternative to formal processing. Such informal procedures tend to act as catalysts for the development of programmatic components. Diversion programs internal to the system remain true to the practitioners' definition of diversion as minimization of penetration. Because they are there, programs serve to encourage police, intake and others to make use of them. The processes of traditional diversion might have led to merely a dismissal or a warning or referral to an outside agency, perhaps satisfactory to the youth but frustrating to the official. The new diversion, with an emphasis upon programs, provides officials with the option of a more satisfying referral. In the case of juvenile justice system inter-  
nal (police/probation) programs or in the case of programs staffed and/or

controlled by the system, the referral disposition appears "safe."

Diversion programs provide needed services and it becomes increasingly difficult for juveniles to avoid an ever-widening net of the juvenile justice system.

## SECTION FIVE: DIVERSION OUTSIDE OF THE JUVENILE JUSTICE SYSTEM

In order for a juvenile to experience diversion from the juvenile justice system s/he must first come into official contact with that system. Once such contact is made the official may or may not initiate something called diversion. The youth may be directed (formally, informally) to participate in a diversion program. Programs "outside" of the juvenile justice system fall into three broad categories: Paralegal programs; Alternative legal structures; and Independent nonlegal programs. There is extensive overlap between categories and they are utilized only as heuristic devices. Each category will be discussed in detail.

### A. Paralegal Programs

Programs under this heading may range across a continuum relative to greater or lesser degree of formal and/or informal control by the juvenile justice system. Such programs may be an offshoot or arm of the juvenile justice system, depending upon the parent system for administrative control, staff, funds, clients, and physical space. When a program meets all or most of the above criteria it may be referred to as a captured program. Such programs are theoretically "outside" of the system but are so closely connected to it that clients, researchers and program staff have a great deal of difficulty seeing the difference. One of the programs visited (Kumasi TCB, SVR 5) by the research team prides itself upon the fact that it is community controlled; yet the program director and the youth guidance counselors (primary treatment staff) are all probation officers on detached duty from the county probation department. After a term of service with

the diversion program such individuals return to regular duty with the probation department.

Supposedly such officers are independent and have no formal contact with the department in regard to their temporary assignment. The research, however, revealed that informal contact between program staff and regular probation/police staff is crucial to the referral decision.

If any questions arise about a kid's past experience in TCB or about the advisability of making a particular referral, police/probation personnel simply call the program director to discuss the matter. (SVR 5)

The police viewed the program as an "official" agency and supported it because of its "official" nature. Juveniles generally viewed the program as part of the system:

TCB is good in that you don't feel like you're a criminal. With TCB, you're not on probation but they're both the same with a different title added. (Youth, SVR 5)

I think it's an extension of the probation department but it's a relaxed, informal atmosphere. [But] you do feel like you're doing some kind of time when you're doing your work task. (Youth, SVR 5)

The program was viewed by both regular probation and police as involving closer supervision than regular probation, and regular probation was having difficulty in getting youths to "volunteer" for the program.

TCB probably deals more harshly with misdemeanants than probation does. Lieutenant D. of Raintree County Police said that "juvenile probation is probably more loose, more liberal with a juvenile offender than TCB." Mr. B. of the municipal council pointed out that "a kid will opt for probation (where he knows he'll probably be cut loose) over TCB where he knows that he'll have to do free work or attend regular counseling sessions." (Research team, SVR 5)

Program funding is based upon the number of youths diverted from police/probation. Regular intake, in order to help the program, decided to take a closer look at cases generally closed out at the intake level for possible referral to the program (SVR 5). All participants felt the program had an aura of legal authority; staff, funds and a good deal of ideology depended upon a close operating relationship with the traditional juvenile justice system. In essence the program was a paralegal entity captured by the system. Arbitration boards and community panels or committees are similarly susceptible to capture or control.

The Juvenile Court Conference Committee in Needleville consists of 12 to 20 people appointed by the judge, a chairperson and paid consultant - appointed by the judge - and a secretary chosen by the committee. The consultant is a detached probation officer. The committee handles only categories of cases specifically selected by the court, receives all its referrals from probation intake and refers a youth back to the court (intake) if services are refused or the case appears too difficult. The committee is for all purposes an informal, semi-official arm of the court. It does, however, maintain the facade of being "outside" of the system. Its paralegal nature seems obvious (SVR 12).

Programs may assume a paralegal nature even if they control their own administrative components such as staff and funds. The crucial dynamic is the degree of control (formal or informal) that is acceptable relative to program clientele (the juveniles). If a program accepts juveniles who participate as a condition of their status on informal probation, progress reports and/or dispositional recommendations may be mandatory. If a youth knows that his/her progress is being recorded and reported upon to legal

authorities s/he is likely to view the recorders and reporters (counselors) as agents of that same authority. Similarly informal exchanges of knowledge concerning the client (records, recommendations, and gossip) tie the "outside" program closer to the system. "Failure" in a program may mean a harsher disposition if the youth and system come into contact again - if the system has knowledge of such "failure," formally or informally. In King, for instance, police juvenile officers stated that they reserved informal feedback from community agencies which was used as a guide if the juvenile came into contact with the police in the future (SVR 4).

The attempt to maintain close working relationships with referral sources (police, probation) may cause a program to alter its policies and procedures. In order to demonstrate its viability a program may cooperate with legal agencies even to the point of ignoring the clients' legal rights (confidentiality). The power of the legal agents/agencies to control client populations (divertees) thus encourages programs to cooperate - this may prove to become in reality cooperative co-optation. The "outside" program becomes in effect an extension of the juvenile justice system rather than an alternative to it.

#### B. Alternative Legal Structures

Recent pressures to decriminalize status offenses and divert the offenders from the juvenile justice system have created some unique responses. Through legislative and/or administrative rulings, in some jurisdictions, status offense cases are being transferred or diverted to departments of family or children's services. Such departments are usually controlled by the welfare department or, if independent, adapt a welfare-

social work philosophy. Normally such agencies downplay their role as legal authorities; they instead act as counselors or family aids. The atmosphere of the Wayward Youth Project in Governapolis (welfare personnel) is permeated by:

The loose structure of the staff which is reflected in the attitudes of the staff toward the clients. The staff is committed to the family crisis intervention model. Their attempts to maintain this profile have brought criticism from outsiders who feel the counselors tend to over-identify with the kids. (Research team, SVR 3)

In order to assure complainants that such "services" are received, welfare oriented public agencies may see a necessity to develop all the trappings of legal authority customary in the juvenile justice system. The result may be the creation of a parallel juvenile justice system.

The absorption of juvenile status offenders by welfare oriented public agencies was apparent in two of the selected research sites. The most typical case was that of Governapolis (SVR 3). As outlined in Chapter V, the state revised its juvenile code with a new classification of "Wayward Youth." In 1975 the administrative judge of the Governapolis juvenile court decriminalized status offenses by administrative fiat, insisting that first some, then all, such cases be referred to the county child service department.

The judges and referees of the court have stated that they have failed with status offenders and no longer want them in court. They feel they have failed because "wayward youths" do not fit neatly into legal terms. (SVR 3)

In the state in question all counties are required to have either a board under the welfare department or a separate department that deals with child welfare. Jefferson County and Governapolis chose the latter route,

creating the Jefferson County Children Services Department (JCDS). Since 1968 the JCDS had been handling "wayward youths" usually contacted through other child welfare related problems (dependency cases, etc.) (SVR 3). The creation of a pilot project designed to deal specifically with status offenders (The Wayward Youth Project) provided the juvenile court with an already existing administrative organ to which it could transfer responsibility for offense cases.

The Wayward Youth Project of the JCDS has assumed, relative to status offenders, all the dispositional options of Probation Intake. The Project has elected not to use its legal options relative to court referral - except in extreme cases. Differing from the Probation Intake model the Wayward Project allows contacted juveniles (and/or parents) to refuse services with no further action on the part of the Project.

Intake/crisis workers cannot force clients to accept services, and the Project does not use the court as a club. . . If a family or youth refuses services, the Project will first try to persuade the family. If this does not work they take no further action.  
(Research team, SVR 3)

It would appear, however, that the offer of services contains at least implied coercion for those juveniles go directly from detention to project intake where they are then offered options. It is apparent that such juveniles are likely to view the project as part and parcel of the system.

Project staff appear to desire an "open" or voluntary program as free as possible from reliance upon legal authority. The parent organization (JCDS) however does not seem to share that view and is pressuring the program to change its policies. Court Intake, too, appears hostile to the program. Combined pressures from these agencies appears likely to result in the creation of JCDS "secure facilities": a detention center for

status offenders who are uncooperative and/or are awaiting project intake. Court Intake (probation) also appears ready to overload the program with referrals and re-referrals in the hope that such cases will be redefined as "dependency cases" so that the court must assume wardship and implement emergency custody and/or placement.

There is a great danger that the welfare model will become in effect a parallel legal structure, little different from the traditional juvenile justice system. The Project has the power to make all dispositional decisions during their intake process; JCSD is maneuvering to obtain support and funding for a secure detention facility for unruly wayward youth and it already has the power to re-define status offenders as dependency cases in order to bring court action. The pervasive opinion that welfare cases should remain the jurisdiction of the juvenile justice process further supports JCSD's propensity for inculcating the trappings of a legal system within their organization. To the research team it appeared that in Governapolis:

The JCDS is creating its own juvenile justice system based upon a social welfare model. As status offenders were once detained, counseled and warned, watched over and institutionalized, (in the juvenile justice system) so will they be in the alternative system. (SVR 3)

In the process of transferring jurisdiction from one government agency to another semantic riddles may occur. In Excelsior the statute redefining status offenses as "dependency" cases has resulted in two classes of dependents; the "good" dependents (standard case) and the "bad" dependents (status offenders). In addition the legislation provides for a strange escalation of offense categories based upon a numbers game rather than the actual seriousness of a particular offense; thus:

For the purpose of this act, the first time a child is adjudicated as ungovernable, he may be defined and treated as a dependent child. . . For the second and subsequent adjudication of ungovernability the child may be defined and treated as a delinquent child and all the provisions of this act relating to delinquency shall be applicable (State Juvenile Code).

It would seem the state wants to embrace diversion but is still attached to the efficacy of standard processing when the "need" arises. A subtle but important change as a result of this law was the replacement of the CINS category (non-delinquent status) with an administrative loophole that now allows a status offense to be categorized as delinquency (SVR 10).

#### C. Independent Nonlegal Programs

The organization of a diversion program outside of the system must consider at least three important factors:

- (1) Justice system control of referrals;
- (2) The legal status of clients as juvenile offenders;
- (3) The degree of freedom vis-a-vis the funding agency/source.

Any program attempting to remain nonlegal and independent of the juvenile justice system (hence non-paralegal as well) must consider the effects of these factors.

If a program's philosophy and/or procedures are met with disapproval by the primary referral sources (police and probation) it may be difficult for the program to obtain clients. As one sheriff mentioned, "When they're (programs) not handling the referrals we send them right, we have ways of not referring." (SVR 5) Handling a referral "right" might mean reporting to the referral source upon the progress and/or likelihood of success of the juvenile in question. If a juvenile has been processed and given some

legal but "informal" status (i.e. informal probation) such reports may be viewed as mandatory. A program might choose to ignore demands, but unless unique circumstances are present, the program would certainly risk its chances of survival. If the program receives its financial support directly or indirectly from the juvenile justice system, it will likely experience a great pressure to meet the needs of that system. If it is able to draw upon nonjustice system funding, it may maintain a greater amount of independence from that system. Few of the programs we visited approached independent nonlegal status. The organizational dynamics of one program particularly revealed some of the problems of such programs.

Project HELP was created "to provide short term emergency foster care service aimed at meeting the placement needs of juveniles experiencing family problems which prevent them from returning home." (SVR 4) Project HELP is a church sponsored program, the creation of a charismatic personality, Father Joe, Assistant Rector of the King Church. It was this individual's ability to win the trust of participating families and juvenile justice system personnel, that set the tone for the program. The program was designed to be nonbureaucratic - other than Father Joe and the foster parents themselves it employs no staff and keeps no records (other than 3 x 5 referral cards on participants). A particular advantage is the ability to exist without outside funding. Most families offer their sources voluntarily and as the program provides no direct services, in the treatment or social welfare sense of the term, it has virtually no operating expenses. It does, however, have some problems or potential problems in its relationship with legal authorities.

Project HELP seems to have filled a void in the area of temporary emergency shelter care. Father Joe commented upon the response of potential referral sources, "We were like a dead animal in the middle of the highway and the vultures came down." (SVR 4) The needs of the referral agencies and the goals and resources of Project HELP do not always coincide. The project originally hoped to service 8-12 referrals a year but in 1974 it received 307 referrals - 100 of which were housed. Obviously both the program and its use by referral sources have outgrown initial goals and expectations.

Referrals from legal authorities account for about 35 percent of all potential housing cases. Primary legal agencies are the juvenile court (25 percent) and the police (9 percent). Each agency has its own needs and interpretation of the proper mode of using project services. The police view the project as a crisis intervention agency which allows for a tense family situation to "cool off." Thus police exercising discretion divert a family (or juvenile) to the program instead of further system processing (i.e., referral to probation). Probation may divert for the same reason, hoping to avoid official court contact (adjudication). In either case, once a referral is made the legal agency terminates its role and does not officially follow-up the case - true diversion has occurred.

Greater legal use is made of project services, however, Probation may refer a juvenile as an alternative to detention with the intent of further processing the case (adjudication) and the court and/or welfare may place a ward with the project while awaiting permanent foster home placement. In such cases the project must maintain interaction with authorities; if such a youth in one of the host homes runs away it must be reported. The most

pressing problem of such interaction is that detention and temporary pre-placement have had the tendency to become relatively permanent or long-term placement to the dismay of participating families and contrary to the crisis intervention aims of the project. Paradoxically the success of the project as a referral agency created legal difficulties between the project and one of the referral sources - the welfare department.

As the project demonstrated its success it was emulated by other programs around the state. The state welfare department grew nervous about the legal status of such referrals as a state law mandated that all homes used for such placement must be licensed by the Commissioner of Welfare. The welfare department attempted to impose the licensing requirement on Project HELP and issued an order to all welfare staff to stop referrals until the law was complied with. (Welfare staff generally complied with the order except when at 4:00 p.m. on Fridays they had no other placement for their client.) Father Joe and project host families objected to the licensing requirements because "the program was designed to be simple, non-bureaucratic and no red tape." It was felt that involvement with a state agency could easily destroy this (SVR 4). This issue was resolved after great effort by Father Joe and other prominent individuals (i.e., juvenile court judge) whom he called upon for help. Legislation was proposed and passed to enable an "emergency host home facility agency" (Project HELP) to approve of "emergency host home facilities." Thus the program avoided becoming enmeshed in the welfare bureaucracy by winning a battle against one of the very agencies that wanted its services.

The personality and energy of Father Joe and the determination of the church to remain in control of their program are the primary reasons for

the program's ability to continue as a relatively independent, nonlegal entity. Father Joe has now been replaced by the assistant director of the local YSB who will divide his time between the two agencies (Project HELP and YSB). He will remain on the payroll of the YSB, which is funded by the town of King and receive a stipend from the church for his work on HELP. The town council has already expressed some dissatisfaction with the acceptance of referrals from outside of King; they wanted to be assured that "no town time" would be spent on "a lot of out-of-town kids." This problem, it is hoped, will soon be resolved due to the precedent set by Father Joe over the past years.

#### Summary

True diversion may be viewed as the "turning aside" of a juvenile from further processing by the juvenile justice system. Many theorists and practitioners alike would claim that this goal is best achieved by referring (diverting) the youth to a program outside of the auspices of the juvenile justice system. When such programs are closely examined, however, they generally appear not to be as far "outside" the system or removed from legal authority as is usually claimed. Some are "captured" by the system because of administrative control of staff, funds, etc. Other programs, through a process of cooperative co-optation, begin to view the needs of the system as having priority over the needs or rights of the client. All such programs may be viewed as paralegal entities.

When another government agency, possessing legal authority, assumes responsibility for former juvenile justice system clients there appears to be a tendency for the alternative agency to assume the philosophical and

administrative trappings of the prior system. As welfare or child service departments accept responsibility for certain categories of juvenile offenders (status offenses) there is great danger that they will, in effect, proceed to develop an alternative legal structure - little different from the former juvenile justice structure but free from demands and restraints imposed by the guarantees of due process mandates.

Independent and/or nonlegal programs must cooperate and interact with the juvenile justice system which controls the source of clients and may legally control the clients themselves (informal probation). Such interaction makes it extremely difficult for a program to remain either independent or nonlegal. Without strong leadership and community support such programs may also undergo the process of "cooperative co-optation" and grow paralegal in character.

## SECTION SIX: CHARACTERISTICS OF YOUTH

The target populations of diversion processes/programs may be examined by emphasizing either categories of juvenile offenses or the demographic characteristics of the juvenile offenders. The broad discretion available to the legal authorities who compile "data" on either category make a viable comparison of youth across programs difficult to make.

### A. Offense Characteristics: Charges

The field research effort discovered only a few programs considered diversion applicable for felony offenders (SVR 5, 10, 12, 13). In these instances it was generally stipulated that the youth be a first time offender or that the felony be relatively minor. In Kumasi TCB, for example:

Cases involving the use of dangerous weapons or violence are not accepted. The majority of offenses which TCB handles are misdemeanors but it has dealt with a substantial number of felonies. In 1974 approximately 17 percent of the caseload was youths who were charged with felonies. The great majority of these were burglaries. (SVR 5)

Among juvenile justice system and private program staff interviewed by the field research teams, there appeared to be general agreement that the most likely candidates for diversion were those juveniles who had not yet become "hard-core." A voluntary informal probation program run by the Needleville Juvenile Court provides "role-models" for children who are "not considered to be in need of constant supervision." Probation referred only those juveniles who were in need of motivation and did not refer those felt to require any intensive counseling. Even one of the programs that was, according to its grant, supposed to accept impact offenders (20 percent)

ended up with mostly 14-year-old Chicano boys referred by the public school system for CHINS-like offenses. The one probation officer who referred the most clients to El Pueblo Programma described her referral criteria as: 1) the youth must reside in El Pueblo; 2) be between the ages of 12 and 14; 3) be of Chicano descent, and 4) have family problems and could benefit from EPP's Community Panel. Nowhere could one find any reference to burglary, robbery, or assault, which are all impact offenses (SVR 7).

For the two police units in Kumasi, referrals to TCB were those juveniles who were "basically good kids without street sophistication." (SVR 5) This example and the previous ones illustrate the fact that felony offenders were generally not considered good candidates for diversion and except in one case (SVR 13) represented a small percentage of the clientele of any program.

Status offenders and minor delinquents constitute the majority of diverted youth. The two categories tend to overlap as it is not unusual for a youth to commit a delinquency while engaging in a status offense and vice versa. The accuracy of an official label of status offender or delinquent is questionable as persons who confer such labels are often confused or in disagreement as to their meaning and/or seriousness. In Governmentapolis, for example:

There is a great deal of controversy over who the wayward are. The executive secretary of JCSD feels that in some cases "'waywards' are more severe problems than delinquents" and thus all status offenders should not be diverted from court. This is for their protection and society's protection. The head court intake officer also has some problems with the definition of wayward. He said, "if a kid calls his mother a 'bitch' he is delinquent." (Research team, SVR 3)

Given such definitional confusion statistics for particular offense categories serviced by specific programs deserve close examination.

Programs may exclude certain categories of serious status offenses or delinquencies. In the CA program in Pleasantville:

[S]tatus offenders and youths who commit felonies are handled at intake by juvenile services. At one time the program handled "minor" burglaries. . . but apparently community uproar against burglaries in general has forced the program to eliminate these crimes from its target list. (Research team, SVR 2)

Juveniles arrested for drug-related offenses are generally not accepted by diversion programs and are referred to other treatment agencies. All programs visited handled both status offenders and delinquents but most viewed their services as being geared to one or the other. At five of the site visits the research team had the strong impression that programs oriented toward status offenses tended to draw youths into the system who would have avoided further processing under traditional diversion.

It should be stressed that the conferring of offense labels may reflect the philosophy and attitudes of social control agents as much as the actions of juveniles. Thus a particular juvenile may commit a serious first offense but by having a good track record and a good attitude (admission of guilt, fear of authority, etc.) become a candidate for diversion. Another juvenile may be brought in on a status offense but by displaying a bad attitude and possessing a bad track record, is rejected as a diversion candidate, and a petition for adjudication may be filed. In either case the official charge may be tailored to fit the desired punishment or treatment.

Notably, Hill's examination of diversion to Youth Service Systems indicated a greater disposition toward diverting misdemeanants rather than status offenders.

There is a striking uniformity among projects in terms of the reluctance on the part of both the courts and the police to divert Type III offenders (status offenders). In fact there are four instances in which police departments are more likely to divert Type II offenders (misdemeanors) than Type III (status offenders). In three cases, the courts are more likely to divert Type II than Type III offenders. It also appears that females are more frequently treated in this manner than are males.

#### h. Offender Characteristics: Demography

The field research sample of 13 site visits was both too small and too diverse for comparisons to be made based upon demographic considerations. An attempt was made to include programs oriented toward minority populations even though such programs appear somewhat atypical in the diversion universe. The question of the relationship between diversion and racial considerations is particularly relevant.

Imprecise though the evidence from field interviews and observations indicates that diversion is primarily designed to provide support programs for parents and school officials in white middle class communities. The AID program in Alton, for example, contained almost entirely middle to upper middle class white clients although the program ostensibly serviced the entire county which had a nonwhite population of approximately 30 percent (1970). The site visit team in Richville County observed that:

So far, only two minority families have been referred to the Program, one Pakistani and one Spanish family. Supposedly, the "rich" seek private solutions to their children's problems and the "poor," who are mainly minorities, handle their children's problems within their own community. Most of the families have incomes between \$12,000 and \$35,000. (SVR 6)

Similarly, the Wayward Youth Project in Governapolis had been established specifically to service three high crime areas (also black and poor), but program staff stated that most of the cases being opened were not from these areas but from white middle class urban and suburban communities (SVR 3).

Data on male and female distribution within divertee populations is inconclusive. Programs that dealt mainly with delinquents had a largely male clientele. Programs concentrating upon status offenders appeared to service a more equal number of both sexes, although males slightly predominated. Given the greater proportion of incarcerated female status offenders and the apparent tendency for social control agents to perceive female "waywardness" as more serious than its male counterpart, it would appear that diversion efforts are biased in favor of male clients.<sup>3</sup>

## SECTION SEVEN: PENDING CONSIDERATIONS

Existing agencies (local, state, federal, private) presently support a wide variety of diversion processes/programs. Although policy makers have not made the goals or definition of diversion clear, considerable funds are being allocated to efforts according to the title of diversion. It is unlikely that consensus will be reached in the near future concerning the diversion program discussed in this report. It is quite certain, however, that diversion processes/programs will continue to receive funds. The ramifications of allocating such funds to particular forms or types of diversion should be considered.

Even if policy makers choose not to make policy regarding diversion, existing local, state, and federal policy. The organization typology discussed in this report can be used to clarify the range of funding considerations. Each of the three major organizational types will be discussed in turn.

### A. Local Type: Local

Local type diversion processes/programs are administered by specific municipal or local agencies (police/probation/welfare). As government agencies they are dependent upon public funds. Most diversion efforts are inaugurated at the city or county level. If major programmatic elements are to be developed, state and/or federal funds may be necessary. State and federal agencies (DCA's, DAA's) may take it known that diversion funds are available and in developing broad guidelines or recommended models\* they may generate specific types of diversion. In other cases local agencies develop their

\* For example, the Sacramento Jail-Not Program, which was granted Exemplary status by DAA.

own concept of diversion and attempt to "sell" it to a funding agency. In both cases it is crucial for the funding source to have a clear understanding of its own diversion goals and definitions - unfortunately this seems to be the exception rather than the rule.

This report has discussed two major definitions of diversion - true diversion and minimization of penetration. Legal type processes/programs may engage in true diversion by merely initiating discretionary judgments to terminate processing and/or by referring a youth to a program outside of the juvenile justice system. The process of implementing discretion may be accomplished by changes in administrative guidelines and/or by training or retraining existing staff (patrol officers, probation intake, etc.). Such reorganization or reorientation does not entail the expenditure of vast amounts of special funding dollars. True diversion - at the legal level - is in effect a policy decision. This study did not encounter a single agency that was requesting funds for this form of diversion.

Diversion as minimization of penetration is typically implemented within legal agencies through the development of special programs and/or units (SVR 1, 6 in particular). Such programs must be staffed by agency personnel and/or by specialists hired specifically for the diversion effort (counselors, psychologists). Direct services may entail significant increases in staff, equipment and possibly physical space; this means a need for increased funding. A case in point is the Richville County Family Diversion Program (Sacramento model) which added six full-time staff plus support elements (training by two clinical psychologists and physical space/equipment). Its operating budget is \$130,000, shared by the SPA (90 percent) and the county (10 percent). (SVR 6)

Whenever a funding agency chooses to support a programmatic component of an existing social control agency, it supports diversion as minimization of probation rather than true diversion. This has been the general case since 1967, discussed previously as the New Diversion movement. It may be hypothesized that continued funding of such programs will significantly alter traditional diversion processes (e.g., screening) and result in the expansion of the juvenile justice system and likely a widening of the juvenile population.

#### B. Type III: Paralegal

If funding agencies make an explicit choice to support true diversion by funding programs outside of the juvenile justice system they should realize the potential danger of such programs being or becoming paralegal in nature. (See Section Five.) The method of dispensing or channeling funds can be crucial in encouraging or discouraging paralegal developments.

State and federal funds are generally dispensed by a criminal justice planning agency. If such an agency decides to support outside-the-system programs but allows actual funds to be dispensed by, for example, a probation department, it has in effect granted policy-making power to the very agency which is the object of the diversion effort. A similar problem occurs if the program is required to have a specific impact upon the system in order to qualify for continued funding. The El Pueblo Programa in Rimrock, according to its grant, must receive 50 clients a year from juvenile probation (1967-68). Similarly, the TRB program in Kumasi is required to divert a specified number of youths from the Kumasi branch of the county probation department (1968-69). In such a case, when the referral decision is made within the system and not within the program, staff must maintain cordial

relations in order to assure the adequate level of referral. Failure of the TCB program to obtain the required number of referrals has led to semi-probationary status regarding continued funding (SVR 5). Attempts to avoid such "failure" are likely to result in cooperative co-optation. (See Section Five.)

Many diversion grant proposals sound quite similar. Potential grantees are aware of funding guidelines and write their proposals to match. Promises and practices, however, may differ. It may even be necessary for a program to "create" delinquency by renegotiating the conferral of labels upon its client population.

The El Pueblo Programa existed as a "Prevention" program under HEW funding. When those funds were not renewed the program acquired support from the President's Impact Cities Program through funds to reduce the incidence of impact crimes. The program changed funding sources but not ideology.

The program was initially funded by HEW/YDDPA for 18 months to deal exclusively with CHINS. The only actual evolution which has taken place with the change of funding appears to be acceptance of a very few "serious delinquents." Otherwise, EPP exhibits the same structure, philosophy and service package it did when it was supposedly dealing with a totally different clientele. (Research team, SVR 7)

In order to meet its grant requirements program staff began redefining status offense cases "for the records" as "Impact-like" cases.

The vast majority of juveniles are referred by the Rimrock schools and parents and have no offense. . . . When it becomes time for evaluation and these are shown not to be Impact-kids the program may be in a bind. But if they can show that these kids are "Impact-like" they may be all right. For instance if a kid is referred by the public schools and they can show that he's had a history of assaultive

behavior, like a lot of fights, they can probably  
get away with calling him an impact offender.  
Therefore, I think, I think 2)

In Kansas intense pressure from the funding agency for TCB to meet  
referral requirements has led the regular probation intake personnel (who  
are familiar with the program) to "take a more in depth look at cases gener-  
ally referred out at the intake level for possible referral (to TCB)." (SVR 5)  
Such attempts to meet funding requirements may have a negative effect upon  
the effectiveness of the program in escalating the seriousness of client  
offenses. In the regular probation and in Kansas regular probation is referring cases  
which would normally have been terminated. The result of such activity is  
an increased police intervention into the lives of clients and an expansion  
of the police's police system - in paralegal form.

The juvenile justice system may expand in another paralegal manner.  
There may be a formal or informal agreement between the funding agency and  
the program or the program and the local juvenile justice system to staff  
the program with regular probation/police personnel who are "on loan" or on  
contractual basis employed by the program. If the funding agency approves or  
is involved in such arrangements the result is a predominant "legal" tone to  
a program operated outside of the juvenile justice system. It is unreal-  
istic to believe that such personnel do not maintain very close working  
relations with regular police staff.

Funding agencies tend to stress the "numbers" aspect of a program's  
effectiveness. "Numbers" of juveniles diverted equal program "success." Such  
emphasis creates problems for paralegal programs. As one police diversion  
official puts it

It (referral) was all so complicated by the inter-fighting about who got a body, who gets who, especially when districts overlapped each other. After all, money is the name of the game and numbers is where it's at.  
(SVR 7)

The need for referrals to keep up a program's "numbers" makes such programs particularly susceptible to pressures from referral sources - juvenile justice system personnel. One program director addressed this issue in a proposal for renewed funding:

When looking at the needs of the community that view TCB as a humanistic, always there when needed program, as measured against the criticisms for funding TCB, one would hope that a balance can be achieved between the two. . . . But, having to meet objectives that you have no power in controlling makes our quest for staying operable even more difficult. Thus, I contend that the quality as well as the quantity should also be a criteria for refunding the program, or stipulations in the funding process might be made for continuation of the program, even though an agency extraneous to our control fails to meet its stated objectives (referrals).  
(SVR 5)

C. Type III: Nonlegal

If a program meets all the criteria of the nonlegal type relative to interaction with the juvenile justice system it may still find itself pressured toward becoming paralegal if its financial solvency depends upon funding by or through criminal justice agencies. A direct correlation is likely between a program's status as independent or nonlegal and its ability to be independent of criminal justice system funding. All of the programs studied by this research team that were typed as legal or paralegal were dependent upon criminal justice system funding. The one program that came closest to the nonlegal type has no real funding source beyond the church that sponsors it (SVR 4).

Many community service agencies have the potential to act as diversion or referral agencies for the juvenile justice system (e.g., YWCA, Big Brothers, church organizations). Such agencies are not, of course, specialized diversion projects. Police and probation personnel have, however, referred juveniles to such agencies. These programs generally service non-delinquent youths and are funded by nonjustice oriented public or private agencies.

Since these programs are not known as agencies for "bad" youths it reduces the likelihood of stigmatization and their independent funding arrangements reduce the danger of pressure for cooperation by justice system agencies. The HELP program for example was able to resist the state welfare department's attempt to impose licensing requirements on host families (SVR 4). As long as a program serviced delinquent youth as only one part of their overall function even the reception of funds from justice system funding agencies would not necessarily result in control of the program by that system or funding agency.

A strong case might be made for a reduced role, in regard to diversion programs, by criminal justice system funding sources such as LEAA. Wherever a program becomes known primarily as a justice system "service" it is quite possible that it will assume any negative image that is attached to that system. On the other hand if the justice system merely purchases services and/or simply refers youths to private, relatively non-stigmatized programs, such negative associations may be more adequately resisted. Some major side effects are that community participation and responsibility are thereby encouraged and the juvenile is treated as normal rather than abnormal. It is interesting to note that participants in the HELP program were opposed

to suggestions that they apply for federal delinquency prevention/diversion funds.

The possibility of such community services replacing specialized juvenile justice system diversion programs deserves close scrutiny. Most of the legal and paralegal programs visited serviced one or two hundred youths but incurred large operating budgets and continued intervention or processing of youths by system or system-controlled agencies. The HELP program received over 300 referrals and serviced approximately 100 with no cost to the public and the expenditure of only \$3500 from private funds. Participation in HELP was not viewed as stigmatizing for youths. Most attempts by legal authorities to control the ideology and/or day-to-day operation of the program were successfully resisted (SVR 4).

#### Summary

Present funding trends for diversion are in the direction of support for specialized programs of the legal or paralegal type. The result is tacit approval of diversion as minimization of penetration. Traditional diversion or discretionary judgments to cease processing and/or refer outside the system are either ignored or positively discouraged. Nonlegal programs, however, call merely for just such traditional diversion at no great cost increase to the justice system or the public. A major new funding direction might well be the re-education or reorientation of juvenile justice system personnel to the possibilities and benefits of using traditional diversion with or without referral to existing community service agencies. The cost of training system personnel for greater or more efficient use of diversion

options would appear minimal compared to the present emphasis upon large scale funding of diversion programs.

## SECTION EIGHT: CONCLUSIONS AND ISSUES

### A. The Definitional Problem

The major issue in juvenile diversion is the ambiguity that surrounds the concept. This confusion has been discussed throughout this paper as a conflict between theoretical and operational definitions of the term. Policy-makers should have a clear understanding of the possible ramifications of choosing between these two interpretations. In general terms, a choice of true diversion means extending support for the traditional diversion process within the juvenile justice system but withdrawing support from all diversion programs operated or controlled by that system. If, however, policy-makers decide in favor of minimization of penetration they will implicitly encourage the current proliferation of programs developing within the system and/or the creation of programs controlled by juvenile justice or other legal authorities.

Elliot, in his National Evaluation of Youth Service Systems for the Office of Youth Development stresses the fact that:

[T]he receiving agency should lie outside the formal jurisdiction of the Juvenile Justice System. Diversion represents a referral to a community-based program or agency which is independent of the justice system. By this definition, an informal probation program operated by a County Probation Department does not constitute a diversion program.<sup>4</sup>

Leaving such complicated issues as recidivism and stigmatization aside, the one dimension of operating costs shows that an emphasis upon minimization of penetration further expands the juvenile justice system by increasing personnel needs. The study indicates a call for more funds, staff and physical space whenever minimization of penetration is implemented as a new

program component of the police or probation departments. These research findings are somewhat impressionistic. It should be a relatively simple research task, however, to survey juvenile justice agencies and determine budgetary differences before and after the development of diversion programs. Malcolm Klein's research concerning police diversion in Los Angeles County, California, however, found few structural changes:

In most but not all instances, new units are not established, additional staff not assigned, work routines are not substantially altered, lines of supervision are not shifted, etc. . . . Diversion has been appended rather than incorporated, we predict for it a short, inconclusive life.<sup>5</sup>

This conclusion contrasts with the present research findings, particularly if one looks at the expansion of probation services (SVR 1, 2, 6). It also is in opposition to what appears to be happening within police diversion in Cowtown (SVR 13).

If minimization of penetration increases the size of the juvenile justice system and its array of services there is a strong possibility of an expansion of legal authority. The result is that more juveniles come into contact with formal agencies of authority. The conceptual confusion between prevention and diversion, the desire to offer services, and the general distrust that legal authorities have for nonprofessional helping agencies all lead to the development of more programs for more juveniles within the existing systems of legal authority. Once again the research findings, although impressionistic, do indicate greater numbers and types of juveniles contacted by authorities after the implementation of minimization of

penetration type diversion programs. This certainly indicates the need for more systematic research in this area.\*

#### B. Labeling Theory/Stigmatization

The advocates of diversion in the President's Crime Commission Report (1967) generally based their arguments upon labeling theory. Contact and processing of juveniles by the juvenile justice system was viewed as potentially stigmatizing and to be avoided whenever possible. Little systematic research has been done to demonstrate the actual process of stigmatization.+ Practitioners have interpreted labeling theory to mean the avoidance of official labels (i.e., imposed with adjudication). It is not at all clear, however, that informal processes and unofficial labels are less stigmatizing for the juveniles in question. The question requires systematic and probably long-term research emphasizing the subjective experience of the juvenile. If indeed informal processes and programs are as stigmatizing as more formal experiences, diversion as minimization of penetration is certainly of doubtful value.

The gist of the labeling theory approach is that the conferrence of labels is stigmatizing and potentially harmful to the individual. We have mentioned that informal processes must be examined as also potentially stigmatizing. It is quite possible that even true diversion might open the doors for increased stigmatization. This might occur if a juvenile is merely

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\* Delbert Elliot is presently engaged in a major research effort, Diversion - A Study of Alternative Processing Tactics for NIMH which should provide more data on this topic. To be completed in 1976.

+ Klein has recently undertaken a sophisticated, quantitative analysis of the effects of various levels of labeling (in Los Angeles) for NIMH, but research findings will not be available for quite some time.

represented to have been of legal authority to another (juvenile justice  
agency) or to a legal authority to an agency publicly identified as  
having such authority.

Thus, diversion from the juvenile justice system to welfare, especially  
as the latter agency develops in effect an alternative legal structure, may  
be regarded by clients and the community as equally stigmatizing. Coercion,  
especially through the receipt of services from a private agent or agency  
equivalent, does not seem likely to be viewed in a negative  
light. However, there is certainly cause to be viewed as directed at the effect  
of all such, be it of a federal, public or private. If diversion research  
is to be of any value, then it must examine the effect of all  
possible opportunities, interventions initiated by contact with, and diver-  
sion, in the juvenile justice system. It may well be that when certain  
diversion alternatives are prescribed by law it is inevitable that some  
degree of stigma will result from responses by agents of social control to  
such cases.

It is also necessary to raise the issue of whether diversion should  
be regarded as a "service" or a referral to something else. In the  
first instance, it is a service without "services;" in the second "services"  
are offered as a result of diversion. Elliot, for example,  
states that:

... [diversion] provides a receiving agency which offers  
one or all of a tutorial, youth development service or  
delinquency prevention program. . . screening provides  
no referral, no service or treatment and no follow-up.  
The other two provide all three.

\* For an approach see, see also, National Nonintervention (Erickson-  
Woods, New York: American Youth, Inc., 1961).

### C. Measures of "Success"

Existing research, beset with methodological problems, has not demonstrated that doing something (treatment, services) is necessarily better than doing nothing. The political need to show a decrease in the recidivist rate as a result of changes in policy has a tendency to place pressure on programs to demonstrate "success" statistics. Such self evaluations are highly questionable. There is a crucial need to develop a research design that adequately compares doing "something" with doing "nothing" and both of these procedures, of course, should be contrasted against the "success" of formal processing (i.e., adjudication and incarceration).\*

It is not at all clear that rates of recidivism are viable yardsticks against which to measure the phenomena of diversion. Recidivism may be criticized as perhaps indicating more about agents and agencies of social control than it does about the deviant under that control. There is little or no general agreement relative to the "acceptable" level of recidivism either for an individual deviant or for the programs and processes that deal with deviants.

Both true diversion and minimization of penetration attempt to deal with juvenile offenders in ways basically different from formal processing. The ideology of either form of diversion rests implicitly or explicitly upon the belief that the formal system, or society, has somehow failed the juvenile. To view diversion processes and programs as failures because they are unable to "adequately" eliminate the continued failures of both society

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\* See Appendix B: Research Design. Also see D. Elliot, Diversion: A Study of Alternative Processing Tactics, 1975 NIMH proposal.

and the juvenile courts patently unrealistic. New measures of "success" must be developed dealing, for instance, with degrees of humanism, empathy, and justice, measured that view constructions of social reality from the perspective of the juveniles as well as from that of those who desire to control their actions and attitudes. Contemporary social theory, particularly that of labelling or reaction theory, has offered a serious critique of biological and psychological variation theories. If research measures do not take this critique into account they cannot solely rely upon individualistic measures of personal failure such as recidivism. The National Strategy for Youth Development set forth by OYD/HEW:

differs profoundly from most treatment-oriented approaches to delinquency prevention. It was different in the sense that it focussed on social institutions rather than on persons. Person treatment programs typically concentrate on individual pathologies and often have the long term effect of aggravating deviance by reinforcing, rather than challenging, institutional practices which generate delinquency.

The "National Strategy" however apparently has remained primarily a statement of principle and has rarely been operationalized by either practitioners or researchers.

B. The Discretion Process

Although this research effort has attempted to analyze the processes of discretion it is evident that an ethnographic study of discretion in the juvenile justice system should have high priority in subsequent research. Processes of the implementation of discretionary diversion options, have been generally ignored by researchers, policy-makers and practitioners who

have unduly concentrated their attention upon the organization and effects of programs.<sup>\*</sup> An understanding of the attitudes, training, political pressures, rules, regulations, guidelines and informal relationships that guide juvenile justice personnel in their intra- and inter-agency interaction becomes a paramount issue for continued research.

Marvin Wolfgang's research seems to support our impression that true diversion may become an institutionalized form of racism by siphoning off a higher proportion of white as compared with black youth.<sup>8</sup> Additional systematic research is needed to verify or refute this impression.

A similar hypothesis may be developed with regard to minimization of penetration. Diversion programs inside the system may be proportionately under-utilized for minority youth as compared with white youth who are seen as needing something more than mere referral out but are undeserving of the trauma of adjudication.

A contradiction arises when one discusses the potential effects of diversion in regard to racism. It seems likely that diversion also serves to draw youths into the system (widens the net). To suggest that nonwhites are "deprived" of such additional contact due to racism strikes one at first as somewhat ironic. The above racially biased hypothesis, however, differentiates as to the level at which discretionary judgments can occur. Net-widening appears to occur mainly at the level of decisions concerning the needs of status offenders; hence more youths are drawn into the system for help. It is quite possible that nonwhites resolve their own status offense problems to a greater degree and nonwhite youths come into contact with the

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\* A major exception is Aaron Cicourel's work: The Social Organization of Juvenile Justice (New York: John Wiley & Sons, Inc., 1968).

systems for generally more serious categories of offenses. It is at this level that institutionalized racism may operate to deprive such youths of a chance at diversion. Sophisticated research is crucial to resolve these inequities.

The present research was too exploratory in nature to adequately survey questions concerning the demographic characteristics of diversion target populations. There appears to be a very strong tendency for practitioners to view diversion as a dispositional option for "good kids" or youths who are willing to "cooperate."

Policy makers must be conscious of the possibility of diversion becoming a new institutionalized form of discrimination. Research should attempt to compare and contrast various diversion target populations and the dispositional options that employed. Close scrutiny of types of offenses, types of offenders, and the types of dispositions that characterize diversion programs/programs should shed light upon the existence or nonexistence of discrimination. Marvin Wolfgang and colleagues found, for example, that:

As we pursued analysis of the available data, we became increasingly aware of the differential dispositions based upon race. . . however we split and applied the material at hand, nonwhite regularly received more severe dispositions. . . However expressed, nonwhites were less frequently given a remedial (nonjudicial) disposition.<sup>9</sup>

The decision of policy-makers to support one or the other of the various forms of diversion will result in the channeling of funds to agencies or programs. Such support also has an effect upon the diversion phenomenon. The mere existence of program components may serve to alter or abolish traditional diversion processes such as screening. It is in this manner that diversion may increase the number of juveniles (and the types of juveniles)

contacted by the system and, perhaps, increase the financial cost incurred by that system. Diversion may well be best accomplished, and be most consistent with theory, merely by supporting processes (i.e., discretionary options) through more staff training and aid in developing better administrative guidelines, then the very need for large scale funding of programs may be eliminated. Such funding considerations will, of course, depend entirely upon the definitional and policy choices that are made.

NOTES

<sup>1</sup> James Wilson, "The Police and the Delinquent in Two Cities," ed. Stanton Wheeler, Controlling Delinquents (New York: John Wiley and Sons, 1968).

<sup>2</sup> Delbert Elliot, "National Evaluation of Youth Service Systems" (Boulder, Colo.: The Office of Youth Development, Behavioral Evaluation Corporation, 1974), p. 652.

<sup>3</sup> Elliot, loc. cit.

<sup>4</sup> Ibid., p. 38; also, see Rosemary Sarri, "Diversion: Within or Without the Juvenile Justice System," (Ann Arbor, Mich.: National Assessment of Juvenile Corrections, 1975).

<sup>5</sup> Malcolm Klein, "Issues and Realities in Police Diversion Programs," ed. Jack Kinton. Police Roles in the Seventies [forthcoming].

<sup>6</sup> Elliot, op. cit., p. 38; NIMH Grant Proposal for Diversion: A Study of Alternative Processing Tactics, 1975.

<sup>7</sup> Elliot, op. cit., p. 4.

<sup>8</sup> Marvin Wolfgang, Robert Figlio and Thorsten Sellin, Delinquency in a Birth Cohort (Chicago: University of Chicago Press, 1972).

<sup>9</sup> Ibid., p. 220.

APPENDIX A:

JUVENILE DIVERSION SITE VISIT SUMMARIES

## Site Visit Report 1: AID PROGRAM

AID is a voluntary intensive counseling program for status offenders and "predelinquents" between the ages of 8 and 14 (predelinquents being those juveniles who are acting out in school or at home but have not had any actual contact with the police). Seventy percent of the clients have had only one or no previous court referrals. The program, initially part of the receiving unit of the juvenile court, was to "siphon off incorrigibles" and provide short-term counseling as a preventative measure. After the expansion of services in 1973, the emphasis shifted to longer term family and individual counseling and the program became fairly autonomous within the court structure. Generally, the counseling services offered are low key and the extent and nature of staff-client contact is usually controlled by the client. The degree to which parents and other siblings are involved in counseling depends upon the particular needs of each client. Funding is through the county as the program's budget is part of court services. Two of the counselors who work out of 2 high schools in the county are funded separately through an LEAA grant.

The AID program is located in an urban area, population about 350,000, with a Spanish-American and Indian population of about 30 percent. The average family income is \$8,346. The income distribution within the area is more unequal (more rich, more poor) than in all but 2 other comparable areas in the country.

Site Visit Report 2: COUNSELING AND ARBITRATION PROGRAM

The Counseling and Arbitration Program operates an arbitration board which hears misdemeanor cases (except burglaries) referred from the juvenile court intake unit or through the police (citation). Youths are either dismissed or asked to participate in a counseling program, make restitution for their offense, or take part in a community work program. Though participation is supposedly voluntary, if the youth is guilty and refuses to cooperate, s/he may be referred back to the juvenile court. The ages of the clients range between 8 and 17; most are males (73 percent) and first offenders. Initially, the program was seen as an alternative to the normal intake process and the arbitrator functioned as a "stern father." Currently the position is held by a lawyer and more attention is paid to the legal aspects, such as guilt or innocence and evidence, than had been previously. Funding is obtained through an LEAA grant.

The program is situated in a relatively small city, population 35,000, that serves as the state capitol. The population is 25 percent black and the average family income level is \$14,300.

### Site Visit Report 3: WAYWARD YOUTH PROJECT

This program offers both family and individual counseling to wayward youth (all status offenders) and their families. Emphasis is on crisis intervention and maintenance of the family unit. The clients range between the ages of 8 and 18, with similar numbers of males and females. Referrals usually come from the police (51 percent) and the court intake unit (25 percent), both of which must now send all wayward youth to this Project who are not counseled, warned and released, are not currently on probation or assigned to another agency. Up to 30 percent of the referrals refuse services - their cases having already been adjusted at the time of referral. Services are provided on a 90-day basis but this period may be extended at the request of the family and client. The Project is administered and funded through the county welfare department.

The Project is located in the state capitol, a midwestern urban area of about 890,000 (county). Blacks comprise approximately 12 percent of the county's population. The mean income for the county is \$12,036.

#### Site Visit Report 4: HELP PROGRAM

HELP provides short-term emergency foster care services aimed at meeting the placement needs of juveniles experiencing family problems that prevent them from returning home. Sixty-six percent of the juveniles housed in a HELP home (families in the town provide housing in their own homes) are from outside of the town of King. The program has no counseling or other direct services components but may utilize the local YSB if such services are requested by the client. There is no actual limit on the amount of time a youth may spend in a HELP home but there is an attempt to keep it under three weeks. The program received 30 client referrals during 1974, 100 of whom were actually housed. Clients are referred from the nearby juvenile court, local YSB, police, parents, and through self-referral or a private social service agency. The ages of the clients ranged between 13 and 17 years with offenses of all types from breaking and entering to truancy and running away from home. Though there is no actual funding (some money comes in through private donations) the director receives his salary from the YSB where he is the assistant director. The program is administered through a local church.

The program is located in a small town of 22,300 that is within commuting distance to the state capitol. King has a black community that makes up 7.2 percent of the total population. The average family income level is \$14,000.

**CONTINUED**

**2 OF 4**

## Site Visit Report 5: TCB PROGRAM

This program provides a community-operated alternative to the formal intake unit at the juvenile court through the use of an arbitration panel and a community work program. Clients are brought before the panel, made up of members of their own community, and a decision is made as to their guilt or innocence. If found innocent, the youth is released; if guilty, the client may be warned and released, may undergo counseling, or may be required to participate in a community work program. Clients have usually been charged with minor felonies or misdemeanors, are first offenders or status offenders, and range between 5 and 18 years old. Referrals are from the police, probation unit, schools, and welfare. The program is experiencing difficulties in obtaining clients as referrals are controlled by the white county police and probation agencies. The program is funded by the county although administration of the program remains in the community that it serves.

The TCB program is located in a small unincorporated town of 18,000 of which 85 percent are black. The county surrounding it is predominantly white. The average family income level is \$7,000 and the unemployment rates and crime rates are higher than the national average.

Site Visit Report 6: FAMILY DIVERSION PROGRAM

This program offers crisis intervention and family counseling. The family can obtain a maximum of 10 counseling sessions or receive services for a 6-month period of time. The emphasis is on solving the family's problems and thereby ameliorating the juvenile's problems. Since opening in March, 1975, the program had counseled 43 families for varying lengths of time. The program has its own intake unit which accepts referrals from the juvenile court and the detention center. Clients are of all ages up to 17 and have been charged with truancy and incorrigibility. The program is administered by the juvenile court and receives its funding from LEAA and the county.

The program is situated in a county of 600,000 with only 0.25 percent of its population being non-white. The average family income level is \$29,000.

## Site Visit Report 7: EL PUEBLO PROGRAMMA

El Pueblo Programma provides counseling, educational and panel discussion services for the Chicano community in which it operates. Initial contact is made with the referred client and family and then an interview is set up with the discussion panel (made up of members of the local community). The panel decides on a plan for services which may include referral to one of two outside agencies which provide alternative remedial education. Clients are all Chicano, referred to the program from the police, the YSB, and the juvenile court. Though the LEAA grant stipulates that 20 percent of the maximum 120 clients should be charged with impact offenses (burglary, robbery, assault, and rape), most of the clients at the time of the site visit were status offenders; only a few were charged with even minor misdemeanors. The average age of the clients is 14 years. The program originally funded under HEW was preventative in nature, receiving "children in need of supervision." In early 1975 funding was obtained through LEAA Impact Funds and the new target population supposedly reflected this alteration. Administration and staffing is through the local community.

The program is situated within a Chicano community in a large urban area of 500,000. Seventy-five percent of the population is white, 17 percent Chicano, and slightly less than 10 percent is black. Almost one-quarter of the community's residents are receiving welfare with a slightly larger proportion below the poverty line.

Site Visit Report 8: COUNSELING AND REFERRAL SERVICES

Counseling and mediation services are offered through an agency that is a part of Family Court Services. It has its own intake unit which accepts clients and sets up a conference with the program counselor, the client and the family. The client may be referred to another agency, provided with counseling, or may be terminated (client requests it, counselor rejects charges against client as unfounded, or client is unwilling to receive services). During 1974-1975, the program received 3,366 referrals of which 33 percent refused services. There is no limit on the length of time that a client may receive services. Referrals come from the police, juvenile court, schools, and parents. Most of the clients are truant, have family problems or have committed a minor criminal offense. CRS receives funding from LEAA, the family court, and the state.

The area served by CRS is a large (2,000,000) city with a population that is 34 percent black. The average family income level is \$9,366. Thirty-three percent of the residents of this city have no high school education.

## Site Visit Report 9: DIVERSION IN GRAND CITY

Site Visit 9 was conducted in order to investigate the process of diversion in Grand City and briefly study the programs that accepted referrals diverted from the police and the courts. Most police diversion was informally conducted (the police are prohibited from formally diverting a juvenile offender by policy and statute) at the discretion of the police officer on the street. Any diversion from the court was of the legal type and thus private organizations had a great deal of difficulty obtaining referrals. The two examples of diversion programs are privately run, remaining apart from the law enforcement agencies, probably at the expense of many potential referrals.

### WILLIAMS SCHOOL

Williams School is an alternative school and provides a summer recreation program. It has a maximum client capacity of 125 per year with clients receiving 9 week-long courses. Clients may remain in the program up to 3 years. The program receives juveniles from the probation department, welfare department, the school board, police, court, and parents. Clients are juveniles with arrest records who have dropped out or have been suspended from the regular school system. There appears to be juveniles of all ages involved in some part of this program though the school services are primarily for high school-aged juveniles. It is funded by a local church and LEAA. Williams School is located in a city with a population of 600,000, half of which is black.

### WELCOME HOUSE

Welcome House is a privately run program that provides temporary shelter and/or counseling (individual and family) in Grand City. It houses approximately 30 clients a month and counsels an additional 20-30 nonresidents.

There is no limit on the length of time a client may reside at the house or receive counseling from the staff. Clients enter the program from the juvenile court and through self-referrals (most are runaways). The house prefers to accept only status offenders but has accepted some juveniles charged with delinquency and even some who have been adjudicated. Welcome House is funded through a private, nonprofit organization.

Site Visit Report 10: DIVERSION PROCESS IN CENTERVILLE, EXCELSIOR

Site Visit 10 was conducted in a state with a highly centralized juvenile corrections system. The juvenile justice process was examined in addition to brief studies of 2 or 3 diversion programs. The following summary is a representative example of the type of diversion that is conducted in Excelsior. The state Department of Youth Services administers intake, probation and parole staff and thus is responsible for the development of any diversion programs in this state. Local initiative may, however, provide the actual basis for some particular program as in the following case.

RESTITUTION PROGRAM

This program allows a juvenile to make restitution through a work program in exchange for a dismissal of the charges against him/her. The client capacity of the program depends upon the number of private businesses and schools that agree to provide work for the youths and how many youths can be supervised at one time. The program receives referrals from the county prosecutor and probation department. Clients are first offenders charged with shoplifting and are of all ages up to 16 years. Prior to acceptance, the client must admit his/her guilt in exchange for being spared the stigma of a juvenile record. The program was initiated by the volunteer coordinator at the juvenile court. Due to the undesirability of either dismissing charges against shoplifters or prosecuting the offender, this program was to provide a means of making the youth pay for the offense while avoiding court processing. Both the county prosecutor's office and the community have accepted this program as an appropriate and effective means of dealing with this type of juvenile offender.

Centerville is a small city of 72,000 of which 20 percent are black. The average family income is \$11,000 per year.

## Site Visit Report 11: THE BORICUA

The Boricua offers group counseling, tutorial services and recreation, with most of its clients preferring the latter. During its first 12 months in operation, this program provided services for 233 clients though often siblings and friends participated in the recreational portion of the program. Though the Boricua can work with its clients for only 6 months, this period can be extended at the request of the parents and the client. Clients are referred to the Boricua from the police, intake unit at the juvenile court, schools, parents, and the family court. A representative of the program at the juvenile court actively solicits clients. Most of the clients are between the ages of 10 and 16 years and have been charged with either a delinquency or a status offense. The program is administered and staffed by a private nonprofit community organization which obtained funding through LEAA.

The Boricua is located in a community that is 95 percent Puerto Rican. This area has a higher crime and unemployment rate than the rest of the metropolitan area. Its population is 1.5 million, about one-tenth of the total metropolitan area.

## Site Visit Report 12: PROCESS VISIT TO NEEDLEVILLE

This site visit investigated the entire juvenile justice process in Needleville and included a study of diversion and post-adjudicatory (alternative to incarceration) programs. The trend in this city seems to be toward increasing emphasis on sanctioning rather than treating juvenile offenders. The following three summaries demonstrate the broad range of programs available in diversion in Needleville.

### THE VERGE

The emphasis of this program is on crisis intervention counseling and shelter care for teenage girls between 13 and 18 years old. There is space for 25 girls in the residential facility which is located on the edge of a suburban neighborhood. There are individual counseling sessions held daily and family sessions once a week. Most of the clients are dependent children and have had minimal contact with the juvenile justice process. In most instances they were picked up by the police, spent some time in detention and were then referred to the Verge. A few girls are brought in by the CARP program from the police. Some are referred directly to the program by their parents; they have the option of staying at the program or getting kicked out of the house. Three hundred and fifty clients were provided with some sort of services during 1974.

The Verge has been in operation for three years and it is a non-sectarian project that was initiated by Lutheran Family and Children Services. Its funding comes through the Department of Social and Health Services and the United Way. It is located in Needleville which is a city of 530,000; 93 percent are white.

## CENTRAL AGENCY REFERRAL PROGRAM (CARP)

CARP is a controlled experimental diversion program that channels predelinquents into existing agencies or offers some counseling themselves. If a patrol officer is confronted with a situation where arrest is not appropriate but some sort of aid or counseling appears desirable, s/he can refer the case to CARP. The impact of this program is very limited as it receives only 2 percent of the total number of juveniles that come into contact with the Needleville police. The clients are status offenders and nonoffenders of all ages and both sexes. The program is part of the juvenile division of the Needleville Police Department and is directed by a police sergeant and staffed by two social workers.

The program initially was set up to gather information on juvenile offenders. It then developed a monitoring and direct service component for those juveniles who were considered appropriate referrals for social agencies within the community. Its funding comes from the city through the police department budget.

## JUVENILE COURT CONFERENCE COMMITTEE

This is a community-based, court-operated diversion program that utilizes a discussion panel to divert local status offenders and misdemeanants (petty theft, light drug use, etc.). The panel is made up of a probation officer from the court who acts as a liaison between the court and the committee, and a group of local community members. It receives complaints from the police and juvenile court, determines the facts of the case (the child and parents are interviewed), and then decides on the appropriate disposition. The clients may not be actively involved with the court at the time and it must also be their first referral, or their first within the last 12 months. The dispositional

alternatives are dismissal (parents have already adequately sanctioned their child), restitution either through direct payment or through a work program, referral to another agency, or referral to the court.

The court establishes the guidelines, specifically stating the kinds of offenses and the referral sources, and therefore has total control over the type of juvenile referred to the committee. There are now 14 such committees in Needleville. Basically, the committees believe that a juvenile who is acting out is not adequately impressed with the potential sanctions of the juvenile court as s/he has to answer only to strangers whom s/he may never see again. By setting up the conference committee, the court gets rid of cases that they have no resources or time to deal with and the community is able to hold their juvenile offenders to account for their behavior in a more decisive way. The juvenile receives a stronger sanction than would have come his/her way through the juvenile court structure.

### Site Visit Report 13: YOUTH SERVICES PROGRAM

This program provides individual, group and family counseling and referral services to first offenders and repeat offenders in Cowtown. It is divided into two programs: First Offender Program (FOP) and Counseling and Referral Unit (CRU). The parents and the child are interviewed by an investigator in the juvenile unit of the Cowtown Police Department and then referred to one of the two programs, another agency, or to the juvenile court. The FOP is for first offenders (minor offenses only) and it attempts to demonstrate the evils of crime, drug abuse, and disobedience through the use of slide shows during two four-hour presentations. The CRU deals with first time impact offenders (burglary, assault, robbery) and juveniles who may have as many as five previous court referrals. This program is more intensive and has a treatment phase of five levels which can last as long as one year. Parents are required to participate in both programs as it is the belief of the staff that problems in youths are often the result of poorly developed skills in the parents (lack of discipline), uneven application of discipline, etc.). Participation in both programs entails a dismissal of all pending charges against the juvenile. Clients for both programs are between the ages of 10 and 17 years. There was a total of 1,084 referrals in 1974; a total of 8,775 juveniles had some contact with the Cowtown Police Department that year.

The Youth Services Program was initiated in 1974 due to the excessive number of juveniles unnecessarily referred to the juvenile court, the lack of alternatives geared toward helping juveniles, and the potential preventative nature that could result from positive contact of a helping nature with a law enforcement agency.

Funding is through LEAA Impact Funds for the CRU and through the police department budget for FOP. The YSP is located in a city of 912,900 with an unemployment rate of only 6.5 percent. The average family income level is \$8,500.

APPENDIX B: EVALUATION DESIGNS

By

Gary Miller

The assistance of Dr. David A. Ward, in the preparation of the final paper, is greatly appreciated.

## I. INTRODUCTION

This project has been given the mandate of developing relatively all-purpose designs for evaluating the effectiveness of particular diversion programs- designs which ideally could be employed by program personnel in making subsequent program modifications and in ascertaining program "success." These designs take into account a number of constraints placed upon researchers which frequently rule out the use of an experimental design. The evaluation designs proposed in this report recognize the problems in implementing experimental designs, and thus, rigorous but more applicable quasi-experimental designs are discussed.

Before proceeding to outline the evaluation designs, a basic conflict in objectives must be acknowledged. The essence of this project report is that a fundamental reorganization of thought about diversion is necessary before systematic evaluation and research on diversion proceeds further. Essentially, this report has suggested a disjunction between theory and practice, between the denotative and connotative meanings of diversion. It has argued that there is an inherent problem in uncritically accepting any program that calls itself diversion as an example of a program that halts further processing of the youth by officials of the juvenile justice system. Some programs or processes terminate further processing by dismissing or warning and/or referring the youth to a diversion program outside of the juvenile justice system. This process may be viewed as true diversion- the exercise of an official discretionary choice not to further process the juvenile. In other instances, however, the juvenile is referred to a program operated by the juvenile justice system or placed on some informal

status that allows for continued intervention by that system. Such programs or processes may be viewed as minimization of penetration.

These different types of diversion have fundamentally different objectives (not always recognized or acknowledged) and have fundamentally different implications for the structure of the juvenile justice system. In spite of these fundamental differences, this project has been requested to develop a set of designs applicable to any program in operation. This is possible (although more difficult), but such an effort to develop an all-embracing design may serve to obscure the fundamental distinction articulated by this project. These cautionary remarks are intended to guard against such a possibility.

This report is concerned with a design for evaluating client outcomes of particular diversion programs. This design has been used repeatedly in the past by a number of correctional agencies, although such users have not always been forthright in revealing the less-than-clearcut nature of the findings. While such a design has some inherent weaknesses, it is recommended as the best alternative, given typical constraints upon research programs.

These client outcome designs are unlikely to generate information that would illuminate the major system-wide concerns raised by this project. We intend to propose two additional types of evaluation strategies: system-wide and program process designs.

Three types of research designs are proposed with a number of evaluation objectives in mind:

- (1) client outcomes design; to evaluate the effectiveness of a particular program in changing its clients
- (2) system wide design; to evaluate the implications of a number of programs within a particular jurisdictional area in relation to the overall effectiveness of the entire juvenile justice system
- (3) program process design; to evaluate more closely what goes on inside programs in terms of a number of non-traditional objectives, such as protection of due process rights, the degree of intervention in the life of youth offenders, the use of discretion, degree of informal processing and/or labeling, etc.

It is essential to emphasize that a single evaluation design or strategy cannot answer all of these questions simultaneously. A review of the history of evaluation research in the field of delinquency suggests that, typically, only the client outcome strategy is employed; it should be supplemented with the other two strategies. It is hoped that, given typical shortages of funds for evaluation research, the many different agencies will not all choose the client-outcome strategy.

## II. GOAL CLARIFICATION

According to one authority on evaluation research, "The purpose of evaluation research is to measure the effects of a program against the goals it set out to accomplish as a means of contributing to subsequent decision-making about the program and improving future programming."<sup>1</sup> This statement implies that programs are designed to achieve a specific end or ends and that there is an explicit theory that suggests why a particular program should produce that end.

In actuality many programs do not have clearly articulated goals but rather are broad-aim programs that hope to achieve a rather nonspecific "change-for-the-better." In addition, such programs often have no clear

theoretical basis for the particular form of the program but are based on a general hunch that such an approach will work.

Upon close examination, diversion programs are like broad-aim programs; they have multiple and often conflicting goals, some of which are articulated and some of which are covert. The usual focus of evaluation research is, however, upon one desired outcome- the reduction of recidivism. Yet, the typical response to such evaluations is to criticize them for focusing upon only one objective to the exclusion of a number of other objectives considered worthy by staff members.

A diversion program can have multiple objectives; they vary depending upon the degree of expected change in client behavior, the time perspective taken (are we looking for long-range improvements or can we be satisfied with short-range ones?), the theoretical perspective taken, and whether the focus is upon program inputs and processes or upon program outputs.

With this problem in mind, a number of evaluation strategies are proposed, each capable of measuring multiple outcome variables. Restricting evaluation efforts to a single outcome measure often only accentuates the controversies surrounding evaluation research and contributes further to the record of nonutilization of such studies.

There is no simple solution to this problem. Measuring multiple goals, although reflecting the multifaceted nature of the program, does not solve the problem of choosing between goals. If an evaluation study indicates that some objectives, but not others, have been met to a satisfactory level, can significant decisions about the program still be made? Certainly a global judgment about program success or failure is difficult, if not

impossible, although this is what decision-makers usually look for. Given conflicting findings (a typical result if multiple outcomes are assessed), two decision-making alternatives exist.

On the one hand, it can be recognized that it is seldom possible to make overall judgments about program efficacy even though important information about the program has been learned - information that may guide future program modifications. However, persons charged with making overall program funding decisions are seldom pleased with this type of information. On the other hand, the most important desired outcome can be decided before the evaluation begins. This latter course is seldom taken, since it forces into the open the usual dissension about performance standards by which programs are to be held accountable. And attempts to specify goal priorities ahead of time often do not prevent others from contending that the "wrong" outcomes were measured or used in making program decisions. If an evaluation uses multiple outcomes, it can be expected that program proponents will herald any indication of program success, even though the program failed to achieve equal or more important outcomes.

Of these two fallible solutions, it is recommended that decision rules be established before the evaluation is conducted. At a minimum, the success and later utilization of evaluation research depends upon the prior establishment of goal priorities. This, of course, is a political decision, and varying forces will mobilize, each lobbying for the importance of certain outcome goals. For example, this project has articulated the need for considering a number of nontraditional outcomes (e.g., degree of penetration into the system, justice, due process, etc.) in any evaluation

effort. If this antecedent step is not undertaken, the evaluation results will remain mired in controversy and a diffuse sense of dissatisfaction with evaluation research as a tool in agency decision-making will persist.

### III. CLIENT OUTCOME DESIGN

#### A. Introduction

Most evaluation research is of two types:

- (1) Process evaluations that assess whether the program was implemented in accordance with its stated goals, methods, and guidelines, how the program actually operates, and how program operations are affected by its milieu.
- (2) Outcome evaluations that assess the degree to which the program produced change in the direction of its stated goals.

Most evaluations are of the latter type, although there is good reason to believe that the former type of evaluation is equally important.

Ultimately, diversion programs must be evaluated in terms of individual level outcomes- the degree to which there are demonstrable changes in youths participating in the program.

Although the picture remains incomplete, the first step is to propose a general client outcome design that can answer a variety of questions about a particular diversion program, or alternatively, can compare two or more programs. The proposed design is suited for gathering two types of client outcome data: individual changes while participating in the program and individual post-release behavior.

The suggested design should have wide applicability to a variety of questions about client outcomes. This evaluation design has been widely

used in the field of juvenile justice and corrections; an attempt has been made to improve on some of its weaknesses. However, specific modifications will always be necessary in order to make it applicable to the unique circumstances of any particular program.

B. A Nonequivalent Control Group Design

1. Nature of the Research Design: A quasi-experimental design is proposed that approximates the experimental method but does not employ random assignment of individuals to treatment and control groups. A quasi-experiment is less adequate than a true experiment for clarity of possible inferences, but it is proposed because of the difficulty of implementing a true experiment.

A true experiment, while preferable on methodological grounds, is not often feasible in the case of diversion programs for a number of reasons:

- (a) The diversion programs to be evaluated are not "demonstration projects" where the primary objective is to ascertain the efficacy of the program. Rather, many diversion programs have already been initiated. Treatment and implementation are the main goals of these programs, not experimentation. This mental set severely limits the flexibility of program design and client placement, which in turn, mitigates against the type of research control over program operations that would be necessary to set up a true experiment.
- (b) Similarly, it appears that randomization of client placement, the essential aspect of an experimental design, is usually not feasible.\* Probably the greatest barrier to random assignment is the objection to "denial of treatment," but also of importance is that program administrators often do not control who enters their program. Even if they do,

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\* If randomization is possible, it definitely should be used, and in that case, this proposed design easily translates into a true experiment.

earlier discretionary decisions of police officers, school and welfare officials, and juvenile court officers often subvert the most carefully conceived randomization procedures.

- (c) Program operations are typically complex, making it difficult to specify what the treatment is and to insure that the experimental or control group has not been contaminated by exposure to other programs or agencies.

2. Schematic Description of the Design: The basic outline of the design is presented in Figure 1.<sup>2</sup> This design is a more elaborate version of the frequently-used nonequivalent control group design; that is, assignment to the treatment or comparison group is not strictly random. Thus, we are not able to assume initial equivalence of the groups on personal background and history variables. This design combines measurement of short-term program outcomes (individual changes while in the program) with measurement of long-range program outcomes (behavior after release from the program). While this design does not involve random assignment to treatment and comparison groups, it does involve random assignment of measurements to individuals in the different groups. Also, the design is relatively flexible; it can be used to evaluate one diversion program, the relative success of many programs, and different "types" of programs relative to each other. Parts of the design can be omitted without jeopardizing its logic.

The design is described as if it were evaluating one diversion program in a particular locality. The essence of the design is to compare the behavior and attitudes of youths who are diverted into a treatment program in lieu of traditional legal processing with relatively equivalent youths who are processed by the legal system in the more traditional fashion.

Figure 1

A NONEQUIVALENT CONTROL GROUP DESIGN

STUDY GROUPS:	INITIAL		T <sub>1</sub>		T <sub>2</sub>	T <sub>3</sub>	T <sub>4</sub>	
	CONTACT		ENTRANCE	TREATMENT	EXIT	6-MONTH FOLLOW-UP	12-MONTH FOLLOW-UP	
<u>TREATMENT:</u>								
Minimization of Penetration								
a) Program within System	I <sub>1</sub>	R	O <sub>1</sub>	(X <sub>1</sub> )		{ F <sub>1</sub>	F <sub>2</sub>	
b) Informal Probation	I <sub>2</sub>	R		X <sub>1</sub>	O <sub>2</sub>			
<u>COMPARISON #1:</u>								
Program outside System	I <sub>3</sub>	R	O <sub>3</sub>	(X <sub>2</sub> )		{ F <sub>3</sub>	F <sub>4</sub>	
	I <sub>4</sub>	R		X <sub>2</sub>	O <sub>4</sub>			
<u>COMPARISON #2:</u>								
CKR	I <sub>5</sub>					F <sub>5</sub>	F <sub>6</sub>	
<u>COMPARISON #3:</u>								
Formal Processing- Petition Filed	I <sub>6</sub>					F <sub>7</sub>	F <sub>8</sub>	
	During Program or Probation					After Program, Probation, or Release		

Symbols:

R = Random Assignment  
 I = Intake Measurement of Personal Background and History  
 O = Measurement of Individual Attitudes and Behaviors  
 F = Follow-up Measurement of Repeat Offenses and Positive Achievements

T<sub>1</sub> = Time at entrance to program or regular intake/station adjustment supervision  
 T<sub>2</sub> = Time of release from program or regular intake/station adjustment supervision

Possible Statistical Controls: (1) Social Class (2) Minority Status (3) Age  
 (4) Number of Contacts with Other Programs

Separate Analyses for: First Offenders vs. Repeat Offenders; Status Offenders vs. Delinquents with misdemeanors vs. Delinquents with minor felonies (exclude serious delinquents from analysis)

Traditionally, new diversion programs have been contrasted only to regular probation intake procedures.\* This rather crude comparison had three shortcomings:

- (a) It assumed that assignment to the two alternatives were random, when there is much evidence to suggest that prior discretionary decisions upset the randomization procedure.
- (b) It ignored police station adjustments that kept offenders out of both the new diversion intake program and the regular intake program but still processed a large number of offenders.
- (c) It did not take into account offenders who were reprimanded and released at a stage prior to probation intake.

This design attempts to compensate for these shortcomings by comparing the new diversion programs with a number of comparison groups.

As Figure 1 indicates, the treatment group is composed of juvenile offenders who have been diverted according to a minimization of penetration strategy; they have been referred to a treatment program within the juvenile justice system or placed on informal probation. This represents a halt to further official processing, but juvenile justice officials still maintain control over the behavior of the juvenile. The first comparison group consists of those offenders who have been diverted to a juvenile program that operates outside the official juvenile justice system; e.g., YMCA program, Youth Service Bureau, church program, etc. Further official processing has been halted for these offenders and they have been diverted out of the

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\* Robert B. Coates and Alden D. Miller, "Evaluating Large Scale Social Service Systems in Changing Environments: The Case of Correctional Agencies," Undated, unpublished manuscript of the Center for Criminal Justice, Law School of Harvard University; Roger Baron and Floyd Feeney, "Preventing Delinquency Through Diversion: The Sacramento County Probation Department 601 Diversion Project," First Year Report of the Center on Administration of Criminal Justice (Davis, Calif: University of California, 1972).

system. A second comparison group consists of those offenders who are merely reprimanded and released (CWR), whether by police officials, intake officers, or truant officers. This group includes offenders who are counseled, warned, and released by a judge, since they had petitions filed against them and would be included in the third comparison group. Finally, a third comparison group consists of offenders who have penetrated the juvenile justice system to the point of being formally processed, that is, having a petition filed against them. This group would include those who are placed on formal probation and those who are institutionalized. The latter two comparison groups are used for comparing post-release behavior only.

Two points should be emphasized. First, at the level of probation intake, there may be attempts to randomly assign offenders to the new diversion programs operating inside the system and to other programs operating outside the system (or as in the case of the Sacramento 601 Diversion Program, to the new diversion intake unit and to the regular intake program). Such efforts should be encouraged as much as possible in planning the research, since it enhances the initial equivalence of these two groups. However, it must be recognized that such attempts to implement a randomization scheme are not often successful. Thus, we treat this design as a type of quasi-experiment rather than as a true experiment. And secondly, since these groups cannot be assumed to be initially equivalent, it is necessary to collect background data on persons in each group. This data collection is represented by the symbol "I" in Figure 1.

3. Objectives of Programs and Outcome Variables: Since the design is intended for general application to a range of diversion programs, we can specify only a limited number of outcome or "success" variables that

all programs (irrespective of particular treatment technology) could potentially measure. In addition to these common goals, each particular program will have relatively unique goals that are directly linked with the treatment technology employed. For example, a diversion program using family crisis counseling might employ measures of improved family communication and problem-solving, but a program emphasizing job training would be more interested in assessing improvement in job-related skills and attitudes.

Four types of outcome variables could be assessed:

a. Post-Release Outcome Measures: Given the primary objective of reducing delinquency or minimizing penetration into the juvenile justice system, evidence of repeat offenses and positive achievements after release from the program should be gathered. Exactly what constitutes a repeat offense is not easily determined- it is confounded by differential responses of social control agents, undetected delinquency, degrees and frequencies of law violation, and the possibility of distortion of official statistics to promote or discredit a particular program. Also, there may be disagreement as to whether status offenses should be included in such tabulations, since many feel that arrests for status offenses should be eliminated.

However, offending juveniles should be followed up for at least one year following release from the treatment program, or from the end of probation, or processing by regular intake, or release from an institution, or being counseled, warned and released. During this time period a number of indicators could be tabulated for each of the study groups:

- (1) Percent of repeat offenders- operationalized as juveniles rebooked or having probation revoked during the time period
  - a) Percent of status offenses
  - b) Percent of misdemeanors or minor felonies
  - c) Percent of more serious felonies

- (2) Percent of juveniles with more than one repeat offense
- (3) Percent of juveniles with petitions filed against them

Also, indicators of positive post-release achievement could be measured:

- (1) Improved school performance or percent remaining in school
- (2) Successful job placement or job performance

b. Changes While in the Program: In order to obtain performance measures in a shorter period of time, measures of individual change during the course of participation in the program could be obtained. These measures are based on the assumption that positive attitudinal and behavioral changes exhibited while in the program are predictive of post-release adjustment.

Such measures might include:

- (1) self-esteem, self-concept, feelings of competence
- (2) attitudes toward program staff (police)
- (3) attitudes toward family and peers
- (4) feelings of alienation
- (5) expectations for the future
- (6) misconduct while in the program

c. Client Perceptions of the Program: Recognizing that the typical emphasis on reduction of recidivism as the only goal of diversion at this stage of their development is unrealistic, it may be argued that programs should be evaluated in terms of alternative goals, such as justice or equity from the perspective of the client. If such matters are to be included in the research, indicators of the following might be taken at the time of release from the program or discontinuance of official handling by the probation department:

- (1) client perceptions of equality of treatment or perceived justice
  - a) between persons in the program
  - b) between persons in the program and other offenders
- (2) client perceptions of coercion by juvenile justice officials
  - a) at time of entering the program
  - b) while in the program
- (3) client satisfaction with treatment by officials
- (4) client perceptions about degree of control exercised by juvenile officials

d. Contamination of Treatment and Comparison Groups: These measures are not, strictly speaking, client outcome measures but can be used to ascertain the degree to which the composition of each study group in the evaluation differs from the initial program design.

- (1) Measures of discrimination in program assignment- a statistical measure of the degree to which assignment of youths to each of the four conditions (diversion treatment program, regular intake/station adjustment, traditional screening, and petition filed) is disproportionate in terms of minority status or social class level.
- (2) Rates of drop-out from programs- percent of subjects dropping out of diversion programs before their official release. This measure to be used in comparing different diversion programs.

It is unlikely that all of these outcome indicators would be used in any one evaluation study, but they do reflect the range and types of outcome measure that could be employed.

4. Definition of Offender Population: For various reasons, a number of offender types are often administratively excluded from eligibility for a new diversion program. They usually include those accused of serious felonies and sometimes include those with prior records. If a certain type of offender is ruled ineligible for participation in the new diversion

program, these types of offenders must also be eliminated from the other comparison groups when the outcome data is analyzed. This may mean that the population of offenders being evaluated is narrowed to some extent. As serious delinquents are generally considered inappropriate for diversion it is suggested that youths charged with major felonies be excluded from any evaluation study of a diversion program.

5. Use of a Randomization Procedure: Many previous evaluations of new diversion programs have employed some form of randomization procedure in the assignment of an offender (meeting the eligibility requirements for that diversion program) to either the new diversion treatment program or to another type of program outside the system.\* This procedure should be employed whenever possible, even though we have argued that it does not insure equivalence of the treatment group with the comparison group. There is also good reason to believe that those receiving a CWR or being processed to the point of having a petition filed are not randomly determined.

6. Descriptions of Treatment and Comparison Groups: Each of the dispositional alternatives in the research design must be described on the basis of field observations. The research team should describe what typically happens, as well as the significant variations, in a new diversion program, programs operating outside the system, the regular intake process, station adjustments, screening and the filing of petitions with the court. These observations are necessary in order to check on a number of things:

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\* In the Sacramento 601 Diversion Program evaluation and the evaluation of the diversion program in Site Visit 6, offenders were randomly assigned to the new diversion intake unit or to the regular intake unit.

- (a) the degree to which the treatment technique is what it purports to be;
- (b) the degree to which other treatment techniques or auxiliary services are provided by the program;
- (c) the consistency of administration of the treatment technique (or intake procedures, station adjustments, or court processing) across individuals, administrative units, and time, and
- (d) the possible detection of covert objectives and/or unanticipated outcomes.

Such observations refine our interpretations of differences (or no differences) in outcome variables between the treatment and comparison groups.

7. Collection of Data: As Figure 1 indicates, the overall design calls for the measurement of individual attitudes and/or behaviors at five different points in time. At some points, collecting the data is relatively simple; at others, considerably more effort, time and money will be required.

a. Initial Contact or Assignment: A number of socioeconomic, historical, and family variables, as well as details of the offense for which the youth was arrested or detained, need to be gathered at the point of contact with the juvenile justice system. This is not difficult for youths referred to programs since such measurements are normal procedure. However, such data procurement is not usually an integral part of cite, warn, and release (CWR), where officials (in many cases policemen) do not usually keep detailed records. A special effort will be required to explain the need for such information, while at the same time protecting the anonymity of the screened offenders. Measurement of these variables is necessary in order to ascertain initial differences in the treatment and comparison groups.

b. Attitudinal and Behavioral Measures at Early Stages of Entry:

These measures are taken on a randomly assigned one-half of all individuals in the treatment group and the outside program comparison group. These are pre-test measures for measuring individual changes while in the program. Such measures should be easily obtained.

c. Attitudinal and Behavioral Measures on Exiting: These measures are obtained on the remaining half of the youths in the treatment and outside program comparison group. This data can be easily obtained from diversion program participants at the time they are released from the program or informal probation. Special effort will be required to obtain such data from program "drop-outs."

d. Follow-up Measures at Six Months: This involves following up each group cohort six months after their exit from the system, using local and state criminal record and school files. The many problems of following up cohorts is discussed by Glaser.<sup>3</sup> The use of state and local records should suffice, unless there is reason to believe that later offenses committed out of state are differentially distributed between treatment and comparison groups. Following up the different cohorts for evidence of positive post-release achievements is a much more difficult and costly undertaking, probably involving a follow-up survey of all (or a sample of) individuals in each cohort.

e. Follow-up Measures at Twelve Months: Same procedures as used for the six month follow-up.

Attrition becomes a serious problem whenever different cohorts are measured over a long period of time. Specific methods to control and account for attrition are discussed by Riecken and Boruch and Glaser.<sup>4</sup> The most

serious problem arises if there is differential attrition across treatment and comparison groups. The usual experience in research is: the less control and supervision the official agency has over youths and the more effort required to locate such persons at a later time, the greater the attrition rate. The CWR group in this research design presents the greatest danger of high attrition; special efforts will have been taken to minimize this biasing effect. Failure to do so runs the risk of confusing program effects with attrition effects.

8. Analysis of Data: As was indicated earlier, there are basically four kinds of outcome questions that this research design can answer. Before proceeding to outline the proper data comparisons for each type of question, nonequivalence of treatment and comparison groups must be dealt with. Even with some random assignment, it is unlikely that one can assume initial equivalence in the groups. Matching of subsamples on the basis of pre-test scores is inadmissible even though Adams recommends it,<sup>5</sup> since such techniques typically underadjust for initial differences and create pseudo-effects.<sup>6</sup> In addition, there are no pre-test scores for follow-up measures.

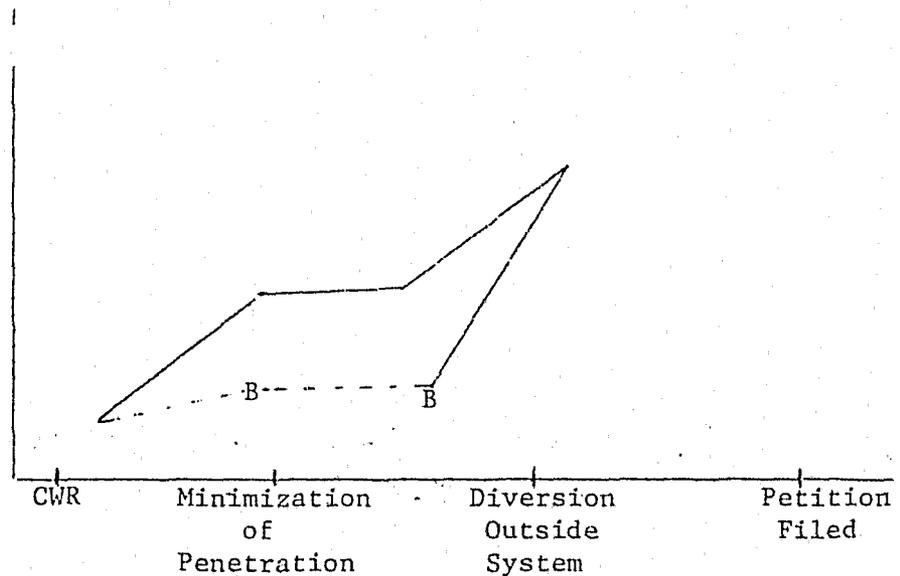
Two techniques exist for accounting for initial differences:

(a) In order to keep initial risk as constant as possible, analysis of change scores and follow-up measures should be conducted separately for first offenders and for repeat offenders, as well as for status offenders, for minor and more serious delinquents. This precaution will serve to minimize initial differences between treatment and comparison groups. In addition, it is possible to statistically control other variables that might confound the effect of the different dispositional alternatives. Such controlling variables might be: 1) race/ethnicity; 2) social class;

3) age; and 4) number of other programs that the youth participates in. It should be emphasized that statistically controlling for these latter variables is an auxiliary analysis technique and that they sometimes underadjust for initial differences. However, these controls may provide additional insight into outcome differences or into the types of juveniles that are helped the most by different forms of processing.

(b) Ruling out alternative hypotheses in a quasi-experiment is as much a logical process as it is a statistical process.<sup>7</sup> Thus, knowledge of the local correctional scene is essential in interpreting the findings of the evaluation. This underscores the importance of field observations in client outcome studies- a precaution that is frequently underemphasized. For example, two different assumptions can be made about the initial differences in "risk" of each of the four study groups. On the one hand, it might be assumed that disposition is not strongly related to risk, since too many other factors (demeanor of offender, attitudes of police or intake officer, availability of spaces in programs, etc.) play a role in determining disposition- or that the randomization procedure was relatively effective. In this case, statistically significant differences between the groups in follow-up measures can be reasonably attributed to the type of disposition. On the other hand, one might assume that youths in each of the four study groups vary in terms of initial risk; therefore, follow-up measures of law-breaking may reflect initial law-breaking tendencies more than they reflect treatment effects. This assumption requires an examination of more than differences in recidivism at some later point in time; one should examine the pattern of differences in group rates and determine if this pattern deviates from what would be expected on the basis of

assumptions about initial risks. Juveniles who are cited, warned and released might be assumed to represent the least risky offenders, youths referred to diversion programs (either inside or outside the system) might be assumed to be more risky, and youths who have petitions filed against them might be assumed to represent the highest risks. The solid line in the figure below represents group differences in law-breaking behavior that would be predicted from initial risk alone (assuming no treatment effects). However, if the new diversion program is effective, one would expect to find the later law-breaking levels of those in the diversion program ("B") to be much closer to the least-risky group- those receiving a CWR. The broken line in the figure below represents group differences in law-breaking if the programs are effective.



Referring to Figure 1, the crucial outcome comparisons for each of the four types of outcome questions are listed below:

(1) Post-Release Outcome Measures

- (a) 6-month follow-up: Compare  $F_1$  with  $F_3$  with  $F_5$  with  $F_7$
- (b) 12-month follow-up: Compare  $F_2$  with  $F_4$  with  $F_6$  with  $F_8$
- (c) to ascertain if the initial differences disappear over a longer time period or if initially small differences get larger over time:

Compare  $(F_2 - F_1)$  with  $(F_4 - F_3)$  with  $(F_6 - F_5)$   
with  $(F_8 - F_7)$

(2) Changes While in the Program:

Compare  $(O_2 - O_1)$  with  $(O_4 - O_3)$

(3) Client Perceptions of the Program:

Compare  $O_2$  with  $O_4$

(4) Program Contamination:

- (a) for evidence of discrimination:

Compare  $(I_1 + I_2)$  with  $(I_3 + I_4)$  with  $I_5$   
with  $I_6$

- (b) to compare drop-out rates between two different diversion treatment programs, merely compare the percent of juveniles entering who drop out prematurely (for an equivalent time period).

9. Drawing Inferences: A number of cautions must be exercised in drawing inferences from the results of an evaluation, and these cautions are even more necessary when using a quasi-experiment such as the one proposed here. Campbell and Stanley list eight threats to internal validity and four threats to external validity. A detailed discussion of these threats is presented in Technical Appendix I. For purposes of brief exposition, it is possible to list which of these threats can be controlled or accounted for by the design proposed here:

	<u>Internal Validity</u>	<u>External Validity</u>
Controlled:	History	Interaction of Testing and Treatment
	Maturation	Interaction of Selection and Treatment
	Testing	Reactive Arrangements
	Interaction of Selection and Maturation	
Controlled to some extent:	Instrumentation	Multiple Treatment Interference
	Regression Effects	
Major Threat to Validity:	Selection Mortality	

It should be evident by now that this evaluation design does not evaluate the efficacy of a treatment technology so much as it evaluates a diversion strategy or administrative option. It is only when the relative effectiveness of two different types of diversion treatment programs are evaluated that one can talk about the nature of treatment technologies. Even then, it will be difficult to disentangle the effect of the treatment technology from other features of the program.

At this point, the comparison is basically between "doing something inside the system" and "doing something outside the system" and "doing nothing" and "taking further official action." Thus, it cannot be asserted, as the report of the Sacramento 601 Diversion Project Evaluation did, that reductions in petitions filed can be attributed to the success of family crisis therapy; rather, such reductions could also be attributed to explicit or implicit administrative decisions to not file petitions for those referred

to family crisis therapy.\* When indicators of success or failure are subject to observations or discretionary decisions of program treatment personnel, one must guard against attributing any improvement to the treatment technology. In the Sacramento example, the program was successful in reaching a desired goal (reductions in the number of petitions filed) but this result could have occurred relatively independent from the treatment technology employed.

Finally, the credibility of inferences is improved immeasurably with replications of the program evaluation over time and over location. Even with tenuous inferences from a weak experiment, confidence can be gained with similar results of evaluations (also weak in design) conducted in another time and place. If this design is utilized in various locations around the country, it should be relatively easy to rule out some of the threats to validity.

10. Different Applications: Although the design has been presented as a technique for evaluating a specific diversion program relative to established ways of processing offenders, it can easily be used to: 1) evaluate the relative effectiveness of two or more different diversion programs, each employing different treatment technologies; and 2) evaluate the relative effectiveness of a new diversion intake unit as opposed to a regular probation intake unit as was done in the Sacramento 601 Diversion Program and in the diversion program of Site Visit 6.

11. Time, Costs, and Resources: Without specific information about a particular evaluation situation, it is impossible to specify precise cost

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\* This is an example of instrument decay-- to use Campbell and Stanley's terms.

and time estimates involved in undertaking this evaluation. However, some general comments are appropriate. Outcome evaluations require a long time before feedback on program effectiveness is available. This proposed design would require as long as two years to complete. In addition, the cost of supporting a research team and data acquisition will be high.

It is strongly recommended that this type of evaluation research be conducted by a research staff independent of program staff and operations.

If this recommendation is followed, the cost of the evaluation study will be even higher. At a minimum, the research staff should be headed by a senior researcher quite experienced in the subtleties of quasi-experimental designs; the part-time services of a statistical consultant would also be required. All of these considerations suggest that adequate program evaluation is beyond the capabilities of program staff or a small internal research unit of a program. If program directors desire this type of an evaluation of their program, they will need to contract outside their organization or get substantial assistance from the research unit of the state planning agency.

It should be noted that if this design is too ambitious for a particular program its scope can be reduced. For example, the assessments of individual changes while in the program could be omitted. This would transform the design into a post-test-only comparison group design. This modification would lose some valuable program information but would still provide follow-up data on clients. However, such a modification should not be undertaken lightly, since this weakens the design considerably. Alternatively, the research team might choose to gather follow-up data at only one point in

time. However, the costs involved in this type of economizing is high in terms of the loss of important information.

#### IV. SYSTEM-WIDE EVALUATION DESIGN

##### A. Introduction

We have been arguing that a client outcomes design for evaluating a particular diversion program should be supplemented by a system-wide evaluation design that focuses upon the effect of establishing a new diversion program upon the overall operations of the juvenile justice system. If such a strategy is chosen, then the proper unit of analysis is not the individual program, but the juvenile justice system as it operates in a particular locale- city, county, or state. Such an evaluation would not be conducted so much for a program director but more likely for an officer of the juvenile court, the probation department or, possibly, for a state planning agency.

In Chapter VI the possibility was raised that the establishment of a juvenile offender diversion program may have unintended consequences; namely, the proliferation of programs and personnel, the widening of the net of influence of the juvenile court, and discrimination in assignment to diversion or regular intake. A time series study of a juvenile justice system that has established a new diversion program may answer some of these concerns. In addition, where possible, such a design should be supplemented with a comparison to a comparable juvenile justice system that has not yet established a new diversion program.

B. A Time Series Design with Continuous Intervention

The basic logic of the time series design involves a number of repeated measurements of an outcome variable across time with an intervention (establishment of the new diversion program) introduced between two of the measurements. Figure 2 represents this design in schematic terms.

As Figure 2 indicates, use of this design implies that data can be gathered from a number of time periods before the establishment of the diversion program, and that the same information can be gathered over a number of time periods after the program has been established. In some cases, this may present problems, since normal information gathering of juvenile justice systems is not established with this type of evaluation design in mind. However, there ought to be standard crime and arrest statistics available to permit sufficient pre-program measures.

The design described here has been widely used to evaluate the effects of introducing a new program into a particular locale when a comparison group is not readily available or where the needs of evaluation were not anticipated. As Campbell has argued, it is an acceptable technique for conducting post hoc experimental analysis of social programs, innovations, or regulations.<sup>8</sup> The essence of the time series design for making causal inferences is that the group or unit of analysis serves as its own control. Behavior after the introduction of the new program is compared with the behavior of the same group or unit before the introduction of the program. Some random (or maybe systematic) variation in the behavior of the unit can be expected; the attribution of cause to the new program rests upon

Figure 2

Single-Group Time Series Design with Continuous Intervention

<u>Time 1</u>	<u>Time 2</u>	<u>Time 3</u>	<u>Time 4</u>	<u>Time 5</u>	<u>Time 6</u>
$O_1$	$O_2$	$O_3$	$IO_4$	$IO_5$	$IO_6$

O = Measurement of outcome variable.

I = Presence of diversion program.

the ability to argue that there is a marked discontinuity in the predicted direction in the time series data that corresponds to the introduction of the new program. And since the new diversion programs are continuous interventions and not temporary ones, the persistence of the discontinuity must be detected. As Campbell, Stanley and Glass, et al, argue, the inference that the intervention caused a change in behavior is not always straightforward, since the intervention may affect the form of the time series data in many different ways. For example, the intervention program may abruptly change the level of the series or change the level after a short delay; it may change the level of the series permanently, or only temporarily; it may sharply deflect a series formerly drifting downward, causing it to drift upward; it may make a highly variable series more stable, or vice versa. And there are other possible outcomes that might be interpreted as evidences of causality. However, careful scrutiny of the data can provide reasonable evidence of a program effect, all the time guarding against the false attribution of significance to random error and checking out various threats to validity.

This type of design is preferable to the pre-test post-test comparison group design that is often used to assess intervention effects.\* Figure 3 presents the schema of pretest-post test design. As Figure 3 indicates, this design takes measurements on the outcome variables at only two points in time, immediately prior to and after the intervention program has been introduced. There are numerous weaknesses of this design, but the most pervasive is probably the tendency to attribute causal significance to random variation. Since a suitable baseline of measurements has not been

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\*Cf. Thornton, Warren, Barrett, Edward, and Musolf, Lloyd. "The Sacramento County Probation Department 601 Diversion Project." Sacramento: Sacramento County Probation Department, 1972.



taken prior to the introduction of the new program, it is difficult to ascertain whether changes in the program group between times 1 and 2 are the result of the program or merely random variation. If additional prior baseline measures are gathered, as prescribed by the time series design, more information is available to help select the best explanation for the variation.

### C. A Multiple Group Time Series Design

A more adequate design, and one that may be used in comparing jurisdictional units with a new diversion program to jurisdictional units without one, is the multiple group time series design. This design enjoys much greater validity than the single group time series design, since it is based on a "between groups" as well as a "within groups" comparison of intervention effects. Its validity is even greater if experimental units are randomly assigned to intervention or no intervention or at least carefully matched.

The schematic description of this design is presented in Figure 4. In applying this design to the diversion problem, one of the study groups is a unit with an operating diversion program while the other study group is a unit without a diversion program. It is unlikely that there will be random assignment of diversion program to one jurisdictional area and not to the other. Comparability must be established by a careful matching of cities or counties for comparison on the usual demographic variables; e.g., size, socioeconomic and racial and ethnic makeup, size and organization of the police force, etc.

In this type of time series comparison, one expects to find a discontinuity in the time series data of the unit with a diversion program and a lack of discontinuity in the comparison unit, all the time guarding against

Figure 4

Multiple Group Time-Series Design with Continuous Intervention

	<u>Time 1</u>	<u>Time 2</u>	<u>Time 3</u>	<u>Time 4</u>	<u>Time 5</u>	<u>Time 6</u>
Treatment Group Unit with Diversion Program	O <sub>1</sub>	O <sub>2</sub>	O <sub>3</sub>	I O <sub>4</sub>	I O <sub>5</sub>	I O <sub>6</sub>
<hr/>						
Comparison Group Unit without Diversion Program	O <sub>7</sub>	O <sub>8</sub>	O <sub>9</sub>	O <sub>10</sub>	O <sub>11</sub>	O <sub>12</sub>

interpreting random variation as indicative of a discontinuity. And since the intervention is continuous rather than temporary, the discontinuity should exhibit considerable persistence.

#### D. Multiple Outcomes Measurement

Typically, time series designs are used to assess the degree of change in trend on one outcome variable of interest that can be attributed to some programmatic intervention. A number of outcome measures should be used in the evaluation of juvenile offender diversion programs, since there may be interest in assessing a number of unanticipated outcomes in addition to the typical desired outcome- a reduction in the number of petitions filed. The most salient criticism that can be made of the evaluation study of the Sacramento 601 Diversion Program is that it relied on only two expected outcome indicators and did not examine other possible outcomes.

This research report has argued that diversion, as applied in the field (which emphasized the minimization of penetration meaning), may serve to actually expand the influence of the juvenile court over the lives of minor or first offenders or those guilty of status offenses- an outcome somewhat antithetical to the original intentions of the architects and advocates of diversion programs. By examining time series data on a number of outcome variables, both anticipated and unanticipated outcomes of diversion interventions should be detected.

A number of important outcome variables to be measured are listed below. Such outcome measures can be used with both one and two unit comparison designs.

(1) Does the establishment of a diversion program serve to reduce the juvenile crime rate? While it is important to acknowledge that official

rates never reflect actual incidence of crime, official statistics can be used to chart changes in crime rates over time. The charting of juvenile arrest rates in each of the jurisdictions (the one with the diversion program and the other without a diversion program) both before and after the establishment of the intervention program may provide some tentative answers to this question. Such time series comparisons can also be broken down by the type of offense.

(2) Does the establishment of a diversion program result in a reduction in the number of juveniles confined in training schools? The calculation of the number of juveniles referred to penal institutions over time in each jurisdiction is one outcome measure for answering this question. However, if formal or informal diversion to noninstitutional programs is successfully carried out for minor offenders, the number of juveniles sent to training schools may be reduced, but the proportion of juveniles reaching the sentencing stage who are actually sentenced to training schools will probably increase. We should expect this to occur, because presumably the better risks and less serious offenders are diverted before reaching the sentencing stage.

(3) Does the establishment of a diversion program serve to minimize the penetration of offenders into the official system? Two outcome variables measured over time can help to answer this question:

(a) the number of court petitions filed. If diversion serves to minimize penetration, the number of petitions filed should decrease after the diversion program is established.

(b) the number of juveniles counseled, warned, and released (CWR). If diversion serves to minimize penetration, the number of CWR's should

increase. (If this does not occur but in fact if the number of CWR's decreases, it provides evidence that an expansion of the net of the influence of the juvenile court has occurred- see next section).

(4) Does the establishment of a diversion program serve to expand the influence of the juvenile justice system over the lives of juveniles? A number of outcome variables might be measured to detect this effect:

(a) The number of contacts of juvenile officials with juveniles. If diversion does increase official influence over lives of juveniles, then one should expect an increase in the numbers of juveniles who have been officially contacted over time. Indicators of contact could include the filing of a field investigation report by a police officer and a referral to the probation department by a truant officer, a school official, or a welfare official. There is reason to believe that reports of such contacts exist in official records.

(b) The number of CWR's. As indicated above, a decrease in the number of CRW's over time would be somewhat indicative of an expansion of influence.

(c) The degree of intervention of officials into the lives of offenders, as indicated by the number of separate contacts of officials with each offender. In this case, each official supervisory and treatment action could be counted as a contact with the juvenile. For example, an offender who was stopped or picked up by a police officer and then released would be contacted once by the system. An offender who was arrested and then placed on probation involving one visit with the probation officer each month for six months would have been contacted eight times (once by the police officer, once at probation intake, and six visits with probation

officer). An offender who was arrested and then diverted to a treatment program that involved six sessions with a counselor would also have been contacted eight times. This measure could be calculated in either of two ways (or both): 1) the average number of contacts per offender- this is indicative of degree of intervention into the life of any one offender; and 2) the total number of contacts per time period- this is indicative of the level of official activity in the system.

(d) The number of status offenders and first offenders referred to a treatment program. If the number of these offenders increases and this is combined with a corresponding decrease in the number of CWR's, there is even stronger evidence of an expansion of the net of influence.

(5) Does the establishment of a diversion program create an expansion of personnel and operating costs of a juvenile justice system? A number of outcome variables might be measured to detect this effect:

(a) The number of treatment programs funded by the juvenile justice system. Increases over time would indicate expansion.

(b) The number of clients referred to treatment programs. If this increases after the introduction of a diversion program, operating costs will likely increase.

(c) Operating costs of the juvenile justice system. Three different indicators of operating costs might be employed: 1) the number of personnel employed; 2) budget size; and 3) physical space used. An abrupt increase in these indicators corresponding to the introduction of a diversion program would be indicative of an increase in operating costs attributable to the diversion program.

(6) Does the establishment of a diversion program result in an increase in the length of time an offender is under official control of the

juvenile justice system? Measurement of this outcome would exclude consideration of all offenders who are counseled, warned and released and incarcerated but would include offenders who are diverted to a treatment program or placed on formal or informal probation. This indicator would involve calculating the average number of days each of the above offenders was under official or unofficial supervision. This type of data may be difficult to retrieve for periods prior to the establishment of a diversion program.

While it is not likely that all of these indicators would be used in any single evaluation, they represent the variety of measurements necessary to answer the questions raised earlier. Gathering such data allows tentative assessment of some of the more systematic questions about the effects of a diversion program.

#### E. Collection of Data

With some exceptions, most of the data needed for the various time series analyses should be available in official records. When official records do not exist for some of the outcome variables, time series analysis will not be possible, since adequate pre-intervention baseline measurements will not be available. It is recommended that pre-measures of the variables be collected for at least three years prior to the beginning of the diversion program and that post measures be gathered for at least the same amount of time. It is probably best to set the time intervals equal to one year.

#### F. Monitoring the Intervention

Diversion program interventions are usually continuous over time; they are introduced and then maintained over a number of years. As in the client

outcomes design, it is essential to monitor the intervention as well as the outcome variables over time. If the nature of the diversion intervention changed after the initial implementation of the program, this would affect the time series data. If this change in administration were not detected by monitoring, there is the risk of attributing the second discontinuity in the time series data to random variation or spontaneous change when it really was the result of a later program change.

#### G. Analysis of the Data

Two major problems enter into the analysis of the data, aside from the special statistical problems of analyzing time series data.\* In interpreting a change in time series data any change corresponding to the intervention is not necessarily significant; what is necessary is a discontinuity or change in the prior pattern of changes. Generally, changes are in the level or the direction of the time series data, but more complex changes are possible. The interpretation of the change depends upon what is predicted.

Secondly, caution must be exercised not to attribute the change only to the treatment involved in the diversion program. As the Sacramento 601 Diversion Project evaluation illustrated, some changes in outcome variables may be as attributable to changes in administrative decisions or recording techniques as they are to the effect of the treatment program. This problem is addressed in our later discussion of validity.

#### H. Problems in Using Official Statistics

The use of official statistics as outcome measures presents some problems in reliability and validity. Official statistics tend to

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\* For further discussion of special statistical problems in analysis, see Glass, et. al, 1975.

under-report the incidence of law violations in general, to under-report violations by middle and upper socioeconomic class individuals, and to over-report violations in areas habituated by poor and minority group persons. In addition, official statistics can be manipulated to present a distorted picture of criminality in a community.

### I. Drawing Inferences

As in the client outcome design, there are eight sources of internal invalidity and four sources of external invalidity that need to be controlled or accounted for. In addition, there is one additional source of internal invalidity that is particularly problematic in time series designs. A detailed discussion of these threats to validity in the time series is presented in Technical Appendix II. For purposes of brief exposition, it is possible to list which of these threats can be controlled or accounted for in the time series design:

	<u>Internal Validity</u>	<u>External Validity</u>
Controlled:	Maturation Testing Selection Mortality Interaction of Selection & other Sources	Interaction of Test- ing and Treatment Reactive Arrange- ments
Controlled to some extent:	Regression Instability	Interaction of Selection and Treatment Multiple Treatment Interference
Major Threat to Validity:	History Instrumentation	

## J. Special Resources Needed for Time Series Analysis

Much of the data needed for the time series designs is retrievable from official records and/or can be collected by normal monitoring research on the various agencies in the juvenile justice system. However, special statistical consultation will be required. The complicated problems involved in analyzing time series data are beyond the experience of many researchers.

## V. PROGRAM PROCESS EVALUATIONS

A number of research issues raised in the diversion report cannot be addressed by the two types of proposed evaluation designs- the client outcome design and the system-wide design. While many of these issues might be referred to as basic research issues, they should not be ignored in the evaluation of community treatment programs. These research issues basically concern the types of processes that occur within and around program operations. While most of evaluation research in the past has focused upon program outcome measures (usually in terms of individual outcomes), many researchers in juvenile justice are calling for evaluation research to pay more attention to program processes and community context.\*

Process evaluations generally involve systematic observation of program operations, sometimes combined with interviews with program personnel, clients, and community leaders. These evaluations attempt to obtain a more detailed picture of how the program actually operates on a day-to-day basis

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\* See Sarri and Selo; and Robert B. Coates and Alden D. Miller, "Evaluating Large Scale Social Service Systems in Changing Environments: The Case of Correctional Agencies." Unpublished, undated manuscript of the Center for Criminal Justice, Law School of Harvard University, Cambridge, Massachusetts.

(as opposed to how it says it operates), the constraints under which the program operates, emergent procedures and strategies, variations in treatment implementation, covert objectives, and linkages with the wider community and other agencies. These kinds of issues often do not receive sufficient attention in outcome evaluations.

However, these types of evaluations are not "designed" in the sense that outcome evaluations are, except for specifying the sampling plan and observation schedule. Process evaluations involve trained observers spending a great deal of time at the program site in order to develop a more intimate picture of how the program operates. Thus, we will not specify any type of research design for process evaluations, but will briefly delineate a number of research questions that lend themselves to this type of research strategy.

A number of research questions seem to require observational studies of program operations:

- (1) the use of discretion in initial arrests, assignment to program or incarceration, processing of clients in the treatment program, and pronouncements of treatment success
- (2) the degree to which programs are just or equitable in their treatment of clients
- (3) humaneness of treatment
- (4) the relative mix of treatment and punishment
- (5) variations in application of treatment technology
- (6) degree of control over the client
- (7) linkages with other treatment agencies or juvenile justice officials and methods of coordination, quid pro quo arrangements, degree to which actions of other juvenile justice officials restrict the freedom of treatment program personnel

(8) political constraints on treatment program

This list could be extended. However, all that is important in this discussion is to emphasize that not all research questions can be answered by outcome evaluation designs. While observational studies do not generally possess the credibility of more quantitative evaluation studies, there are some questions that can only be dealt with by the use of process evaluations.

VI. A MONITORING SYSTEM FOR PROGRAM ACCOUNTABILITY

A. Introduction

The detailed proposals for developing program and system-wide evaluations were premised on the almost universal belief that programs must be held publicly accountable. Given the hundreds of diversion programs that exist or are being planned, rational decisions about the allocation of resources requires more information about program implementation and outcomes than has been provided in the past. Almost all observers of juvenile justice systems comment on the general lack of basic data on existing programs. For example, it is unlikely that we even know how many diversion programs presently exist on a national or statewide level.

Yet, the detailed evaluation studies proposed earlier cannot provide enough information on all programs that exist. They are just too costly; they need to be employed judiciously. They need to be supplemented by a monitoring system capable of generating information on diversion program inputs and processes in a less costly but still efficient manner. Such information should be gathered by program staff using a consistent format so that program comparisons are possible. Such information should also

provide higher decision-makers with a better overall picture of what is going on in the diversion field.

This discussion will focus upon a monitoring system for diversion programs, but it should not deflect attention from the need for monitoring all agencies in the juvenile justice system. Without such monitoring of the other agencies as well, it would not be possible to carry out the system-wide evaluation that was proposed earlier.

A monitoring system requires that a minimal amount of information about how a program works is gathered at periodic time intervals (at a minimum, once each year). If such monitoring data is provided by each program under their jurisdiction, they would be able to determine what they now are often unable: are programs running as they were intended, are funds being used in ways planned, and are programs reaching the intended target population?

In the past, there has been a reliance on the courts to keep correctional programs accountable. However, the courts are relatively unable to hold juvenile justice programs accountable. The courts have typically been unwilling to interfere with administrative decisions of diversion personnel, deferring to their greater expertise and recognizing that diversion was established as a procedure for minimizing the role of the courts in minor juvenile offenses. Also, judicial action, whether through litigation or appellate review, is generally too slow to handle the rapid turnover of clients in diversion programs.

Program monitoring focuses upon program inputs and processes. Monitoring needs to be supplemented by program and system evaluations, which focus upon program outcomes. The combined use of both monitoring techniques and program evaluations provides the potential of generating the kind of information needed in making future program decisions.

## B. A Routine Monitoring System for Diversion Programs

Each diversion program should be required to collect specific information about its clients, its staff, and its normal operating procedures. Such information could be gathered as part of the normal information gathering process. However, in the past, programs have not gathered such information in a standard way, making it difficult to use by outside agencies. If a standard format for gathering information is employed, we would no longer have to worry about incomplete information, inconsistent tabulation methods, or incommensurable statistics.

Information on a number of aspects of the program should be gathered:

1. Program Initiation and History: In order to set the context for interpreting program statistics, each program should supply a rather detailed narrative of the history of the program- what it intended to accomplish, its organizational goals (both short range and long range), how the program was initially implemented and with what resources, initial staffing, and a description of the institutional, communal, and political context within which it began. This information should be updated yearly, if there are pertinent changes in any of the above factors. Wherever possible, this information should be supplemented by a site visit by the funding agency.

2. Resource Allocation: Each program operates with a limited budget; it is imperative that efficient use of limited resources prevails. Thus, one important source of program accountability is the allocation of funds. The following information about program allocations of money and staff should be made at yearly intervals:

- (a) Organizational Description: If the diversion program is part of another organization or maintains a close working relationship with

another organization, this should be specified in detail. A detailed organizational chart should be provided; this chart should describe the division of labor of the staff- who is responsible for administrative duties, who conducts the treatment, who solicits additional funding, etc. In addition, the percentage of time each staff member devotes to each of these different functions should be provided. A brief description of decision-making authority and modes should be provided. Finally, the hours that the program is open for accepting and treating clients should be specified.

(b) Program Staff: A list of program personnel should be provided, indicating job responsibilities, salaries, age, minority status, previous education and work experience. An average staff/client ratio for the year should be provided. If volunteers are used in the program, their role in program operations should be specified. Finally, any in-service training or educational programs for the program staff should be described.

(c) Budgets and Expenditures: The report should include a rather detailed delineation of funding sources and amounts, as well as plans for future funding. In addition, a general line item delineation of expenditures for the past year should be included.

(d) Physical Facilities: A brief description of where the program is located and housed, as well as projections of future space needs. If special equipment is used or needed, this should be specified.

(e) Outreach Activities: If the program has a special outreach program or set of activities, these should be described. The amount of time devoted to such activities should be indicated. If special efforts are made to follow-up dropouts, these should be described.

3. Target Population: The following data about the target population of the program should be provided:

(a) a brief description of the intended target population;

(b) a statistical description of sources of referral of clients to the diversion program, e.g., what percent were referred by the police, detention center officials, regular probation intake, truant officers, welfare agencies, guidance counselors, family, mental health agencies, etc.;

(c) statistics on clients served by the diversion program, including the following: number of clients served, number of clients completing the treatment, number of dropouts, number of clients arrested while in the diversion program, number of clients counseled, warned and released by police or other juvenile justice officials while in diversion program, etc. Also, statistics on the prior violation history of clients should be presented; e.g., number of previous arrests, detentions, petitions filed, adjudications, as well as a categorization of clients by type of offense for which they were referred to diversion program (status offense, misdemeanor, minor felony, serious felony). Finally, the client population should be described in terms of demographic variables, such as age, minority status, SES, sex, and pertinent family and educational data.

(d) the range and the average length of time that clients participated in the treatment program;

(e) a short description of the degree to which the types of clients who actually participated in the diversion program correspond to the intended target population.

4. Treatment Technology: The following information on the treatment provided by the diversion program should be supplied:

(a) a detailed description of the type of treatment provided by the diversion program; e.g., individual counseling, group therapy, family crisis intervention therapy, vocational training, etc. This detailed description would involve a specification of exactly what the nature of the treatment is, the typical frequency of sessions, typical duration, type of follow-up after treatment. If additional types of treatment are also used, the mix of treatments should be described. Unusual problems should be noted.

(b) other services provided to clients;

(c) estimates of time that treatment staff devote to treating clients, other administrative duties, supervisory activities, etc.;

(d) the runaway role, if it is a residential program;

(e) specific criteria of "success;" e.g., a specified number of sessions attended, judgment of professional staff, client having met certain performance goals, etc.

5. How Clients Exit from the Diversion Program: Descriptive data on placements for clients leaving the program; e.g., are they living with family, foster parents or in a residential program, are they in school, are they working?

6. Coordination with Other Agencies: Coordination of agency activities is usually viewed as a positive achievement, but we have argued earlier that it may have negative consequences. However, the degree to which diversion programs are linked with other juvenile agencies should be noted. Each program must specify the nature of its working relationships with police, juvenile court, probation departments, truant officers, etc. Referral of clients to other programs should be reported.

7. Community Input: The degree to which the diversion program receives input and feedback from community groups should be documented. Specifically, what community interest groups and what other juvenile justice professionals have influenced program operations and in what ways. Is there an advisory board for the program, and if so, are there any community representatives on it?

8. Follow-up Data on Clients: Finally, any efforts that the diversion program makes to follow-up its clients should be documented. If this is done, summary statistics should be provided, along with the way in which the program staff utilize such data.

#### C. Problems in Using Monitoring Data

Once monitoring data has been gathered, files must be generated and maintained in some central office, probably the state planning agency or a national clearinghouse. Such files will be used to generate descriptive data on diversion programs in the state and the nation. Unless the data is gathered using some standard form, it is virtually impossible to compile overall statistics. The use of normal operations records of diversion and other types of programs will not suffice, since they are usually incomplete, incommensurable, bulky and inefficient.

There are still problems in using forms devised by a central office. When a data center or clearinghouse receives completed data forms from persons not under their control and when those persons who fill out the form do not use the information for their own work purposes, inaccuracies are likely. Thus, special efforts will be necessary to insure the completeness and reliability of the data received. It is possible that a special unit

of workers, responsible for data collection in the field, will have to be added to the staff of the state planning agency or the national clearing-house. These workers would be responsible for training and assisting program staff in filling out the monitoring reports and for following up inaccurate reports.

Also, a system for precoding the data will have to be devised, so that once the data is received and stored, it can be efficiently retrieved at a later date.

D. Who Monitors Whom?

Program accountability data gathered through the monitoring system will, in all likelihood, be forwarded to the state planning agency for purposes of ascertaining whether the program is utilizing its money and staff in the intended manner (although it may also get channeled to some local supervisory agency before going to the state planning agency). Summary statistics about diversion programs can be generated by the research division of the state planning agency and then, if desired, routed to a national clearing-house for the tabulation of national statistics. This procedure approximates the notion of hierarchical auditing, suggested by Glazer.<sup>9</sup>

E. An Alternative Method: Use of Quality Control Techniques

If desired, there exists a more comprehensive method of building accountability into juvenile justice agencies and programs that could potentially supplement the monitoring procedure. A form of quality control could be introduced into the evaluation of diversion programs. This process would involve setting up a special research team for the purposes of continuously reviewing the quality of organizational performance. This special

research team would randomly select a number of cases (individuals) who have been processed by probation departments with diversion programs. Once an individual case is selected, a thorough review of the processing of the client would be undertaken. This review would begin with the initial contact of the client with juvenile officials and trace the case until the juvenile was released from the treatment program or supervision by juvenile officials. Each step of the processing would be reviewed in order to determine if the correct choices were made, if the rights of the juvenile were protected, if adequate treatment was provided, if discriminatory treatment was present, and how adequately the client was placed in a home or supervisory setting upon release from the program.

This procedure holds high potential for building in accountability in program operations. However, it is costly and difficult to undertake. It requires a great deal of time from the research staff, and it requires relatively objective standards of performance so that decisions and actions can be evaluated. At present, such standards of performance do not exist.

#### F. Dissemination of Results

Once the monitoring data is collected, evaluated, and summarized, the planning and funding agencies can use it to make decisions about future funding, continuation of programs, and/or expansion of programs. Feedback should also be provided to the individual diversion programs.

This use of the monitoring information is completely internal to the juvenile justice system. What has been left out of this process are interested individuals and groups external to the juvenile justice system. If there truly exists a commitment to public accountability, then this data

must be made available to interested outsiders. Hopefully, more than summary data will be made available to the public.

## VII: COST COMPARISONS

### A. Introduction

A final way of evaluating diversion programs is to compare costs. While cost analysis does not deal with the issue of organizational effectiveness, it is a commonly used mode of comparison given the difficulty of devising reliable benchmarks of effectiveness. Since resources for diversion programs are limited, economic considerations are often important.

One word of caution: It is tempting to focus too much on cost statistics; they are tangible, easy to interpret, and politically persuasive. However, there is always the danger of giving higher priority to monetary values than to effectiveness statistics. It is no easy task to reduce crime, and it is often costly. Cost estimates do not always adequately represent other kinds of savings to the community and society, such as money saved by reducing the number of incarcerated individuals, the savings in property loss, personal loss, and psychic damage, savings in welfare costs, and gains in social and economic production.

There are numerous ways of calculating program costs, each with its strengths and weaknesses. A number will be presented, indicating how each could be applied. Given the large number of programs to be costed, we need to rely upon relatively simple procedures that compare program costs in terms of standard units of comparison.

B. An Impractical Method: Cost-Benefit Analysis

The most sophisticated method of calculating costs and benefits to the community of a particular diversion program is some form of cost-benefit analysis. This technique not only calculates costs in a sophisticated manner but also attempts to estimate the financial value of the social benefits provided by the program. However, this technique has two overwhelming weaknesses for diversion uses: 1) it requires a great deal of staff time and effort to estimate financial values for social benefits-estimates which are sometimes overly vague and/or arbitrary; and 2) it would overburden diversion program personnel by making enormous demands on them to supply detailed program information regarding program costs and effectiveness. Except for unusually large experimental programs, this technique is not recommended.

C. Comparing Diversion Programs with other Programs

A critical comparison is between the costs of running a diversion program relative to more traditional methods of processing juvenile offenders, such as a regular probation intake program. This is a difficult comparison, since clients typically spend different lengths of time in each program. A simple total cost per client figure will not detect this difference. For example, if both a diversion intake program and a regular intake unit process 100 clients in one year and they each have a total cost of \$50,000, their per client costs are identical. However, if it takes three times as many person-hours to process an offender through regular intake than it does through the diversion program, then the diversion program is cheaper to run.

There is a way to compare dissimilar programs, but it is complex and time-consuming; it could not be applied to all programs but would have to be restricted to illustrative cases. This analysis specifies all of the actions or services taken with all possible ways of processing the youth through each of the programs. Each action or service is then "costed" by applying auditor figures to each possible action. Then, given frequency distributions of how often each action was employed by a particular program, the total costs of all actions taken are tabulated. The total cost then is divided by the number of clients handled in that year to yield a cost per client figure. Programs are compared on the basis of this total cost per client figure. This cost procedure is cumbersome; it would not be practical to use it on all programs. It can be used on exemplary programs to indicate typical cost comparisons between diversion and traditional programs. It has the advantage of making the cost figures of two different types of programs more commensurable.

#### D. Comparing Diversion Programs

It is easier to compare costs of different diversion programs. The procedures essentially involve tabulating the annual operating costs of the programs and dividing these figures by a standard unit (time, effort, number of clients). The main problem is in accounting for all program costs.

1. Total Annual Expenditures: One important type of comparison is total cost. The total cost of a diversion program should include: cost or rental charges for physical space, equipment and supplies, salaries, and other operating costs. If a building has been purchased for the program, depreciation should be included. And if the project is part of a government

division, estimates of supervision and auditing costs incurred by higher government offices should be included.

2. Cost per Client Admitted: This measure is merely the total annual cost of the program divided by the number of clients admitted to the program during the year.

3. Cost per Client Completion: This measure is calculated by dividing the total annual cost of the program by the number of clients who complete the treatment program. This is a better measure than cost per client admitted, since it calculates how much it costs to get an offender through the program.

4. Cost per Program Success: A measure of cost that can be applied to the later life of a diversion program is the annual cost of the program per "successful" client, that is, a client who does not recidivate within a certain period of time (probably one year). This measure can be calculated by dividing the total annual cost of a program in a particular year by the number of clients who completed the program in that year and were not re-arrested during the following year.

Technical Appendix I:

Validity Issues in the Client Outcome Design

Differences in post-test scores between treatment and comparison groups are presumed to reveal the effects of the program treatment. This causal claim may be invalid; events unrelated to the program treatment may have caused the differences between treatment and comparison groups. And these threats to the internal validity of the experiment or quasi-experiment are supplemented by other threats to the validity of generalizations (external validity).

Most discussions of research designs merely describe or list the twelve common sources of invalidity and generally indicate that efforts must be made to check them out. Yet no general discussion of validity problems can replace a careful examination of concrete research proposals, since some of the judgments about invalidity depend upon the particular research application. Thus, as a supplement to the proposed design, a more extended discussion of validity problems is included. The standard form is used for discussing validity problems, as originally presented by Campbell and Stanley.

Since our proposed research design involves two types of data comparisons (individual changes while in the program and post-release behavior), examination of validity threats will have to be conducted separately for each of these two aspects of the proposed design.

#### A. Threats to Internal Validity

##### 1. History

An event or set of events extraneous to the program treatment but coincident with it may produce a change in the post-test measures of the criterion variables of the treatment group which is mistaken as a treatment effect. Between  $O_1$  and  $O_2$  or between  $X_1$  and  $F_1$  many other change-producing events

may have occurred in addition to the program treatment. History becomes a more plausible rival hypothesis for changes in the treatment group the longer the time lag between pre and post-tests or between application of the treatment and the follow-up measures. In our design, the time lag is relatively long, and hence, history is a plausible rival hypothesis. In addition, there is relatively little experimental isolation in diversion programs, again strengthening the possible effect of extraneous events.

However, the use of comparison groups is a control for the possible invalidating effects of history, since external events that may contaminate the measurement of change of post-treatment behavior in the treatment group should also contaminate the comparison groups in the same way. Historical events that might have produced the  $O_2 - O_1$  difference or the  $X_1 - F_1$  behavior would also produce an  $O_4 - O_3$  difference or similar  $X_2 - F_3$  behavior. Thus, it is relatively certain that the possible invalidating influence of general history is controlled in the proposed design.

The historical events referred to here are external to the treatment and comparison groups. The use of comparison groups does not control for the possible contaminating influence of specific events that occur within the program and prior to the post-test or follow-up measures. It is impossible to control for this contaminating influence through design, but familiarity with the program and how it was implemented over time should alert the research team to internal historical events independent of the treatment, that could have cause the  $O_2 - O_1$  change or the  $X_1 - F_1$  behavior. This underscores the importance of field observations of the program and comparison group processes.

## 2. Maturation

Maturation refers to all biological or psychological processes which systematically vary with the passage of time, independent of specific external events. Thus,  $X_2 - X_1$  differences, or  $X_1 - F_1$  behavior may not have been the result of the treatment but of a process of maturation. This is a serious threat to validity in delinquency research, since numerous studies have indicated that delinquency rates do vary systematically with age. Thus, a reduction in attendance of law-breaking behavior after the age of 18, which is a typical function of maturation. If the treatment group is compared to a control group before the program at the age of 17 or 18, reductions in law-breaking behavior may be more a function of age than of the treatment program.

Again, the possible maturation influence of maturation is controlled by the experimental design. In the case of comparison groups, provided that the treatment and control groups are from the same age distribution. Changes between  $X_1$  and  $X_2$  and between  $F_1$  and  $F_2$  that are due to maturation should also affect the distance between  $X_1$  and  $X_2$  and between  $X_2$  and  $F_2$  in the same way. Thus, we can be relatively certain that maturation is not a rival hypothesis for the results of the quasi-experiment.

### 3. Testing

A third and final rival explanation is the effect of testing- taking a test a second time at the post-test. For example, scores of persons on the self-concept attitudes and self-concept after the program treatment may have been affected by their taking the same tests at the time of entering the program.

Testing is controlled in the proposed design, since it calls for comparing the pre-test scores of a random selection of one-half of the program and comparison group members with the post-test scores of the other half of program and comparison group members. Since people taking the post-test have not been exposed to the pre-test, there can be no confounding.

The same reasoning holds for the follow-up measures. There cannot be a testing effect here, since no pre-test is given. Also, a testing effect is not likely since the follow-up measures are relatively nonreactive, that is, they are gathered using official records and not by the direct application of a test or questionnaire to the subjects.

Thus, testing is not likely to be a rival hypothesis.

#### 4. Instrumentation

A fourth rival hypothesis is termed instrumentation or instrument decay and refers to autonomous changes in the calibration of the measuring instrument or changes in the observers or scorers used in assessing behavior or attitudes. This is particularly relevant to studies in delinquency, since arrest and conviction criteria have been known to change over time. If a study uses law violation rates as a criterion variable and change is assessed over a long period of time, then changes in rates between Time 1 and Time 2 may be more attributable to changes in the basis of making arrests than to the implementation of a new treatment program.

Instrumentation is controlled to a certain extent in the proposed design, since if there is instrument decay, it should exhibit its effect equally on measurements of both treatment and comparison groups. Thus, if the measuring instruments for assessing individual attitudes are changed between the pre-test and post-test, this confounding effect should manifest itself equally

of the treatment and comparison groups. Also, if the discretions used in selecting suitable subjects should change systematically over a time period leading to the execution of the new diversion program, this change should affect the police follow-up required of law violations for the treatment and comparison groups.

Secondly, it is possible even in which instrument decay may result, provided the design is proper. First, if the follow-up procedure for the treatment group, participants and the comparison group are the same at widely separated times, then it is possible that differences in police discretion were in effect. Secondly, if the police are able to identify contacts with juveniles and determine the extent to which they appear to be aware of who participated in the treatment program and who did not, it is possible that they might apply different criteria to arrests of these individuals at a later time. Thirdly, if police discretion for arrests could either discriminate in favor of or against law violators in the treatment program. Garri and Solo present evidence that this is possible in the past.<sup>10</sup>

If the follow-up procedure of the treatment and comparison groups are the same at widely separated times, the former problem is minimized and the latter problem is minimized in the "positioned" comparison group, since the subjects are selected for a period of time. Careful attention must be given to the extent of the latter problem, since the need to follow up on the treatment status of arrest criteria. However, because of the police discretion involved, we are not able to be as confident that the subjects are always controlled as much as would be desired. In fact, treatment is controlled only to some extent.

## 5. Statistical Regression

A fifth possible confounding influence is statistical regression-effects attributable to imperfect test-retest correlations for groups selected on the basis of their extreme pre-test scores.

In one sense, regression effects should not confound this proposed design, since subjects are not assigned to the different study groups on the basis of pre-test scores. However, there is the possibility that initial dispositions to the new diversion program, regular intake and the CWR group are correlated with previous history or predicted risk. If this is the case, there is the possibility of regression effects.

Regression effects are controlled for in the experiment by assessment of changes while in the program. Pre-tests are given to a random one-half of the persons in the diversion program and in the regular intake program. Thus, regression from extreme scores should be equally distributed across both groups.

However, regression effects are a more plausible rival explanation in any analysis of differences in follow-up measures. The more that initial assignments to each of the study groups is correlated with the prior records of the youths, the greater is the likelihood that regression effects may be present. This underscores the importance of attempting to randomize, as much as possible, the assignment of individuals to the new diversion program and to regular intake. To the extent that randomization is approximated, regression as an alternative hypothesis is ruled out. Therefore, statistical regression is controlled only to some extent in this proposed design.

## 6. Selection

A sixth threat to the validity of inferences, and a major one in the proposed design, is selection. A selection bias is the differential

assignment of individuals to the treatment and comparison groups. In a true experiment this is controlled by random assignment, which allows the researcher to assume initial equivalence of the different study groups. But, in the present design, random assignment of offenders to the new treatment program and to the regular intake program is not always possible. In addition, offenders are not randomly assigned to the CWR and comparison groups.

In addition, the selection factor is controlled in the assessment of program effects. In the present case, there is a comparison of changes in scores over time. If the two groups differed in initial pre-test scores, this initial difference is taken into account in the calculation of the mean change for each comparison group and the collection of pre-test data will control for selection differentials.

However, this control is not present in the analysis of difference of follow-up measures, since pretest data is not available. As indicated in the design proposal, there are two approximate ways to analyze the data in order to control for possible initial differences. One way is to focus on the pattern of differences rather than on absolute differences; the other way is to use follow-up measures, controlling statistically for relevant background and history variables. But, as indicated in the proposal, these are only approximating techniques.

Selection, as a rival hypothesis, is not controlled as adequately as would be desired in this proposed design.

#### 4. Attrition

Attrition, or the differential rate of attrition from the treatment and the comparison groups, is also a serious problem for this proposed design.

Since this research design would be conducted over a relatively long period of time and since control and supervision over youths in the different study groups varies, it is reasonable to believe that the drop-out or attrition rates will vary to some extent.

Except for extraordinary efforts to trace down dropouts by the research team, there is no way to control for this potentially biasing effect. If there is a differential dropout rate, it cannot be assured that the  $(O_2 - O_1)$  and  $(O_4 - O_3)$  differences and the  $F_1$  and  $F_3$  and  $F_5$  and  $F_7$  differences were not due to the differential dropout rate.

One can attempt to measure the potential effect of differential mortality. Using the initial intake measurements, one can attempt to determine the extent to which the compositions of the dropouts varied across treatment and comparison groups.

In terms of follow-up data on law violations, it appears that the best strategy, although also more conservative in terms of discovering program effects, is to retain the dropouts in the analysis of the follow-up data for the treatment group. Even though they did not receive the full "treatment," ignoring the dropouts in the follow-up analysis could bias the follow-up statistics for the treatment group in favor of the most cooperative and probably least risky youths.

Mortality effects are not controlled as would be desired in this design.

#### 8. Interaction of Selection with Maturation

The final threat to internal validity exists in the possible interactions of selection with maturation, history, or testing. In these cases, the rival hypothesis is that the selection differentials combine with these

which constitutes in a special way to create changes in the treatment group that are independent of the treatment. These types of interactions are relatively rare. For the proposed design it seems that the only plausible threat is an interaction between selection and maturation. However, to the degree that the age distributions of the treatment and comparison groups are similar, this threat to invalidity can be considered controlled.

#### Threats to Internal Validity

Threats to external validity are generally interaction effects, involving unique combinations of the treatment and some other variable. These interaction effects represent a potential specificity of the effects of the treatment to some unacceptably limited set of conditions. Thus, threats to external validity limit the ability to generalize from the findings.

#### Interaction Threat: Testing and Treatment

The interaction between pre-testing and the treatment is commonly referred to as a "benefiting effect." That is, the application of a pre-test sensitized the subjects to the forthcoming treatment program to such an extent that it is difficult to argue that the treatment might have occurred in a subject who had not received a pre-test.

Benefiting effects should not limit the generalizability of this proposed design, since the individuals who receive the post-test did not take the pre-test. Notwithstanding for the follow-up data, the individuals were not pre-tested.

Thus, this contributing factor is controlled.

## 2. Interaction of Selection and Treatment

This source of invalidity arises if there is something about the population of offenders in a particular locale that would make them exceptionally receptive or unreceptive to the treatment program. In the case of the proposed designs for evaluating diversion programs, one would have to argue that there is something unique about offenders in those locales that choose to set up diversion programs that make them unique. There may be something unique about officials in a particular juvenile justice system in a city or county that led them to set up a diversion program in the first place. It is not likely that this contention can be applied to the class of offenders, unless it is discovered that diversion programs are only set up in middle class communities (or lower class communities) or that they only apply to offenders of a particular class or minority status. As long as similar results are discovered from diversion programs in various communities and from diversion programs serving a various mix of offenders, this threat to external validity is minor.

## 3. Reactive Arrangements

Reactive arrangements occur when the subjects of an experimental program exhibit certain behavior and attitudes, not because of the effect of the treatment, but because of the knowledge that they are being studied and observed. Thus, the very fact that somebody asks them questions and administers questionnaires may elicit socially desirable responses (Hawthorne effects or experimental demand responses).

This threat to external validity is minimized to the extent that data gathering is perceived as part of the normal routine of the program and to the extent that nonreactive measurements are used. In the proposed design,

a matter of stabilizing controls for this source of invalidity are present. First, juveniles who come into contact with official agencies are typically asked to give a host of information about self and attitudes. It is not unreasonable to argue that the additional data gathering required by the evaluation research can be treated as part of the normal information-gathering procedure. And secondly, the use of official statistics for the measurement of the follow up data effectively removes the reactive bias.

Positive arrangements are relatively controllable in this design.

#### 4. Multiple Treatment Interference

The final source of external invalidity is multiple treatment interference which is likely to occur whenever multiple treatments are applied to subjects, either serially, concomitantly, or alternatively introduced then removed. The multiple treatments often interfere with each other, since the effects of prior treatments are not usually erasable.

In the sense that Campbell and Stanley discuss multiple treatment interference, it is not an invalidating factor in the proposed design since multiple treatments are not presented to the same subjects over a time period.

However, in the sense of attempting to ascertain to what extent the treatment technology itself accounted for the difference or change and to what extent it was the treatment technology as it was embedded in a particular program which that was responsible for the change, this source of invalidity does present some problems for the proposed design.

The proposed design is not capable of determining with much certainty whether it was the treatment technology alone that explains the results. But it must be remembered that this proposed design is suited for evaluating

the efficacy of a diversion program, involving a set of administrative decisions and a set of special treatments rather than merely the application of a particular treatment technology. The usual state of affairs in a diversion program is multiple treatment- not administered systematically or in serial order but concomitantly and in various mixes. The proposed design evaluates the efficacy of a diversion strategy and thus, at this stage in the development of evaluation research, it is too early to consider attributing effects to particular treatment technologies.

Thus, multiple treatment interference is not a serious threat to the validity of this proposed design, not so much because it is controlled for in the design but because it is not a pertinent question for this type of evaluation.

Technical Appendix II:

Validity Issues in the System-Wide Evaluation Design

Changes in the level or direction of the time series data that correspond to the introduction of the diversion program are presumed to be caused by the diversion program. This causal claim may be invalid; events unrelated to the intervention may have caused the changes in the outcome variables. These are threats to the internal validity of the quasi-experiment. In addition, there are limits to the generalizability of the findings (threats to external validity).

As in the discussion of the client outcome design, each of these threats to validity will be examined in light of the proposed time series designs. Again, since two types of time series designs were presented, validity threats are examined separately for both the single group time series design and the multiple group time series design.

#### A. Threats to Internal Validity

##### 1. History

History represents a primary threat to the internal validity of the single-group time series design. There is no way to statistically separate the effects of a newly-established program from the effects of historical events that occurred coincidental with or shortly after the program was introduced. Only a detailed familiarity with the local situation can serve as a check on this source of invalidity. History as an invalidating factor is less relevant in the multiple group design. For most historical events, it is likely that external events will affect post-intervention behavior in the comparison group in the same way as in the treatment group. But there is an exception to this rule: If a set of historical events that affect outcome variables was unique to one of the

two localities in the time series design and not to the other, the invalidating effects of history are still not controlled. Again, familiarity with the local situation provides some protection against invalid inferences.

## 2. Maturation

Maturation should not be a threat to internal validity in the single-group time series, unless a significant proportion of the juveniles under study are in an age for which it is argued that the introduction of the diversion treatment program corresponds to a critical period in their personal growth and development. Maturation is controlled for if the age distributions of the juveniles under study are similar for both the treatment and the comparison group in the multiple-group time series.

## 3. Testing

Testing should not be an invalidating factor in either of the two proposed time series designs, since pre-tests are not used and the measurements are nonreactive.

## 4. Instrumentation

Instrument change or decay can be a source of invalidity in either of the two designs. If criteria for making arrests change over time, changes in the time series that are due to such changes in measuring instruments may be mistaken for effects of the diversion program (single-group design). In like manner, if instrument changes occur in one locality and not in the other or if there are changes of a different nature in the two locales, invalid inferences about program effects may be drawn (multiple-group design). There is no way to statistically control for this possibility in a time series design, but again, familiarity with the local events and processes can provide some checks against this problem.

## 5. Statistical Regression

A serious risk to the validity of any time series study occurs whenever an intervention program is introduced in response to a perceived acute problem. For example, this would occur if a particular jurisdictional unit decided to begin a diversion program because of unusually high rates of recorded juvenile crime. The problem with this occurrence is that the recent unusually high rate may merely be a typical variation in an unstable series. If this were the case, one would expect, on statistical grounds, some reversion to the earlier trend even without the introduction of the diversion program. In this case, one would not be able to distinguish the statistical reversion to trend from an intervention effect. This is a subtle form of statistical regression. If such a time is not chosen for the introduction of the diversion program and if the two localities in the multiple-group design are not selected for study because of their extreme delinquency rates, then statistical regression should not be a threat to validity in either the single or multiple group time series designs.

## 6. Selection

Selection should not be a threat to internal validity, in either the single or the multiple group design, since each group serves as its own control and the localities in the multiple group design are matched as much as possible.

## 7. Mortality

Mortality, in the usual sense of this term, is not a source of invalidity in either of the time series designs, since these designs are "replicative" time series studies and not "repetitive" ones. However, something akin to

instability might serve to invalidate inferences about intervention effects, namely, the stability in self-composition of the treatment and/or comparison group over time. If, for some reason, such as change in population composition, the composition of the treatment group in the single-group design changed from the initial measurement to the later measurements, it would be difficult to distinguish changes in the time series data attributable to the intervention program from changes attributable to composition changes. In a multiple-treatment group design, changes in the composition of either or both of the study groups will create problems of inference. Demographic characteristics of the subject localities under study should provide a check on the threat of instability.

#### ii. Independence of Selection and Other Sources of Invalidity

Under typical circumstances, this type of threat to validity should present no problem, since each group establishes its own baseline. Some problems in the selection of treatment and comparison groups have already been discussed in the sections on maturation and instrumentation.

#### iii. Instability

Just as the threat to valid inferences about causality that is given and attention to time series designs, instability refers to "statistical noise," that is, unaccountable variation in the time series that may be ascribed to the intervention effect but which is not improbably larger than other unaccountable fluctuations in the series over time. Any time series data will reveal unstable fluctuation; the problem is in distinguishing these "normal" fluctuations from changes coincident with the intervention and inferred to be the result of the intervention. While this problem is not unique to time series studies, statistical analysis of

such data is more complex because of autocorrelation. Statistical methods for handling this problem are provided by Campbell, Stanley and Glass, et al.<sup>11</sup>

## B. Threats to External Validity

### 1. Interaction of Testing and Treatment

This threat to external validity should present no problems since there are no pre-tests that could sensitize subjects, since these designs are replicative rather than repetitive, and since the measures of outcome variables are nonreactive.

### 2. Interaction of Selection and Treatment

Since these designs are replicative and hence the individuals measured and treated each year change somewhat, there is little reason to believe that there is something unique about the subjects under study that would make them unusually amenable or resistant to the treatment effect. However, to the extent that the localities chosen for inclusion in the time series study are unusual in terms of demographic variables, the threat of the interaction between selection and treatment can be a rival hypothesis. Demographic analysis of the localities under study can provide a check on this rival hypothesis.

### 3. Reactive Arrangements

Since unreactive measures of the outcome variables are used, this should provide no serious threat to external validity.

### 4. Multiple Treatment Interference

Since multiple interventions are not introduced in a serial order, there should be little threat from this source of invalidity. However, as

1933 and earlier and in the discussion of the client outcome design, one must avoid the pitfall of attributing a change in the time spent in the treatment technology used in the diversion program. An equally plausible hypothesis is that the observed changes are the result of changes in administrative definitions or guidelines. Again, one must keep in mind that this systematic evaluation design is an evaluation of the effectiveness of a diversion strategy rather than of a diversion technology.

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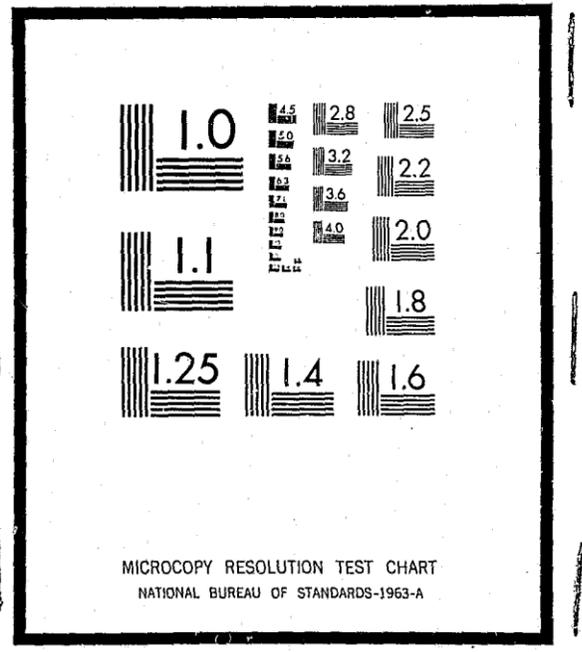
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## JUVENILE DIVERSION: KEY ISSUES

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ACQUISITIONS

ABSTRACT

"Diversion" is characterized by definitional and conceptual confusion. An attempt is made to clarify the concepts of: prevention, diversion, alternatives to incarceration, screening, referral, removal, minimization of penetration, process and programs. A crucial issue is the need to develop some kind of coherent framework out of, or in spite of, disparate, overlapping conceptual schemes.

The denotative (explicit) definition is utilized by the theorists while the connotative (subjective) definition is followed by the practitioners. This results in theorists viewing diversion as a "turning aside from further processing" while practitioners emphasize the "minimization of penetration". A discussion of labeling theory highlights this difference of usage.

Diversion is discussed as a decision making process by the juvenile justice system personnel. Dispositional options are reclassified vis a vis diversion options. The complex issue of implementing research relative to diversion process/programs is examined. The problem of the relationship of diversion programs to legal authority is stressed. The impact of diversion is also discussed with an emphasis upon the potential enlargement of the juvenile justice net and the further stigmatization of diverted youth.

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## A. Conceptual and Definitional Problems

At the recent National Institute on Crime and Delinquency (NICD) in Minneapolis, a juvenile justice expert introduced his speech on diversion with the preface, "since everybody knows what diversion is, there is no need to define it." The speaker then proceeded to lament the fact that "postincarcerative diversion" has been sadly neglected by both academicians and practitioners. His analytic confusion underscores the ambiguity surrounding the concept of diversion. Consequently, a primary issue is his inadequate conceptualization of diversion.

Preliminary groundwork should distinguish diversion from "prevention" and alternatives to incarceration." Prevention refers to actions taken by law enforcement agencies and/or other agencies; e.g., schools, YMCA, etc., under the auspices of aiding a youth in avoiding initial, coercive contact with the law.

"Alternatives to incarceration" refers to actions taken by law enforcement agencies; e.g., probation, community treatment, etc., ordered by the juvenile court after formal adjudication. Generally, referrals to non-incarcerative alternatives occur after a juvenile has been adjudicated delinquent by the court.

Diversion occurs after a youth's initial contact with an agent of the law (provided that the contact gives law enforcement personnel the opportunity to impose legally sanctioned, coercive control over a youth's actions) and prior to formal adjudication. Diversion involves a cessation (at least temporarily) of formal processing in favor of an informal disposition.

At this point, the conceptual waters become extremely murky. There are a number of distinct activities which occur subsequent to initial contact and prior to formal adjudication. Various thinkers have used their analytic knives to cut these distinct activities into disparate conceptual schemes.

The three dominant frameworks will be outlined. An adequate conceptualization of diversion involves a choice, refinement, or integration of the following systems.

The first group of writers has made a critical distinction between "screening" and "diversion." Essentially, this distinction asserts that while screening provides no referral to a community treatment or prevention program, no service or treatment, and no follow-up, diversion implies all three actions.<sup>1</sup> Thus, Elliot sees diversion as "a process of referring youth to an existing community treatment program or prevention program in lieu of further juvenile justice system processing at any point between apprehension and adjudication."<sup>2</sup>

Similarly, but with reference to adults, the National Advisory Commission on Criminal Justice Standards and Goals<sup>3</sup> refers to diversion as "halting or suspending before conviction formal criminal proceedings against a person on the condition or assumption that he will do something in return." On the other hand, screening "involves the cessation of formal criminal proceedings and removal of the individual from the criminal justice system."<sup>4</sup>

These authors contend that diversion includes "doing something" with or to "diverted offenders." This may involve a "positive problem-solving experience"<sup>5</sup>, the "maximization of service to youth and their families"<sup>6</sup>, or "the imposition of some form of constraint upon the suspect."<sup>7</sup> This is consistent with Elliott's contentions: "The objectives of diversion are not only to avoid the negative labeling associated with processing in the juvenile justice system, an objective readily achieved through screening, but simultaneously to provide youth with a set of positive experiences, new opportunities, and effective resolutions of specific problems or needs."<sup>8</sup> This mandate for diversion is premised on "the fact that many youth apprehended by the police have serious medical, mental or social difficulties and are already alienated and disenfranchised from conventional social roles.

Screening these youth out of the justice system may avoid the reinforcement and escalation of these difficulties, but it does little to resolve them."<sup>9</sup>

This conceptualization is close to what Vorenberg and Vorenberg<sup>10</sup> see as the "new" call for diversion. . In the same vein, Nimmer distinguishes between "traditional diversion" and "new diversion." The latter refers to "programs that use new funding or facilities to establish diversion (such programs are generally established by statute or federal grant and provide clients with close supervision and intensive services)."<sup>11</sup>

Although these writers collectively view "diversion" as synonymous with the proliferation of "new diversion programs," there is some dissension as to what constitutes a diversion program. For some, diversion means referral to programs outside the justice system. Sarri likens diversion to "those activities by public officials such as police, intake and probation officers, and so forth that result in direct referral of the juvenile to agencies and persons who are capable of handling the problem outside the jurisdiction of the juvenile justice system."<sup>12</sup> Elliot, who concurs with Sarri, states, "Diversion represents a referral to a community-based program or agency which is independent of the justice system."<sup>13</sup> The National Advisory Commission, on the other hand, includes programs "run by agencies of the criminal justice system."<sup>14</sup>

In sum, this position maintains that diversion encompasses a break with previous practices; e.g., screening, sentence leniency. Diversion is characterized by doing something "positive" with or to the "offender." With reference to juveniles, "doing something" typically involves a form of counseling or treatment. Such "help" is dispensed by a "diversion program" to which a juvenile is diverted. There is disagreement as to whether diversion programs are only those which are "independent of the justice system."

An alternative classification is proposed by Klein, who distinguishes between diversion and referral. Employing a broader notion of diversion than we have chosen, Klein sees diversion as "any process employed by components of the criminal justice system (police, prosecutors, courts, corrections) to turn suspects and/or offenders away from the formal system or to a 'lower' level of the system."<sup>15</sup>

Referral, on the other hand, is viewed as "any process by which a diverting agent initiates the connection of the diverted suspect or offender to another agent or agency, usually within the offender's community."<sup>16</sup> Klein suggests there may be either diversion without referral or diversion with referral.

This framework conflicts with the previous position. What Klein calls diversion is very similar to what Elliot, et al., have called screening. These terms are not synonymous, however, for screening means "removal of the individual from the criminal justice system;" diversion, according to Klein, incorporates turning suspects "to a lower level of the system."

Conversely, Klein's "referral" is nearly synonymous with Elliot, et al.'s diversion. Both terms connect the suspect with some other agency. Referral to "outside" agencies as well as to programs run by agents of the justice system are implied by Klein's terminology. As noted before, there is dissension in the first group as to whether programs which are not independent of the justice system are diversion programs.

A third alternative has been presented by Cressey and McDermott, who discriminate between "true diversion" and "minimization of penetration." True diversion occurs if "the juvenile is safely out of the official realm of the juvenile justice system and he is immune from incurring the delinquent label or any of its variations--predelinquent, delinquent tendencies, bad guy, hard core, unreachable." "Minimization of penetration" refers to

"diversion occurring within the juvenile justice system from court to another official or semi-official program." They ask that the concept of diversion be "broadened" in order to incorporate minimization of penetration within its purview.<sup>17</sup>

The dimension along which Cressey and McDermott seem to be ordering their categories is the degree of legal authority that the justice system maintains over the "diverted" juvenile. In true diversion, the system's authority over the juvenile is completely relinquished. Where minimization of penetration occurs, legal authority over the juvenile may be attenuated but some form of legal control or coercion is maintained.

Cressey and McDermott's analytic system overlaps with those considered earlier. True diversion includes Elliot, et al.'s screening and Klein's diversion. It also involves Elliot's diversion and part of Klein's referral. Minimization of penetration includes part of the National Advisory Commission's reference to diversion programs (i.e., those run by agencies of the criminal justice system) and the remainder of Klein's notion of referral (i.e., "programs run by agents of the justice system.")

Perhaps the crucial issue is to develop some kind of coherent framework out of or in spite of these disparate, overlapping conceptual schemes. This will involve either a choice, refinement, or integration of the preceding systems. The need for conceptual clarity is obvious: any discussion, say, of legal issues or a survey of research findings on diversion is dependent upon what we call diversion. Conceptual frameworks are elaborate mechanisms for naming phenomena and consequently can be useful visual aids. The problem here is to either devise the visual aid (i.e., conceptual schema) which all "viewers" of the diversion panorama can employ, or to clearly differentiate one's own conceptual apparatus from earlier frameworks so that others recognize the uniqueness of the visual aid and thereby can focus in on the discussion.

Only by one of these alternatives can we be certain that we are all seeing and discussing the same phenomena.

#### Addendum

The distinction between process and programs will be a useful beginning for developing a conceptual scheme. Primarily, diversion is a process of decision-making. The choice facing decision-makers is whether or not to "divert" a juvenile. It can be convincingly argued that once a decision is made and implemented, e.g., the juvenile is sent to a Youth Service Bureau, diversion is consummated. However, programs and their methodologies are important to the decision-making process. For example, intake officers of particular courts may have an affinity for Gestalt therapy. A referral program which employs Gestalt therapy as its primary mode of treatment will probably receive a larger number of "diverted juveniles" than another referral program utilizing behavior modification. This distinction between the diversion process and program is a central theme of this chapter.

#### B. Diversion: Denotation, Connotation, and Affectation

More than most words, "diversion" has different meanings for different people. In this section the task will be to trace the genesis of these different meanings. The spotlight will focus on the disparity between theoreticians and practitioners. It is argued that this disparity of meaning is "not just semantics" but has a substantial impact upon the subjective experience of "diverted" youth. Implicitly, the discussion underlines the critical importance of implementing concepts.

"Diversion," like many words, has denotations and connotations. Denotation is the "explicit meaning of a word." Connotation refers to the "configuration of associative implications constituting the general sense of an

abstract expression beyond its explicit sense." Generally, theoreticians have referred to diversion in its denotative mode, while practitioners refer to diversion in its connotative mode. What are these modes and how do they differ?

Theoreticians, especially those on the President's Crime Commission, were concerned with and promulgated the denotation of diversion: "a turning aside." As conceived by theoreticians, diversion was a response to the failure of the criminal and juvenile justice systems. This failure was framed in terms of the labeling perspective, which provided the theoretical backdrop and support for diversion.

The labeling perspective has its roots in the social ontology of George Mead. Mead suggested that man is active, and in a very real sense he actively creates the objects which constitute his social environment. He writes, "Objects are in a genuine sense constituted within the social process of experience, by the communication and mutual adjustment of behavior among the individual organisms which are involved in that process and which carry it on."<sup>18</sup>

Labeling theorists have used Mead's ontology in their discussions of deviance. This application led advocates to reject the notion that deviance is an independent, "social fact."<sup>19</sup> Rather, deviance, like other social objects, is created by men. Becker states, "Social groups create deviance by making the rules whose infraction constitutes deviance, and by applying those rules to particular people and labeling them as outsiders... [D]eviance is not a quality of the act the person commits, but rather a consequence of the application by others of rules and sanctions to an offender."<sup>20</sup>

Drawing on substantial empirical evidence labeling theorists<sup>21</sup> dramatized the critical role played by the social audience. These studies poignantly illustrated the large amount of "unofficial delinquency." Because

the vast bulk of delinquency never comes to official attention, theorists argued, rule-breaking behavior, as such, does not lead to formal processing. Consequently, rule violation in itself is not the crucial variable; the social audience is. In this context, Erickson writes, "Deviance is not a property inherent in certain forms of behavior; it is a property conferred upon those forms by the audiences which directly or indirectly witness them. Sociologically, then, the critical variable is the social audience...since it is the audience which eventually decides whether or not any given action or actions will become a visible case of deviation."<sup>22</sup>

The process by which the social audience selects out some rule violators was tagged the "community screen." This is akin to a filtering process by which certain individuals are selected out and labeled deviant. It is with reference to this process that Schur claims "deviance is in large part an ascribed status."<sup>23</sup>

Labeling advocates contend that the most significant social audience is the official agencies of social control, i.e., the personnel of the criminal and juvenile justice systems. It is argued that these agents, having the recognized authority, power, and procedures to deal with deviants also, by those very means, have the capacity to create deviance. Further, given the social power accorded these agents, their designations or labels of deviance are likely to exercise a profound effect on those so defined.

These theorists are concerned about the effect labeling has on the subsequent development of those defined as deviant. Tannenbaum's well-known "dramatization of evil" attempts to portray how official intervention often generates further deviance.<sup>24</sup> Lemert's distinction between primary and secondary deviance is a profound concept: "[D]eviations remain primary deviations or symptomatic and situational as long as they are rationalized or otherwise dealt with as functions of a socially acceptable role....When a

person begins to employ his deviant behavior or a role based upon it as a means of defense, attack, or adjustment to the overt and covert problems created by the consequent societal reaction to him, his deviation is secondary."<sup>25</sup> Labeling theorists see official reaction to role-violating behavior as a critical link in the chain of future deviance.

In sum, the labeling school views deviance as a social creation; deviants are selected through a filtering process, and the deviant label tends to push people into a deviant career with social control agents inadvertently encouraging and promoting deviance.

It is often said that every public policy designed to control crime implicitly rests on a theory of crime causation. The statement can be reversed: every theory of crime causation implies a policy for the control of crime. The general strategy for crime control implicit in labeling theory is the "non-interventionist" strategy. This strategy was formulated most explicitly by Schur, who writes, "the basic injunction for public policy becomes: leave the kids along whenever possible."<sup>26</sup>

Schur's injunction was foreshadowed by Lemert's paper (1967) for the President's Crime Commission, in which he called for a policy of judicious non-intervention. He argues, "If there is a defensible philosophy for the juvenile court it is one of judicious non-intervention. It is properly an agency of last resort for children, holding to a doctrine analogous to that of appeal courts which require that all other remedies be exhausted before a case will be considered. This means that problems accepted for action by the juvenile court will be demonstrably serious by testable evidence ordinarily distinguished by a history of repeated failures at solutions by parents, relatives, schools, and community agencies."<sup>27</sup>

As seen by theoreticians, diversion is a logical derivative of these general policies. Diversion was advocated as a means for "turning aside"

juveniles from the formal processing of the juvenile court. In theoretical terms, diversion would prevent "secondary deviation." Youth Service Bureaus were called for in the hope that the availability of alternatives would lead to greater rates of diversion. The President's Commission states that the use of community agencies "avoids the stigma of being processed by an official agency regarded by the public as an aim of crime control." It also suggested, "Referrals by police, school officials, and other community agencies should be on a voluntary basis."<sup>28</sup>

In sum, the theoreticians denoted something very explicit with reference to diversion: the turning aside of youth from formal processing. This mandate was premised on theoretical perspectives and empirical evidence on hidden delinquency. Youth Service Bureaus were part of the diversion strategy. Participation in community agencies was to be voluntary and their utilization, it was hoped, would reduce the stigma associated with formal processing.

In implementing diversion, practitioners have imputed to it a new "configuration of associative implications." Consequently what diversion connotes for practitioners is often in conflict with what diversion denotes for theoreticians. Specifically, practitioners have come to see diversion as a disposition which allows them to maintain some amount of social control over a juvenile. Teilmann, et al., in a study of police diversion report: "In summary, it can be said that although there is a desire in some departments to divert juveniles from the justice system, the more common feeling is that referral should be used as an alternative to counsel and release."<sup>29</sup> Similarly, Lincoln, in her study of a pilot diversion project, concludes: "It is of great interest that officers as frequently referred juveniles who would have been released outright as they referred offenders who would have

been treated severely, and sent to court. Ostensibly, referral was designed to substitute for court treatment, but it is often a substitute for release. ...[Some] officers used referral...as a form of social control."<sup>30</sup>

The meaning of diversion as an alternative to system involvement has been replaced by diversion as an alternative to simple release. Ironically, one ramification is that while one of the commonly cited reasons for diversion is to reduce the overload and purview of the juvenile justice system, diversion may, in fact, be extending the system even further than has previously been the case. The argument that diversion may actually function to extend the system is supported by the recent NEP on Youth Service Bureaus. It appears that most YSB's operate in close conjunction with the juvenile justice system and by means of reports, conferences, etc., facilitate renewed processing of the cases in question. It is through such cooperation that more youth are coming under the purview of the justice system in the name of diversion.

A second discrepancy is the practitioners' preoccupation with programs as opposed to process. This emphasis stems, in part, from their inability to conceive of delinquency as a process.<sup>31</sup> Rather, they tend to view delinquency from a treatment perspective as an "independent social fact" requiring programmatic intervention. This leads to a proliferation of programs employing a variety of treatment methodologies. As a result, diversion, for many practitioners inherently means they are concerned with the "appropriate" treatment methodologies rather than with the actual process.

In sum, through implementation and its attendant perils, diversion has assumed new meanings manifested in an increase of social control and a concern with programs and proper modes of treatment.

A neglected aspect of diversion is the subjective experience of those who are diverted. Descriptive data of "what it's like to be diverted" or

"what it means to be diverted as opposed to being processed by the juvenile court" simply does not exist. Because diversion is grounded in a theoretical perspective recognizing the critical importance of a person's subjective assessments of situations, this omission must be remedied.\* Three crucial variables affecting the subjective experience of diverted youth can be enumerated. First, it is likely that a juvenile's perception of diversion will be profoundly colored by the perceived degree of voluntariness accompanying the youth's "agreement" to be "diverted." Secondly, the youth's experience will probably vary with the perceived extent of legal authority the justice system maintains over the juvenile. Finally, the youth's assessment of diversion will be affected by whether he has been sent to a referral program or simply released.

\* A major task of our research effort will be directed toward the collection and evaluation of divertees' comments on diversion.

### C. Diversion: A Decision-Making Process

A fundamental aspect of diversion is decision-making. The premises on which decisions are made and the way in which they are consummated constitute one of the most significant issues in the diversion area. This section examines some of the more pertinent problems implied by the decision to divert.

All decision-making in the criminal justice system is characterized by considerable discretion. This situation is exacerbated in the juvenile justice system with its individualized treatment orientation and social agency atmosphere. The rationales for the use of discretion are: (1) Limited resources; the justice system does not have the resources necessary for processing all law violators.\* (2) Ambiguity in juvenile codes; the inability to precisely describe every act prohibited by these codes engenders "creative interpretation" and discretion.+ (3) Individualized justice; the argument that justice requires that the individual circumstances of a case be assessed.++

Diversion decisions are also largely discretionary. The decision to divert involves a choice among alternatives. Davis states, "A public officer

\* For an account of plea bargaining, see Alexander Smith and Harriet Pollock, Crime and Justice in a Mass Society (Lexington: Xerox College Publishing, 1972), p. 153; for an account of police discretion, see Wayne LaFave, Arrest (Boston: Little, Brown and Company, 1965), p. 102.

+ For a cogent discussion, see Kenneth Davis, Discretionary Justice (Urbana: University of Illinois Press, 1971), pp. 15 - 16.

++ For a general discussion, see Kenneth Davis, Discretionary Justice (Urbana: University of Illinois Press, 1971), p. 17; for an explanation of plea bargaining in terms of individualizing justice, see Donald Newman, Conviction (Boston: Little, Brown and Company, 1966), p. 77.

has discretion whenever the effective limits on his power leave him here to make a choice among possible courses of action or inaction."<sup>32</sup> Reiss says, "Where an agent is free to choose among alternatives in making a decision, we shall speak of his exercising a choice. When that choice is not open to review, either de jure or de facto, we shall speak of the choice as discretionary."<sup>33</sup> The alternatives confronting decision makers, usually police or intake officers, include, but are not limited to: counsel, warn and release, informal probation, referral to agencies outside the justice apparatus, referral to agencies inside the justice system, and filing a petition. These alternatives may be reclassified: (a) diversion out of the system, (this includes counsel, warn, and release), and referral to agencies outside the system; (b) diversion within the system which consists of informal probation and referral to agencies inside the system; (c) referral for formal processing, which is synonymous with the filing of a petition. This reclassification is the basis for the analysis of the decision-making processes of justice personnel.

Although discretion is primary in decisions to divert the decisions are not necessarily arbitrary or patternless. Nor does the degree of discretion perceived by officials remain constant in all cases. For example, where serious crimes; e.g., homicide, rape, etc., or repeating offenders are involved, suspects are referred for formal processing as a matter of course. The great bulk of cases, however, are of a less serious nature. Black and Reiss estimate that only five percent of police encounters with juveniles involve felonies. Sixty percent of the cases involve nothing more than juvenile rowdiness or mischievous behavior.<sup>34</sup>

Researchers, focusing on the large number of "non-serious" cases, have attempted to induce the extralegal factors and processes which influence officials' decisions. Some of these research findings will be presented.

Two considerations, however, are necessary. First, few researchers have specifically addressed the decision to divert, no researchers have employed the categories for classifying decisions used in this report. For the most part, where decisions to arrest have been studied, the classification scheme is simply "arrest" or "no arrest." The rationale for including findings of these studies is that some of the same factors and processes affecting decisions to arrest also influence decisions to divert. The second consideration is that intake offices of the juvenile court have been neglected by researchers.

Many observers have noted that arrest rates vary considerably among different police departments. This variation remains when differentials in the crime rate are held constant. The question, "What is it about the organization of police departments that engenders high or low arrest rates?" was asked. Wilson discovered that professionalism is an important factor in determining whether a police department had a high or low arrest rate. A professional organization is "governed by values derived from general, impersonal rules which bind all members of the organization and whose relevance is independent of circumstances of time, place, or personality."<sup>35</sup> A police department with a high degree of professionalism tends to arrest a larger proportion of youthful suspects than a department with a low degree of professionalism. Wilson accounted for this disparity by postulating that officers in the professional departments tend to "treat juveniles according to rule without regard to person," while officers in the fraternal police department tended to "treat juveniles primarily on the basis of personal judgment and only secondarily by applying formal rules."<sup>36</sup>

Sundeen conducted a similar study. He noted that in Los Angeles County diversion rates of police departments varied from two to eighty-two percent. Curious about this anomaly, he studied police juvenile officers, employing a

measure of professionalism similar to Wilson. He concluded, "police characteristics alone (professionalism and community attachment) do not explain police diversion of juveniles."<sup>37</sup>

Given their training and education one would presume that professionalism also influences intake officers' decisions. The impact of professionalism, however, is probably mitigated by the treatment ideology which encourages dispositions based on the individual cases.

Another crucial factor in decision outcomes is the relationship between "diverting" organizations and "receiving" organizations. Unfortunately, little systematic research has concentrated on this relationship's impact upon diversion. Available evidence suggests that referrals are greater when the relationship between diverting officers and program personnel are "friendly." Cressey and McDermott, for example, in one county found that the close, informal working relationship between intake officers and personnel of a referral program led to a large number of referrals to that agency.<sup>38</sup> Teilmann, with reference to police, discovered that "optimism is associated with in-house programs (those programs conducted under the auspices of the police department) and pessimism with outside referral programs."<sup>39</sup> Rates of referral tended to be larger for in-house programs. While it is hardly surprising to find that referral will be greater where inter-organizational relationships are more amiable, it raises serious questions about the extent of legal authority maintained over youth. This question will be broached more systematically in the next section.

The dispositional decisions of police and intake officers usually occur subsequent to interaction with the juvenile. Assessment of that interaction is often crucial in determining which disposition is chosen. A number of studies on police illustrate the importance of police-juvenile interaction.

Piliavin and Briar argue that a juvenile's attitude and misdemeanor are important factors in police decisions. "Both the decisions in the field-- whether or not to bring the boy in--and the decision made at the station-- which disposition to invoke--were based largely on cues which emerged from the interaction between the officers and the youth, cues from which the officer inferred the youth's character. These cues included the youth's group of affiliations, age, race, grooming, dress and demeanor."<sup>40</sup>

Black and Reiss were curious about the fact that black juveniles were arrested more often than white juveniles, holding offense constant. They report the differential rate of arrest is the result of complainants' preferences: "Police sanctioning of juveniles strongly reflects the manifest preferences of citizen complaints in field encounters."<sup>41</sup>

Ferdinand and Luchterhard, noting the arrest differential between blacks and whites, attribute it to "social distance." They hypothesize the greater police officers' familiarity with the juvenile, the less harsh the disposition. "It may be that because the police are often from the same neighborhoods and quite familiar with many white adolescents they ultimately must arrest, they are in a reasonably good position to assess the youth's overall prospects in the community, and to adjust their decisions accordingly." But since Easton police are almost entirely white, they cannot have the same kind of broad familiarity with black delinquents and cannot bring the same informal understanding of their situation to their cases. Hence, as far as black delinquents are concerned, the police are forced to make dispositions on the basis of more superficial criteria."<sup>42</sup> It is reasonable to assume that the same kinds of interactional dimensions affecting police dispositions influence the decisions of intake officers. Unfortunately, there is no systematic data to substantiate that assumption.

A final consideration is the personal contingencies affecting an officer's choice of dispositions. Cressey and McDermott propose that intake officers' decisions are guided by a personal sense of justice. Other determinants include the officer's own ideas about crime causation and his philosophy of corrections. His knowledge of available community resources, relationship with other personnel inside and outside his department, and the size of his caseload all affect the degree and direction in which juveniles are diverted.

In conclusion, a central problem in the area of diversion is to construct a systematic statement, relating all of the various influences considered above, into a coherent discussion.

#### D. Diversion Patterns

An indirect path to the decisional process is implicit in asking, "who is diverted?" It appears that decisions to divert are not random; the business of analysis is to determine why or how the decisions are patterned as they are. But the first problem is inducing the operative patterns. The patterns one discovers are necessarily dependent upon the question one asks. An important question is, "who is diverted?" The answer should be interpreted from a socio-legal framework.

It may be said that diversion is a "new" dispositional alternative falling between "screening" and "referral" for formal processing. A key question is, what proportion of youths now diverted would have been "screened out" from the system if the diversion alternative were not available? Similarly, what proportion of youths now diverted would have been referred for formal processing were the diversion alternative not available?

Other legal considerations are "offense categories and previous records." By classifying youths along these dimensions we can ascertain two additional

patterns. It is likely that diverted youth are suspected of less serious offenses and probably have less extensive records than juveniles who are referred for formal processing.

The sociologist is interested in patterns having to do with age, race, sex, and socio-economic status. Important patterns emerge when the question, "who is diverted?" is answered in terms of these categories.

It is necessary to establish a socio-legal profile of diverted youth. From this profile we will be able to deduce some of the patterns manifest in the decision to divert. Those patterns, in turn, will supply the material from which explanation and analysis are derived.

A final problem is to determine who should be diverted, i.e., proffer some policy recommendations with reference to diversion. This involves two inter-related issues. First, one must state what the goal of diversion should be. That is, should the goal of diversion be to maximize the number of juveniles diverted out of the system? Should the goal of diversion be to extend treatment services to as many children as possible? Or, is the goal of diversion some admixture of diverting out of the system while also extending services?

Once the goal of diversion is established the next issue is the formulation of formal guidelines which officials can employ in making their decisions to divert. These guidelines should be logically deducible from the goals of diversion.

This section has looked at the decision to divert in terms of three questions: What types of processes influence the official in his decision to divert? Who is diverted? Who should be diverted? These issues constitute the core of diversion.

#### E. Diversion: The Problem of Legal Authority

The recent mandate for diversion is premised on two fundamental propositions. The first proposition is theoretical and states that the justice system inadvertently encourages "secondary deviance." Lemert writes, "the interaction between child and court and unanticipated consequences of the processing of a child in many instances contributes to or exacerbates the problem of delinquency."<sup>43</sup> This proposition led to demands for "judicious non-intervention"<sup>44</sup> and "radical non-intervention."<sup>45</sup> Diversion from the juvenile court is one manifestation of these strategies.

But a more pragmatic consideration is implicit in the enthusiasm for diversion. Diversion, if implemented properly, would retain the scarce resources of the juvenile court--time, money, and professional personnel--for the most "serious" cases, i.e., those juveniles who were most in need of treatment. Youth who "required" minimal forms of treatment and who had previously been sent to the juvenile court to obtain them, would now be referred to social service agencies where the necessary treatment would be available. Diverting "marginal" youngsters from the juvenile court would give juvenile court personnel the opportunity to "work with" those who were in "desperate need" of treatment.

In different ways, both of these rationales inferred a reduction in the amount of legal authority the justice system would maintain over juveniles. Theoretically, the encroachment of legal authority over youth was deemed stigmatizing and was presumed to generate further deviation. Pragmatically maintaining legal authority over large numbers of juveniles is expensive and, in cost-benefit terms, thought to be an unwise expenditure of limited funds. Diversion should substantially reduce the amount of legal authority maintained over juveniles. A critical issue is the extent

of control law enforcement agencies and their personnel exercise over diversion processes, programs, and diverted youth.

The problem of legal authority in diversion has not been neglected in the literature. Klein has addressed this issue in reference to "resource location" and the "locus of control." With regard to police, resources for diversion programs may be "in-house"--located within the department, or "outside"--situated in the larger community. In-house programs employ either specialized staff, e.g., social workers or police who function as counselors to deliver services, counseling, and supervision to "diverted" youngsters. "Outside" programs receive referrals from police. In many instances, staff in outside programs are paid by and accountable to their own agencies. In some cases, staff accountability to police is increased through a "purchase-of-services arrangement whereby agency fees for counseling of diverted offenders are controlled by the police."<sup>46</sup>

Raising the question of the locus of control over referral programs, Klein notes a tension between police and community agencies. He writes, "many police in diversion programs seek as much control over the counseling operation as possible. Failing this, they want to be in a position to 'blow the whistle' on ineffective counseling by withdrawing support, funds, or client population." On the other hand, "many community agencies are nervous about police or justice system control. They fear regimentation, a narrow focus on recidivism rather than more general personal adjustment, and stigmatization of their own programs by association with law enforcement agencies."<sup>47</sup>

Klein's comments, though useful, are limited to the control that law enforcement agencies exercise over diversion programs. Concern has also been expressed about the amount of control these agencies have over the

diversion process. In their research on intake officers, Cressey and McDermott discovered many variations in how the decision to divert was consummated. In many situations, the decision to divert was made by the intake officer using the vaguest sorts of criteria. In other cases the decision to divert was made, in part, by a staff member of a diversion program who "visited" a juvenile detention unit in search of "qualified clientele." This type of decision was possible, it seems, because such a program had close relations with juvenile detention.

In addition to programs and process, the extent of legal authority over the "diverted" juvenile is crucial. This question was broached directly by Cressey and McDermott. They distinguished between "true diversion" and "minimization of penetration." True diversion occurs where legal authority over the juvenile terminates, the juvenile being "technically free to tell the diverter to go to hell." Minimization of penetration occurs where legal authority, though attenuated, can be re-activated if the conditions of "diversion" are violated.<sup>48</sup>

#### F. The Impact of Diversion: Enlarging the Net, Stigmatization, and Decriminalization

Many have expressed concern that diversion, rather than decreasing the juvenile justice system's scope of control, may actually function to increase it. "Enlarging the net" refers to the processes by which the jurisdiction, both formal and informal, of the justice system increases. It is feared that diversion may not be functioning to divert those who would have otherwise been processed, but rather refer youth to diversion programs who would have otherwise been "released." Norval Norris has similar concerns. "I must express a qualification to too ready an acceptance of the beneficence of these movements toward reducing the reach of the

criminal law and abating imprisonment by the means of diversion from the criminal justice system. It seems to me that these processes will be accompanied by an increase in the number of citizens who are brought under social control."<sup>51</sup> A major issue, then, is to determine whether or not diversion is functioning to increase the system's scope of control, by drawing into the justice system those who previously would have been released.

The stigma associated with referral programs is another major issue. Lincoln proposed that "treatment via the referral programs may be felt by juveniles as stigmatizing rather than as an escape from the stigmatization of court handling."<sup>52</sup> Stigma associated with referral programs may arise in two distinct ways. First, referral programs may reduce the "normalization" responses by officials. When officials view rule violations as "normal" they tend to ignore the act and leave its perpetrator alone. If increased numbers of juveniles come under jurisdiction because diversion has become an alternative form of social control, normalization responses will be reduced and the amount of stigma will be increased.

Stigma may arise in a second fashion. It is likely that participation in referral programs presumes guilt.<sup>53</sup> If community, social control agents, and even the youth see program participation as evidence of guilt, stigma becomes attached to the programs themselves much like stigma is now associated with juvenile court. If theorists are correct, referral may engender labeling and labeling may generate secondary deviance. Participation in legal and paralegal programs may produce higher rates of subsequent deviance.

The problem of stigma may be compounded by referral programs if participation is premised on "keeping out of trouble" or "enthusiastic cooperation" with program activities. Youth who fail to meet these conditions are terminated from the programs and are referred to juvenile court for

further processing. In these instances, they are not only labeled delinquent by the court, but also tagged as a "failure" because they were dropped from the diversion program. This increased stigma may lead to even higher rates of secondary deviance than those who had "merely" been officially processed, other things being held constant. It would appear where referral programs become in any way a part of the justice apparatus the problem of stigma remains pertinent.

We have pointed out that diversion is part of a larger strategy designed to decrease the justice system's jurisdictional scope. This larger strategy includes the notion of decriminalization. Decriminalization refers to decreasing the system's jurisdiction by repealing criminal and juvenile statutes. One manifestation of this movement is the current call for the repeal of status offenses. Those who advocate decriminalization suggest that the most effective means of reducing the justice system's scope of control is to decrease its jurisdictional boundaries. As these boundaries are determined, in large part by statute, repealing statutes will necessarily lead to such a reduction.

Although decriminalization may be the most technically efficient means of narrowing scope, many argue that it is not politically feasible. Apparently, some form of political inertia is associated with extant statutes. In response to this infeasibility, diversion has been seen as a compromise and a stepping stone. Advocates contend that diversion is better than nothing and it constitutes a first step toward decriminalization. Both of these rationales are questionable. Having dealt with the first argument, we now proceed to analyze the second.

"Serious" cases represent a substantial risk to the program's success and a potential threat to the program's existence should the "serious"

offender "fail" in some spectacular manner, e.g., commit another serious offense. Because diversion programs are concerned about their survival and because they desire to be "successful," they choose low-risk cases, amenable to "treatment."

Referral programs are organizations. Organizations once established tend to persist even after their original purpose has been fulfilled. Therefore, it is likely that referral programs will persist. Two processes are responsible for this result. First, the new organization develops ties with other organizations. These other organizations begin to depend on the services and functions performed by the new organization. This interdependence tends to engender organizational persistence. Secondly, those in the new organization develop a vested interest in its maintenance. Desiring money, security, and/or preservation of status, organizational members tend to resist attempts to remove the organization.

This line of reasoning raises an interesting possibility; those who are dependent upon referral programs and the very staff of those programs may be those who most vehemently oppose the decriminalization of status offenses because status offenders constitute the basic resources of referral organizations. The decriminalization of status offenses will reduce those resources and threaten the existence of the organization. This argument raises serious questions about the "gradualistic" approach to decriminalization. It may be that diversion will act as a stumbling block rather than a stepping stone to decriminalization.

#### G. Issues in Diversion Research

The evaluation of diversion processes and referral programs can produce the kind of knowledge required to promote informed policy. Informed

policy, of course, depends on scientific research, which is why it is unfortunate that much research in the area of criminal justice in general, and diversion in particular, ignore major difficulties in the research process. This neglect can lead to serious questioning of research findings. In this section we will raise some of the issues confronting those who conduct research in the diversion area.

Research on diversion, as in any area, is dependent on the questions asked and therefore also on the proper conceptualization of diversion. Most research has not been based on a proper conceptualization of diversion. In fact, there has been very little research on diversion, the question of conceptualization aside. What research has been done investigates programs rather than process. We have remarked earlier that diversion is a process of decision making. A crucial area of research, then, is discovering how decisions to divert are made. Such research would necessitate several studies on a variety of different levels: 1) Inter-organizational: how, for example, the inter-organizational relations between police and referral programs affects police decisions to divert juveniles; 2) Intra-organizational: look at how the organization milieu of the intake office, for example, affects intake officers' decisions to divert; 3) Interactional: how the inter-personal dynamics between officials and juveniles affect officials' decisions to divert; 4) Social-Psychological: how officers' attitudes, racial and class backgrounds affect officials' decisions. One might also study how these various levels interact and how this interaction affects decisions to divert. For example, one might look at the interaction between the organizational milieu of the intake office and the social-psychological makeup of the intake officer and discover how the "working personality" of the intake officer is generated and how it affects the officer's decisions to divert.

Most studies, however, focus on programs. This neglect of the diversion process has political overtones. Diversion is part of a larger, political issue: Crime. Given the politics, the publicity, and the general public concern over crime, it is not surprising that funded research relates diversion to crime-rates. This generally means research emphasis is on diversion programs and their impact upon recidivist rates. In our concern for programmatic effects on crime rates, we tend to ignore the core of diversion, the decision-making process. With all these pressures on researchers to evaluate programs, it is understandable that research tends to coagulate there. It is somewhat disconcerting, however, to find that this programmatic research manifests a number of fundamental flaws.

The primary measure employed for assessing the success of referral programs is recidivism. A program is deemed successful if it reduces the amount of "recidivism." There are two major issues which may be raised about this measure. First, how reliable is it? Second, how appropriate is it?

Many have noted that recidivism more often measures the behavior of officials than it measures the behavior of offenders. Where recidivism is synonymous with arrest rates, police decisions to arrest determine, to an unknown degree, the recidivism rate. It is well known that police are not aware of every crime committed, that they do not always locate the suspect of a known crime, that even when a suspect is located he or she is often not arrested, and they do make mistakes by arresting "innocent" people. It follows that arrest rates measure much more than just the extent of crime in a community. They are more useful for describing the decisions of police. This being the case, recidivism rates which are synonymous with arrest rates are unreliable. Not only are rates of

violations largely the reflection of official behavior, but the fact that those on probation and parole are subject to more restrictions in the form of probation and parole conditions serves to exacerbate the unreliability of these indicators as measures of recidivism. Perhaps one solution to reliability problems is the self-report survey of criminal behavior. Simply asking program participants if they have committed any crimes in the last three months is likely to generate more reliable measures than the aforementioned techniques. Unfortunately, self-report studies have not been widely employed in diversion programs.

Recidivism, as employed, is not a very sensitive measure in that it neglects the "improvement" or "deterioration" denoted by future criminal activity. Suppose, for example, a juvenile is arrested for burglary and "diverted" to a referral program. Upon successfully completing the referral program he is arrested and adjudicated for truancy. His re-arrest and "conviction" make him a recidivist. But looked at in another way, he has "improved;" his transgressions against the social order have become less serious. The same can be said in the opposite circumstances, where the youth has gone from truancy to burglary. In this case the juvenile's conduct has "deteriorated."

A second major issue regarding recidivism is its "appropriateness." Should recidivism be the only measure of a referral program's success? Perhaps measures of "personal adjustment" would also be warranted when diversion programs are concerned with the personal development or growth of the youth. Neglecting "adjustment" measures ignores a crucial aspect of the program.

In addition to recidivism, some other measure is required to evaluate diversion. One alternative might be called a "fairness" scale--a device

to ascertain whether decisions to divert were being made uniformly.

Another alternative could be a "coerciveness" scale. In the original formulation, the juvenile's participation in a referral program was to be voluntary. A coerciveness scale would measure how voluntary the juvenile saw his participation in a referral program.

Another problem encountered in evaluation of referral programs is the research design. Basically, this problem involves the dangers of "matching" as contrasted with the safeguards of "randomization." Because much research is separated from the actual working of the program, researchers must often utilize a weak research design. This accounts for many studies where the "matching design" has been used. The idea behind matching is to make, through the use of ex-post facto procedures, control and experimental groups as much alike as possible. This involves "matching" subjects on all relevant characteristics. Presumably, this insures that the participants in the two groups are alike except for one difference: some subjects are in an "experimental" group and receive an "experimental treatment," while others are in a control group and do not receive the experimental treatment. Any subsequent difference between the behavior of the two groups, is ostensibly "caused" by the experimental treatment, in this context, the diversion program. The problem with this design is that it is nearly impossible to match the two groups on all relevant characteristics. As a result of this asymmetry, rival hypotheses may account for the difference between the group's subsequent behavior. Zimring, in a re-analysis of the Manhattan Employment Project, found that those in the experimental group were more highly motivated than those in the control group. Zimring implies that this higher level of motivation may account, in part, for the experimental group's lower rate of recidivism.<sup>54</sup>

The most effective way of reducing the number of rival hypotheses is to randomly assign subjects to different groups. Randomization functions to "cancel out" the differences between control and experimental groups. Any behavioral differences between the groups after the experiment, can be safely attributed to the experimental treatment, i.e., the referral program. Unfortunately randomization often conflicts with practitioners' needs; hence, the relative infrequency of such designs.

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